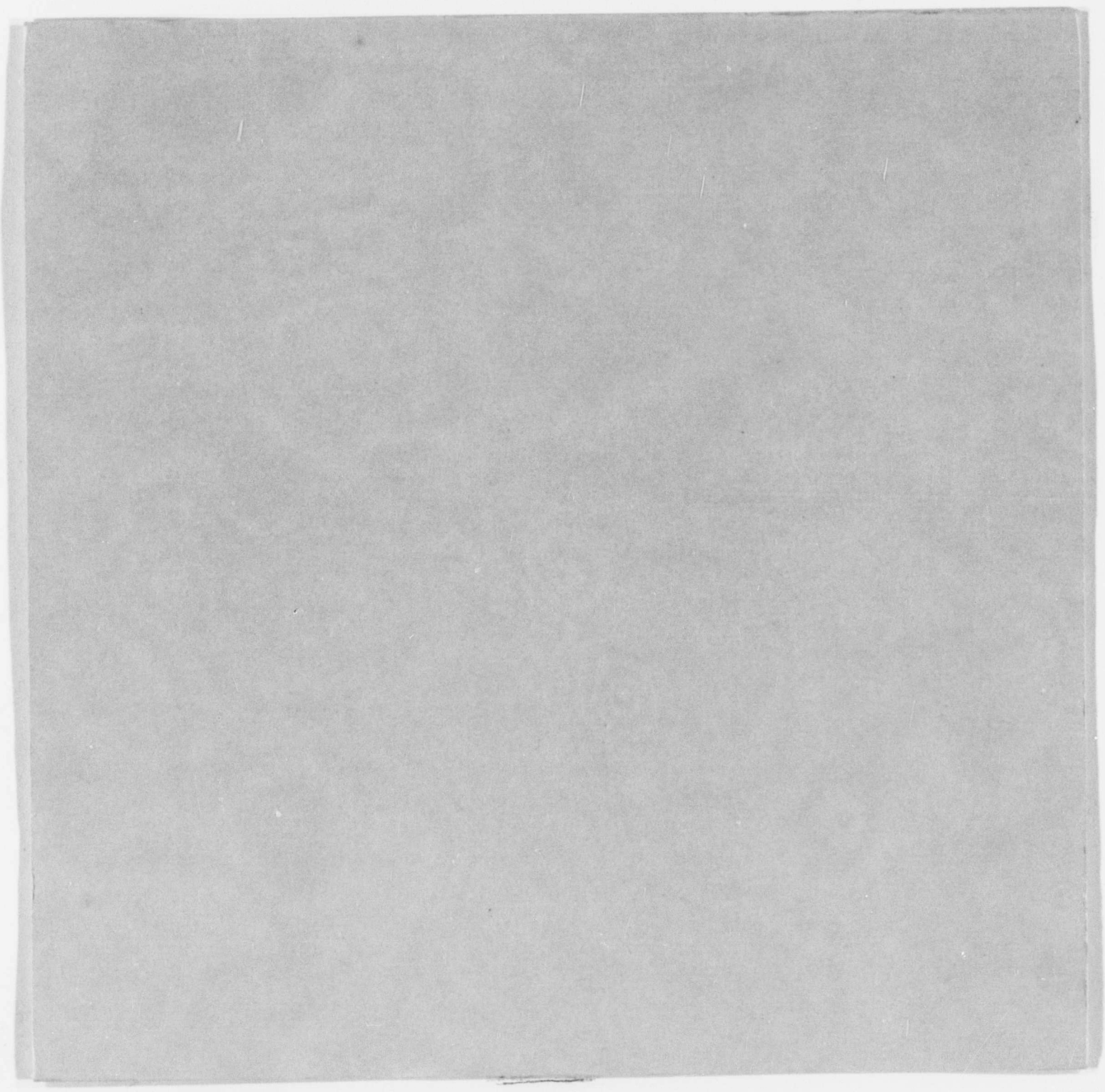
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TO THE HONOURABLE W. L. MACKENZIE KING, M.P.

It is with much pleasure and satisfaction that we welcome you to this Constituency of Prince Albert on the present occasion.

We are not unmindful at this time of the appointment by you of the Honourable Catherine Wilson as the first woman Senator at Ottawa and also in appointment of the first woman delegate to the Convention of the League of Nations, which we take as an indication of your personal appreciation of the rights and worth of the participation of women in matters pertaining to the Government of Canada, and for your recognition of this principle, we are duly grateful.

May we express the belief that your visit will be very helpful to this Constituency which you represent and may we express the hope that it will also be beneficial to you after the heavy tax upon your strength occasioned by the arduous duties devolving upon you during the recent session of Parliament.

May we further express the hope that you will continue your manifest efforts to introduce Legislation helpful to suffering humanity during these unusually distressing times and assure you that the efforts you have already made to this end have met with our warmest approval.

We do desire and hope that you will again consent to represent this Constituency when the occasion arises, and to insure your election we hereby pledge you, most gladly, our whole hearted support.

Florence B Gladstone
Pres.

Mrs W B Jones
Sec - Treas

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Honored Sir:

On behalf of the citizens of the Town of Rosthern it gives me great pleasure to have the honor to welcome you, the Prime Minister of Canada to our Town and District. This is your first visit to our Town. If it were Summer we could drive you over good roads through the Rosthern District and show you the best wheat fields on the American Continent. Within three miles of the Town you would see the farm of Doctor Seager Wheeler, the Champion Wheat Grower of the world.

Now that you are our Federal [illegible] Candidate [illegible] we have reason to hope that we may in the near future, show you over our District.

You may assure the Eastern Daily papers, on your return home, that the Prince Albert Constituency is far from the shadow of the North Pole; and that while we need and expect the Hudson Bay Railway to be completed, there is now accomodation for comfortable travel.

On your reception committee today there are individual farmers who have shipped this season wheat, that would make a train load of forty cars - and the production of grain in this constituency will exceed 10,000,000 bushels. This is only one branch of the agricultural industry carried on here. In 1924 the Creamery and cold storage plant which you saw over behind your car at the station this morning, gave to the farmers of this District, returns equal to the value of one-half of their grain sales through the numerous local elevators.

Rosthern, before the necessary building of the branch lines east and west of here, was the largest local grain shipping point in the world.

We trust that you will carry away with you pleasant memories of your visit to Rosthern and the Prince Albert constituency, and we hope that after the session is over and during the Summer or Fall you will find it possible to come again to us,

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when we will be pleased to show you the wonders and beauties of this new country so little known to many of our Eastern Canadians.

On behalf of the Citizens of Rosthern.

To The Right Honourable W. L. McKenzie King,
Prime Minister of Canada.

Rosthern, Saskatchewan,
February 2, 1926.

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C 40554

Honorable Sir:-

The electors of the South half of the constituency of Prince Albert, now represented at this meeting, wish to express our pleasure and gratification at having you, the Prime Minister of Canada, as our Candidate, and we assure you that you will be our elected member on February 15th.

You, Sir, will be the second Liberal Prime Minister of Canada to be elected in this constituency.

In 1896 our Dearly Beloved Old Liberal Chieftan, Sir Wilfred Laurier was elected in this constituency in a close three cornered fight. This constituency then consisted of the whole District of Saskatchewan and comprised what is now the North half of this Province. No Liberal had previously been elected here.

Rosthern then had only recently been settled. In the whole District, between the North and South branches of the Saskatchewan River there were fifty voters. When the ballots were counted at Rosthern, there was a solid vote of fifty for Wilfred Laurier; and in the whole constituency he had a majority of fifty votes. Rosthern has always claimed the honour of his election.

While the Constituency of 1896 now forms seven Federal Constituencies, the Liberal policies and principals advocated and carried out by you, Sir, still predominate as the political views of the electors, in all of them. We wish to assure you that the great settlement of Rosthern has never changed its political affiliations, and is everywhere in Western Canada, known to be <u>solid Liberal</u>.

We wish to assure you, Sir, that we appreciate your courtesy and consideration in accepting the invitation of the Rosthern Liberal Association to hold this meeting today, and afford us this opportunity of meeting you. We know that you have taken the time to attend this meeting at great sacrifice to your own convenience and for this reason we doubly appreciate your courtesy.

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The electors of Rosthern as well as all the people of Western Canada are proud to have a Western Premier. We feel confident that having you more closely associated with our Western Country will earn for us, if possible, a more sympathetic feeling in the Councils of our country. This, we hope, will brush aside any misunderstandings that may appear to exist between Eastern and Western Canada.

We would like to call your attention to our beautiful winter climate and the fact that your constituents have driven in automobiles, thirty and forty miles, to attend your meeting today; and while storms and blizards and snow drifts prevail in Eastern Canada we still have beautiful fall weather.

In conclusion we wish to invite you to visit your constituents at the end of the present Session and we will endeavour to show you the beauties and resources of the Banner Constituency of Canada.

Signed on behalf of The Rosthern Liberal Association.

Thos. Gunnah

President.

To The Right Honourable W. L. McKenzie King,
Prime Minister of Canada.

Rosthern, Saskatchewan,
February 2, 1926.

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C 40556 E - 1454
Times

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.
H.

Memorandum for the Prime Minister

2nd July

I enclose copy of a letter received from Mr. Pacaud on the subject of advertising in the Times. I am informing Mr. Pacaud that the matter will receive attention in the course of the next few weeks. Possibly you may care to discuss it with Mr. Larkin if he comes out this summer.

O.D. SKELTON

Must confer with Mr Larkin & should
decide - with recent correspondence
re,

July 16-25

Ottawa, 14th July, 1925.

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C 40557

COPY

Advert/Times

Office of the
High Commissioner

2nd July, 1925.

Dear Dr. Skelton,

I am enclosing you copy of a letter which I have received from the "Times". I have replied that I was not in a position to give any opinion in the matter, but would refer it to the proper authorities in Ottawa. I would appreciate being advised of the decision of the Government in the matter.

Yours sincerely,
(Sgd) LUCIEN PACAUD.
Secretary.

O.D.Skelton, Esq.,M.A.
Under-Secretary of State for External Affairs,
O t t a w a, Canada.

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C 40558

(COPY)

THE TIMES

Printing House Square,

London, E.C.4.

1st July, 1925.

Lucien Pacaud, Esquire,

Canadian Offices,

Trafalgar Square, S.W.

Dear Mr. Pacaud,

The supplement that the Times published on Empire Day in which Canada appeared in a prominent position in the advertising met with very great success everywhere and it was intended the beginning of this year to run a second Supplement in August or September. Would you kindly let me know if you think, in the event of this Supplement being settled upon, I can rely upon a similar page advertisement for Canada. I do not wish to pin you down to a decision now, but thought you would be kind enough to give me your opinion on this matter.

With kind regards,

Yours truly,

(Sgd) E.HOPKINSON.

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E-1454

C 40559

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.
E.T.

Memorandum for the Prime Minister.

5 August,1925

I enclose copy of a letter from Mr.Pacaud, forwarding a request from "Country Life",London, for advertising. This journal published very extensive views of the new Canadian Building. They ask £150 for a two page illustrated article on the advantages offarming in Western Canada, designed for their rather well-to-do constituency.

O.D.

O.D. SKELTON

Ottawa,19th August,1925

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C 40560

COBY E.T.

OFFICE OF THE HIGH COMMISSIONER.

Secretary's Office,
The Canadian Building
Trafalgar Square,
London,S.W.1.
5th August,1925

Dear Mr.Skelton,

I am enclosing you copy of a letter which I have received from "Country Life", with regard to publicity. This journal was very generous in the allotment of space and in its appreciation of our new building in one of their last numbers. I am forwarding this letter so that you may have it on file with previous communications which I have had with you on the same matter, so that the members of the Government may have it before them when the policy as to advertisement in this country is again considered. In the meantime my answer has been non-committal.

Yours sincerely,

(sgd) Lucien Pacaud,

Secretary.

O.D.Skelton,Esquire,M.A.,
Under Secretary of State for
External Affairs,
Ottawa.

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C 40561

COPY

COUNTRY LIFE

11,Southampton Street,

Strand,

London,W.C.2.

July 31st,1925

The Secretary,
Office of the High Commissioner for Canada,
Canadian Buildings,
Trafalgar Square,W.C.

Dear Sir,

I beg to confirm the conversation I had with you on the 29th instant, regarding publicity in "Country Life".

Our journal offers splendid scope for conveying to the well-to-do classes the great advantages of farming in Western Canada, and we would be prepared to give your article a prominent position, in order that our readers could not fail to give your announcement their careful consideration.

The cost of a two-page article would be £150. this price to include the cost of making the blocks from photographs supplied by your Publicity Department. The article could appear in any issue to suit your convenience.

Under Separate cover I am sending some specimen copies of "Country Life", and a glance through the pages will, I feel sure, convince you that our suggestion offers an unique opportunity of obtaining people with substantial capital for Western Canada.

Assuring you of my careful attention to your esteemed instructions,

Believe me,
Yours faithfully,

(sgd) V.E.THOMPSON.

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E-1454-P BF may 1

PRIME MINISTER'S OFFICE

MEMORANDUM

C 40562

~~apr. 8/10~~

WLM

Ottawa, March 29, 1926

Advertising. Govt. Advertising in the British Press

DR. SKELTON

Mr. King said this morning that he would be grateful if Dr. Skelton would look into the matter of the reduction, urged by Mr. Hanson and approved by Mr. Robb, in the vote of $32,000 for Reuters Agency.

I think Mr. King would appreciate Dr. Skelton's opinion as to inserting in the supplementary estimates an item to bring the reduced amount of $16,000 up to the amount appearing in the main estimates, $32,000.

I gather that Mr. King is in favor of re-insertion.

O. D. SKELTON
Private Secretary.

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advertising - Govt Advertising in the British Press

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.

C 40563

Memorandum for Mr. King

Reuters Agency Vote -

Advertising in Great Britain.

Mr. Measures informs me that you have been considering the advisability of inserting in the Supplementary Estimates an item of sixteen thousand dollars to compensate for the reduction in the Main Estimates of the Vote to Reuters Agency from thirty-two thousand dollars to sixteen thousand dollars.

Speaking generally, it would appear desirable to do more rather than less to bring Canada before the British public through the press. I am not in a position to give an opinion as to whether a contract with Reuters is the best means of securing this publicity, or as to the precise character of the service they are giving. Such casual information as I have about the service seems to indicate that it covers a wide field. The Department of Trade and Commerce is in possession of full information and should be able to evaluate the service rendered.

If you are considering the advisability of bringing the Vote up to the original sum, it might be well to refer the question to the Sub-Committee of the Cabinet which is dealing with advertising and printing. I understand that this Committee does not include Mr. Robb. It might be advisable to include him.

This episode and other incidents suggest the possibility of referring to the Sub-Committee the whole question of Canadian Government advertising in Great Britain. There does not appear to be any definite policy as to the amount or character of the advertising to be done, or as to the agency through which it should be placed. Letters are constantly being received from English newspapers direct or through the High Commissioner containing requests for advertising in special numbers. The High Commissioner usually refrains from making any

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recommendations. In a recent letter Mr. Pacaud states that he is following the procedure of sending on all solicitations, as he does not know whether the Government has yet decided on any general policy as to its publicity campaign in Great Britain.

From the files of the Department it appears (1) that no funds have been provided for general advertising in Great Britain, (2) that the Departments of Trade and Commerce and Immigration spend certain amounts on special advertising in their own fields, the former Department spending only a small sum, (3) that no definite policy has been framed as to whether any general advertising should be undertaken and, if so, what sums should be voted and how they should be administered, and (4) that in April, 1922, and June, 1925, it was agreed that "advertising patronage should be vested in the High Commissioner".

Before referring the matter to the Sub-Committee of the Cabinet, I think it would be advisable to speak to Mr. Robb, who was responsible for the Reuters Vote.

2

A letter to the Chairman of the Sub-Committee, Mr. Elliott, and a memorandum are attached.

(O. D. SKELTON)
J.C.

Ottawa, 16th April, 1926.

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E.T.

Ottawa, 8th October,1926

MEMORANDUM FOR MR.MOYER:

Could you or your successor in the office locate a plan of a Government advertizing campaign submitted to the Prime Minister by Frank G.Smith of Smith Sturgess and Moore some months ago?
The plan was forwarded to Mr. J.C.Elliott, then Minister of Labour, and in charge of a Government Advertizing Committee, but Mr.Smith informs me that he has not been able to get any trace of it. If found, could it be sent to Mr.Malcolm, stating that the Prime Minister would be obliged if he would look into the matter.

C. D. SKELTON

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AFGHANISTAN. [September 20.]

CONFIDENTIAL. SECTION 1.

[N 8664/59/97] No. 1.

Colonel Humphrys to the Marquess Curzon of Kedleston.—(Received September 20.)

(No 11.)

My Lord, *Kabul, August* 17, 1922.

I HAVE the honour to transmit, for your Lordship's information, a translation of the announcement on the subject of Afghan relations with Russia, to which reference was made in my telegram No. 65, dated the 31st July.

As a pronouncement of future policy, read in the light of recent events in Bokhara, it marks the close of an episode, and apparently indicates that, even if the ultimate goal of Afghan aspirations remains the same as before, there is to be a change in the course steered towards its attainment.

Consequently, although local occurrences have been separately reported to your Lordship, the present seems a suitable opportunity for taking a survey of the situation, so far as the complexity of the forces at work and my brief residence in Kabul allow me to do so

2. At the time of my arrival the problem uppermost in the mind of His Majesty the Ameer was clearly that of Bokhara. To him the anti-Soviet rebellion in that country made a threefold appeal: As a Moslem he was bound to view sympathetically, if not actually to assist, the struggles of a neighbouring Moslem State against infidel oppression; as a statesman he was anxious for the creation of a free and friendly buffer State between Russia and a large sector of his northern boundary; and as a diplomat he was obliged to show that the independence of Bokhara, as guaranteed by the Russo-Afghan Treaty, was to be a reality and not a Bolshevik fraud.

The presence of the ex-Amir of Bokhara as a refugee in Kabul and the constant flow of fugitives from Turkestan prevented the urgency of the problem being overlooked by the Afghan people and afforded texts for religious agitation. Enver Pasha had arrived in Turkestan, and the glamour of his name raised the Ameer's hopes that the independence of Bokhara might be achieved by force. Nadir Khan, the Commander-in-chief, was sent to the northern frontier to open correspondence with Enver and assistance was secretly sent to the revolutionaries. At the same time, the Ameer was well aware that his troops were deficient both in arms and training and could not unaided meet the Russians in the field.

I had been warned that the first question which he would wish to discuss with me would be the possibility of British assistance being given to Afghanistan in the event of an open breach with Russia. He did not attack the subject directly, but at my first interview asked me whether I brought any special message from His Majesty the King, and I have little doubt as to what was in his mind. He then pressed for an official recognition by His Majesty's Government of the independence of Bokhara and Khiva, obviously hoping to secure through diplomatic entanglements the military assistance which His Majesty's Government might not be willing explicitly to guarantee.

Meanwhile the attitude of the Soviet had stiffened. The reinforcement of the Afghan frontier troops was countered by a Russian concentration at Kushk. The Ameer was given to understand that if he wished to secure the material benefits promised in the Russo-Afghan Treaty his intrigues in Bokhara must cease and a public pronouncement be made of his neutrality. His overtures to His Majesty's Government had produced no result, and he was bound to comply outwardly with the Soviet demands.

The present position is, as I understand it, that the Soviet Government, whatever their real intentions may be as to the fulfilment, already overdue, of the Russo-Afghan Treaty, demand that the Ameer should, as a step preliminary to any further discussion, cease to assist the Soviet's avowed enemies. The Ameer, on the other hand, feels that if he ceases to intrigue in Turkestan he will not only be regarded as a traitor to Islam by his subjects, but that as soon as the Soviets are free from pressure in Bokhara they will evade their treaty obligations in regard to the rendition of the Panjdeh area to Afghanistan.

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The present pronouncement, therefore, is not calculated to relieve the Soviet Government of anxiety as to the Afghan attitude towards Bokhara should a suitable opportunity arise for interference, but does amount to an admission that, in present circumstances, Afghanistan cannot afford openly to break with Russia and is compelled to adopt an outwardly correct attitude. Nor does such a pronouncement necessarily imply that any definite step towards the complete fulfilment of their treaty obligations is in contemplation by either Afghanistan or Russia. It seems highly improbable that the Soviet Government would tolerate an independent Bokhara or that they seriously intend to restore any territory to the Ameer. What they probably have in view is a Bokhara nominally free, but really under Bolshevik control, and a packed plebiscite, if any, in the Panjdeh area.

On the other hand, the Ameer must be alive to the danger involved to himself in allowing his country to become a corridor for uncontrolled Bolshevik intrigue in India and among the frontier tribes. Intrigue among the latter, through his own officials, is a weapon, efficient but double-edged, which the Ameer cannot afford to let slip from his hands.

Bolshevik gold may indeed reach the frontier, but is most unlikely to do so without the Ameer's knowledge, and it would be characteristic of Afghan diplomacy were he to encourage the despatch of such subsidies only so long as he is in a position to control their distribution, and thereby gain for himself a cheap reputation for generosity. Such a tendency would require to be carefully watched, but would certainly be actuated by self-interest on the part of the Ameer rather than by any enthusiasm for the cause of Bolshevik intrigue in India. The Soviet Government, in fact, seem to have made little actual progress towards the realisation of the main object which they had in view when negotiating their treaty with the Ameer. The interests of Afghanistan and Soviet Russia are essentially divergent, and friendship between the two countries, although an attitude of cordiality may be assumed by the Ameer as a diplomatic bluff for the edification of a third Power or under compulsion of *force majeure*, cannot, I am convinced, be either sincere or lasting.

3. Very different is the nature of the relations between Great Britain and Afghanistan. Here the ultimate interests of the two countries are mainly identical, while the causes of friction, serious as they are at present, may reasonably be expected to prove accidental and temporary. The most potent of these causes are, first, the suspicion in the Afghan mind that His Majesty's Government do not intend to respect in practice the independence which they have guaranteed by treaty, and, secondly, the trend of British policy, as misrepresented to the Moslem world, towards the former Turkish Empire, particularly in respect of the Holy Places. According to the light in which the attitude of His Majesty's Government towards these problems can be locally interpreted, their present suspicions will either be seen by the Afghan Government and people to be unfounded and transient or will deepen into an obsession.

A more inveterate cause of difference between the two Governments lies in the problem of the north-west frontier tribes. His Majesty's Government might reasonably demand that before the Ameer's attitude can be regarded as friendly, he must formally renounce all connection with the tribes on the British side of the Durand line. The Ameer, on the other hand, regards the maintenance of his influence in that region as his best insurance against the threat of British domination. In the event of war, as was shown in 1919, these tribes are his main support; and in time of peace his undoubted ability to excite them gives him a diplomatic advantage which he fully appreciates. In present conditions the final surrender of such a weapon would, in the Ameer's eyes be suicidal. For him to forgo its use even temporarily as he has by the proclamation which formed the subject of my despatch No. 2 dated the 5th March, 1922, and by the summary removal of firebrands such as Haji Abdul Razik from the Waziristan border, is indeed a considerable concession and in the opinion of many of his advisers a mistaken one. In addition the hostilities of 1919, and the consequent loss of the subsidy have of course left feelings of resentment and disappointment in their train. To keep alive these feelings, and to aggravate these causes of friction, is the obvious policy of both the Soviet and Angora Governments, and one in which their representatives in Kabul find themselves able to work together for a common end.

4. The most prominent figure in Kabul at the moment is Fakhri Pasha who is in the Ameer's closest confidence; and with his arrival Turkish influence has attained its zenith. The alliance between Angora and Afghanistan is based mainly on sentiment and religion, and as such makes a strong appeal to the people at large, and to the Orthodox Party in particular.

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Politically, both Governments consider themselves threatened on either side by the aggression of non-Moslem Powers, while personally the Ameer, as the self-acclaimed victor in a holy war, is bound to display the closest sympathy with the heroic defender of Medina. Unfortunately Fakhri, largely for private reasons, appears to be an Anglophobe to the verge of monomania, and it must be admitted that the Angora Government have made an excellent selection for their purpose.

At the same time elements of possible discord are inherent in Turko-Afghan relations. There is no historical or geographical connection between the two countries, while the Pan-Turanian programme must necessarily entail the absorption of Afghan Turkestan in the Turkish dominions, and is therefore a direct threat to the integrity of Afghanistan.

Persia, with the imminent menace of Turkish aggression in Azerbaijan before her eyes, has already realised the danger involved in this movement, masquerading as it does in Pan-Islamic guise, and if a Turkish conquest of Azerbaijan becomes an accomplished fact, it is possible that Afghanistan may take the warning to heart.

Again, were the Angora Government to carry out their alleged design of reducing the Sultan to the status of a puppet Caliph without a vestige of temporal power, the alliance might be severely tested by the resentment which such a policy would arouse among orthodox Afghans. It may be noted that the manners of the Angora Turk are not ingratiating, and the Afghan officers of the old school do not conceal their jealousy of the Turkish instructors who are displacing them. The present rapprochement between Angora and Afghanistan appears then rather to be due to a political accident than to rest on a natural and permanent bond of union. When the lack of common secular interests has become apparent, the religious tie may be found inadequate to hold the two countries together.

5. As if the narrow limits of the Afghan political arena were not sufficiently occupied by the principal performers, Great Britain, Russia and Angora, a number of figures who could hardly be thought to aspire to a speaking part have also secured admission. Thus there are the Persian Minister, friendly to British interests but without influence, three Bokharan delegates, each representing a non-existent form of government, a Chinaman, who is at one time treated as an envoy and at another is said to be a commercial traveller, and the leading members of the Italian Legation, which alone requires further notice.

The purposes for which this mission was despatched to Kabul were, according to my information mainly commercial. This statement is sufficiently surprising, but becomes less so when it is realised that the recent change in the status of Afghanistan, combined with the exaggerations of Afghan visitors to Europe, has given rise to the idea that this country is a mine of commercial possibilities, the development of which Great Britain has unsuccessfully attempted to retain in her own hands. This fiction, considered in conjunction with the enterprise recently shown in dumping Italian goods in North Persia, makes the Italian Government's version of their intentions less improbable than it appears at first sight to be. Within three months of their arrival the Italian commercial delegates professed themselves thoroughly disillusioned; three have already left, while the Minister tells me that a more recent arrival, S. Ferrari, an engineer with a European reputation, feels that he has been made a dupe of Afghan optimism. The Marquis di Paterno himself appears to be a mere figure-head, equally anxious to be friendly with M. Raskolnikof, Fakhri Pasha and myself, and, while posing as the *vieux diplomat*, to exercise no influence whatever. It is only the Afghan lack of humour which saves him from exciting ridicule.

The activities of Dr. Scarpa are less easy to gauge. All my information goes to show that he is in extremely close touch with the Soviet Legation, and if on leaving Kabul he takes up his intended post of commercial attaché in Bombay, it will be for the Government of India to consider what steps should be taken if his present Bolshevik connections are maintained.

6. Regarding the Ameer himself I have nothing to add to what Sir Henry Dobbs, who had exceptional opportunities of seeing His Majesty in all his varying moods, has already written. Afghan policy, when directed by so inexperienced a ruler, is not likely to be free from aberrations, but there are in the international situation, as envisaged by the Ameer, some constant forces which exert a continuous influence on his actions. With a Power stronger than himself on either side, he, like his predecessors, seeks to profit by their mutual hostility. By tempting Great Britain with the prospect of excluding Bolshevik influence from Afghanistan and Russia with the lure of free transit for propaganda to India, he can, although not actually in a position to redeem either pledge, extract concessions from both Powers in turn. If the bait is rejected by either Power,

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he can bring pressure to bear on Russia by intrigues in Turkestan, and on Great Britain by fomenting disturbances on the frontier of India. By these means he hopes to secure the arms and money which are vital for the organisation of his military power and the development of his country, and thus to achieve his dream of an Afghanistan independent in fact as well as in name.

During the recent war and subsequent negotiations, the whole of these resources were brought to bear, although with disappointing results, upon Great Britain. It is now Russia's turn. Her reported weakness and embarrassments in Turkestan have given the Ameer an opportunity for interference which he could not be expected to resist. He cannot, however, conveniently squeeze Russia and Great Britain at the same time, nor can he, while pursuing a policy provocative to one, afford to alienate the other. This is the probable cause of the recent lull in Afghan intrigues on the Indian frontier. At the same time there is reason to believe that his present tactics do not command the unanimous approval of his Council. There are some who warn him that, while he is intriguing in Turkestan and thus giving Russia grounds for refusing to fulfil her treaty obligations, the building of the Khyber railway and the present policy in Waziristan show that Great Britain is consolidating her position on the frontier, and that when he next wishes to raise the tribes he will find them helpless or unwilling to respond.

For the development of his country and the education of his people, the Ameer's dread of either British or Russian penetration leads him to employ nationals of other countries, from whom he considers that there is nothing to fear. Hence the bizarre procession of Italian prospectors, German engineers, French professors and American company promoters who are now being invited to assist the progress of Afghanistan towards solvency and civilisation.

It is difficult to estimate the strength of the Ameer's own position at the moment, as it would be rash in a land where calculations are so liable to be upset by assassination to indulge in prophecies regarding his future.

There is, indeed, much in his present policy which is likely to alienate his subjects; the theory that all incomes should be earned must clearly be most distasteful to many of his Sardars, while the reductions reported to have been made in the pay of the army and in official salaries are not calculated to popularise his expensive programme for the regeneration of his country. The mullahs, as always, regard every form of progress as a menace to their faith.

To all appearances, however, he has gained a hold on the imagination of his people, and is rapidly consolidating his power; nor does there seem to be any rival claimant to the throne whose pretensions would have much chance of success. The fact that Inayat Ullah is still alive, although practically a State prisoner, tends to show that the Ameer regards him as harmless; Hayat Ullah and Kabirullah, his other brothers, as well as Mohamed Omar and Aminulla Jan, his uncles, are nonentities. Abdul Quddus is a reactionary, opposed to the admission of foreigners to Afghanistan, but is said to be in a state of senile decay, and to have lost all but the shadow of his former reputation. The great family of the Musahiban-i-Khas are in high favour, and hold important civil and military posts. Their influence is undoubtedly great, but they would apparently have little to gain from a revolution. On the whole, the Ameer's seat on the throne seems to be firmer than the circumstances of his accession would have led one to anticipate.

7. It may be regarded as superfluous that I should so soon after the receipt of your Lordship's despatch No. 26, dated the 21st June, make a further reference to the future course of British policy in Afghanistan. The Government of India's despatch, however, on which your Lordship's instructions were issued, dealt with the situation as it stood on the return from Kabul of Sir Henry Dobbs's Mission and was mainly concerned with one particular problem—the possibility of aggression by the Ameer in Central Asia. Since Sir Henry's departure the policy of the Ameer, both domestic and foreign, has developed rapidly, and it does not therefore appear premature to place before your Lordship the conclusions to which my analysis of present conditions has led me.

If this be granted, I may still be considered presumptuous in venturing, after five months' stay in Kabul, to recommend to His Majesty's Government any definite policy with regard to Afghanistan. My brief residence in this country has, however, but deepened my conviction, formed after several years' study of the problem, as to what the general outlines of such a policy must be, and my belief that, in dealings with Afghanistan at least, a lack of working principles can only lead to opportunism, discredit and disaster. Among such working principles—not, I trust, conflicting with those

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advocated by the Government of India, but perhaps supplementing them from a different angle—the following appear to me to be of primary importance :—

(1.) The necessity of convincing the Afghan Government that Great Britain has no designs on the external independence of Afghanistan, and no wish to impede her internal development.

The first step, in my opinion, towards the attainment of this object should be the prompt and scrupulous fulfilment of all treaty obligations to Afghanistan. His Majesty's Government can, indeed, afford to regard the Ameer's first essay in international diplomacy with an indulgent eye. Direct relations with other Powers will soon cease to exercise the lure of the unknown, and when the Afghan Government realise that their country is regarded by other European nations merely as a field for commercial and political exploitation in their own interests, disillusionment should quickly follow. When this stage is reached, if Great Britain has meanwhile convinced Afghanistan of her good faith and goodwill, it should not be long before the ultimate identity of British and Afghan interests is made apparent.

(2.) The avoidance of any steps which might cause the Ameer to fancy that His Majesty's Government are courting his friendship, or are haunted by a fear of his hostility. I have seen nothing to make me believe that the Afghan is an exception to the rule that Orientals regard the bestowal of unsolicited favours as a sign of weakness, but react readily to the stimulus of assumed indifference. While, then, I would recommend that reasonable assistance in the development of Afghanistan, even beyond the obligations of the treaty, should be freely given, I regard it as essential that such assistance should only be granted on the preferment of a personal request by the Ameer or of an official application by the Afghan Government.

(3.) A definite and consistent policy on the north-west frontier of India. Although, as I have attempted to show, it would be Utopian to expect, at present, a public renunciation by the Ameer of his connection with the tribes beyond his frontier, any attempt on his part to dictate British policy in that region should be firmly resisted, even if the immediate result should be the renewal of Afghan intrigue among the tribes. Abandonment, for instance, in deference to the Ameer's protests, of the Khyber Railway, or of any approved line of policy in Waziristan, would entail such loss of British prestige in this country as would ultimately outweigh any immediate gain that might be in prospect. The consolidation of the British frontier appears to me to be the only means by which foreign influence within the Durend line can be permanently neutralised, and there is reason to hope that, when convinced by experience of the goodwill entertained by His Majesty's Government for Afghanistan, the Ameer may be reconciled to the loss of his favourite weapon by a realisation that it is no longer needed.

8. The decay of Afghan authority among the frontier tribes would remove one of the three main obstacles to the predominance of British influence in Afghanistan. The two remaining are the Bolshevik menace, with the diplomatic leverage which it places in the hands of the Ameer, and the question of the Turkish peace terms. The settlement of these problems must, however, be guided by considerations which it is not within my competence to estimate.

9. I am aware that a policy of the kind I have indicated invites criticism as lacking in ambition and initiative; it aims at a gradual progress towards a distant goal and relies on patience rather than pressure to achieve its purpose. But the position to-day, as I see it, emphasises the necessity of hastening slowly. The ground must first be prepared and a mass of suspicion and inherited distrust remains to be removed before the Afghan can bring himself to place confidence in the motives of British statesmen. His doubts are being fostered and exploited by the enemies of Great Britain, but, in existing circumstances, I believe it will be wise to allow him, provided that British interests are not clearly endangered, to make his own choice without ostentatious prompting, and to leave him to learn in the school of experience where his true profit lies.

The Ameer and his advisers are young men impatient of their rights and fanatically sensitive on the subject of their independence, which they are eager to advertise to the world at large. But the essential dependence of their country on the British Empire

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will come to be realised, not only through their terror of Russian penetration, but through a growing conviction that Great Britain alone among the nations is both able and willing to assist towards the free development of Afghanistan.

Such a policy admittedly offers no certainty of quick returns and little scope for diplomatic *tours de force*, but by no other, as I am led to believe, can British ascendancy, in the changed conditions of the present time, be re-established in Afghanistan, resting, not as in the past on the exclusion of other competitors, but on the enlightened judgment of a people free to choose.

A copy of this despatch is being sent to His Majesty's Secretary of State for India and to the Government of India.

I have, &c.
F. H. HUMPHRYS.

Enclosure in No. 1.

Announcement published in the "Afghan" on Saturday, July 29, 1922.

AFGHANISTAN AND RUSSIA.

(Translation.)

HAVING in view the reforms which were needed in our military forces in the provinces and the improvements and reorganisation which the Ministry for War had previously planned, our Government, acting on the advice of its counsellors, was obliged to send some of the Ministers to Mazar-i-Sherif, Qataghan, Badakhshan, Herat, Jalalabad and Kandahar to organise the civil administration, reform the military forces and discharge old and unfit soldiers. But the steps for the improvement of our forces in the north have appeared to the people as an indication of some secret or open difference between the Russian and Afghan Governments, and they are spreading and publishing rumours so that I have been obliged to make known the policy of my Government in order to remove existing doubts. Afghanistan in no circumstances wishes to create trouble for her friendly neighbours Russia and Bokhara. Since the Afghan Government regards Bokhara as an Islamic State, and her people as their brothers, how can they possibly be desirous of creating trouble and difficulties for them? In fact Afghanistan is a supporter of the independence and complete freedom of Bokhara, and any infringement of the rights of Bokhara is a source of grief to her.

The Russian Republic, in accordance with the treaty between the two States accepted the independence of Bokhara with all the conditions of self-government.

Accordingly the present disturbances in Bokhara are regarded by Afghan statesmen as a kind of internal disorder, in which the Russian and Afghan Governments have no right to interfere. Afghanistan, disapproving particularly of this kind of internal strife, remains neutral.

The Government of His Majesty our King is making the utmost efforts to improve our internal administration and to strengthen the friendly relations which exist with neighbouring States.

The idea of world conquest, or of trampling on the rights of others, does not enter into our policy, but rather we look on such actions as evidences of moral turpitude.

I have full confidence that relations between Russia and Afghanistan will day by day be more surely directed towards, and will strengthen, the welfare and freedom of Bokhara and Khiva.

MOHD WALI.

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AFGHANISTAN. [May 7.]

CONFIDENTIAL. SECTION 1.

[N 4046/22/97] No. 1.

Lieutenant-Colonel Humphrys to the Marquess Curzon of Kedleston.—
(Received May 7.)

(No. 11.)

My Lord, *Kabul, April* 6, 1923.

I HAVE the honour to invite a reference to the communications cited below,* by which your Lordship has been informed of the attitude recently adopted by the Afghan Government towards British policy on the north-west frontier of India.

Evidence of this attitude is afforded by the virulent anti-British articles recently published by the "Ittihad-i-Mashriqi," the convocation by the Ameer of tribesmen from the British side of the Durand line to jirgas at Jalalabad, the official protest made by the Afghan Government against the character of British operations in Waziristan, the supply of money and ammunition which is reported on good authority to have reached the Mahsuds from the Soviet Legation at Jalalabad, and the distribution by Brigadier Adam Khan of rewards to hostile sections in the Wana area.

Of these, the press campaign does not appear in itself to be of any particular importance. The invitation of tribesmen from beyond the Afghan border to meet the Ameer is in accordance with precedent; although on this occasion it appears that tribesmen living further within the British sphere of control than ever before have been allowed to accept it. Presumably, however, since the tribesmen are prone, in order to increase their own importance, to exaggerate the amounts received by them on such occasions, it would not be difficult, by deducting from allowances payable to them by the Government of India the equivalent of sums stated to have been so received, to counteract the moral effect produced by the Jalalabad jirgas. The official protest lodged by the Afghan Government has already engaged the attention of His Majesty's Government. I have the honour to enclose herewith a translation of the Foreign Minister's letter dated the 28th January, 1923, with a translation of my reply, No. 34, dated the 9th March and of a further letter on the subject from the Foreign Minister dated the 31st March. The Foreign Minister has given me an emphatic assurance that no assistance has been given to the Mahsuds or Wazirs—an assurance which may at any rate be taken to indicate that the Afghan Government are not yet prepared to give such assistance openly. The fact that many of the Wana Wazirs spend part of the year in Afghan territory affords a plausible excuse for the generosity of Brigadier Adam Khan.

These incidents, though perhaps not of great moment if considered separately, afford in the aggregate a clear indication of a renewal on the part of the Afghan Government of their inveterate tendency to interfere in tribal politics beyond their own border. Reports as to their further intentions, which as yet require confirmation, are given in telegram dated the 30th March, 1923, from the Government of India, a copy of which, with a copy of my reply (telegram No. 100, dated the 1st April, 1923), I have the honour to append as an enclosure to this despatch.

2. Although, in my opinion, the ultimate cause of such developments is to be found in the principles indicated in my despatch No. 11, dated the 17th August, 1922, in accordance with which the weathercock of Afghan intrigue may be expected to veer periodically from north to east, there appear to be several contributory motives which have impelled the Ameer to show a revival at the present moment of his traditional interest in the tribes on the British side of the Durand line.

3. This fresh orientation of Afghan policy may be said to date from the return of Sardar Nadir Khan from the north. He and his brothers are the acknowledged Afghan experts in frontier matters, while the foreign Minister makes no pretence of concealing his lack of acquaintance or personal concern with such matters. Sardar Nadir Khan seems to have returned to Kabul convinced that Russia had no intention of carrying out her treaty from a sense of obligation, and could not be compelled to

* Kabul Nos. 13, 17 and 27 (Telegraphic) of February 5, 7 and 26; Nos. 29, 31 and 32 (Telegraphic) of March 3 and 24; No. 35 (Telegraphic) of April 3; Government of India to the Secretary of State for India, No. 177/S (Telegraphic) of February 16; Nos. 310/S and 324 S of March 19 and 21, 1923, not printed. Kabul No. 6 of February 10, March 13, Section 1. Kabul No. 7 of March 9, not printed. Kabul No. 9 of March 10, April 3, 1923, Section 1.

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do so by threats of Afghan intrigue in Bokhara, where the death of Enver Pasha had destroyed all hopes of a successful rebellion. But if one of the competitors for Afghan friendship was irresponsive, the other might be induced to make a bid, not from gratitude—the efficacy of which as a factor in diplomacy is discounted by the Afghans—but from fear. In order, however, that the bid should be satisfactorily high, the value of Afghan friendship must be proved by a taste of Afghan hostility.

4. I anticipate that the present Anglo-Afghan Treaty will be denounced by the Afghan Government at the earliest possible date, and that in negotiating a new treaty their main demand will be for financial assistance to be given in some form considered compatible with their "independence." In return they may be expected to offer the bait of Afghan neutrality, or even co-operation, in the pacification of the frontier tribes.

5. The occasion of the Ameer's visit to Jalalabad seemed eminently suitable for carrying out the preliminary stages of such a programme. He was there brought naturally into contact with the tribesmen of the Eastern Province; the appeal of the Mahsuds who fled to him with tales of British atrocities could not in his own interests prudently be disregarded, and afforded an opportunity of charging His Majesty's Government with a breach of the treaty; at the least, some gesture might be made to obliterate from the tribesmen's memory his betrayal of their interests in concluding the present treaty with Great Britain.

Deeper, however, than the promptings of political opportunism lay the conviction that the consolidation of British influence in "independent territory" would mean the permanent loss to Afghanistan in future of her only real leverage in diplomatic dealings with His Majesty's Government. The latter appeared to be taking advantage of the correctness of the Afghan attitude to effect such a consolidation, which, if it might be impossible eventually to resist, it was obviously to the Afghan interest to delay until after the expiry of the present treaty.

6. The new sphere for intrigue thus opened to Sardar Nadir Khan appealed to him not only as a politician, but also as a soldier. He has expressed to me, quite probably sincerely, his disgust at the unwarlike character of the tribes of Northern Afghanistan, and it seems likely that the large reductions now being made in the regular Afghan army reflect his conviction that the only fighting material of any value in this country is to be found in the tribal irregulars from the eastern frontier, who will be regarded in future as the first line troops of Afghanistan. More than one of these influences can be traced in the conversations which Sardar Nadir Khan has had with me and members of my staff, as reported in my despatches No. 6, dated the 10th February, 1923, and No. 9, dated the 3rd April, 1923. To these considerations should be added the personal interest which the Afghan Commander-in-chief takes in the tribes which assisted him so successfully in the late Afghan war.

7. Allowance must also be made for a natural desire on the part of the Afghan Government to test the efficacy of an old weapon by the effect on His Majesty's Government of its reappearance. Any signs of perturbation on the part of the latter would show that it has lost none of its virtue; while the feel of it in his hand tickles the Ameer's vanity and ministers to his pretensions as the rightful sovereign of "Afghanistan irredenta." Although the Ameer's present attitude is hailed with delight by the Russian and Turkish Ministers, I consider it most unlikely that either of them are primarily responsible for it.

If the only result of these tactics were to increase the Ameer's sense of his own power and importance, they might, in my opinion, be ignored with advantage by His Majesty's Government. However, at the present juncture in Waziristan, where the influence of Afghan intrigue may undo the work of months and postpone indefinitely a settlement with the Mahsuds, it seems to me essential that the Ameer should be made to realise that active interference on his part in the affairs of the tribes on the British side of the Durand line cannot be tolerated by His Majesty's Government.

8. On receipt of the Viceroy's telegram dated the 21st March, 1923, I accordingly addressed the Afghan Foreign Minister in letter No. 54, dated the 24th March, 1923, a translation of which I have the honour to append as an enclosure to this despatch. In this letter, while careful to avoid committing His Majesty's Government to any definite line of action, I purposely used the same Persian terms as are employed in the official text of the Anglo-Afghan Treaty (article 6 and letter No. 1), without expressly quoting it, so that the way might be prepared for a refusal, if this were considered desirable, by His Majesty's Government to allow the import by British ports by the Afghan Government of the arms mentioned in your Lordship's despatch

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do so by threats of Afghan intrigue in Bokhara, where the death of Enver Pasha had destroyed all hopes of a successful rebellion. But if one of the competitors for Afghan friendship was irresponsive, the other might be induced to make a bid, not from gratitude—the efficacy of which as a factor in diplomacy is discounted by the Afghans—but from fear. In order, however, that the bid should be satisfactorily high, the value of Afghan friendship must be proved by a taste of Afghan hostility.

4. I anticipate that the present Anglo-Afghan Treaty will be denounced by the Afghan Government at the earliest possible date, and that in negotiating a new treaty their main demand will be for financial assistance to be given in some form considered compatible with their "independence." In return they may be expected to offer the bait of Afghan neutrality, or even co-operation, in the pacification of the frontier tribes.

5. The occasion of the Ameer's visit to Jalalabad seemed eminently suitable for carrying out the preliminary stages of such a programme. He was there brought naturally into contact with the tribesmen of the Eastern Province; the appeal of the Mahsuds who fled to him with tales of British atrocities could not in his own interests prudently be disregarded, and afforded an opportunity of charging His Majesty's Government with a breach of the treaty; at the least, some gesture might be made to obliterate from the tribesmen's memory his betrayal of their interests in concluding the present treaty with Great Britain.

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No. 7, dated the 15th February, 1923, as having been purchased by them in Italy. I trust that my action in this particular will meet with your Lordship's approval.

9. Should this warning be ineffectual and Afghan activities develop on the lines indicated in telegram dated the 30th March, 1923, from the Government of India, I have the honour to suggest for your Lordship's consideration the propriety of refusing permission, if requested, for the import of the arms in question. I would suggest that such a refusal should not be absolute, but should only remain in force for a specified time, within which the Afghan Government should be required to maintain a strictly correct attitude. If, as I believe, the present policy of the Afghan Government is largely bluff, this action may be expected to induce them to accede to such demands as for the cessation of active interference on their part beyond the Durand line, and an official disavowal of such articles as have recently appeared in the "Ittihad-i-Mashriqi."

10. Should, however, the Afghan Government have determined that the obstruction of British consolidation in Waziristan is of such vital importance as to justify an open rupture, the stoppage of arms would clearly seem from the point of view of His Majesty's Government to be a politic measure and would do no more than accelerate a catastrophe which would in any case be inevitable. There are no signs, however, that the Afghan Government are prepared for an outbreak of hostilities in the near future; the large reductions recently effected in the army afford, in fact, a clear indication to the contrary, and even allowing for the inexperience and vanity of the Ameer, who by a process of auto-suggestion is beginning to believe that he won the last war, I consider it far more probable that, if his present activities are firmly checked at the outset, he will abandon them, at any rate until a more favourable opportunity occurs. It should then be possible for His Majesty's Government, by fixing a time limit during which the maintenance of a correct attitude would be the condition precedent to the grant of permission for import, to ensure a favourable atmosphere for the settlement of Waziristan. A conditional promise that import would be allowed after a period of probation should, it is suggested, prove that His Majesty's Government are prepared to carry out the provisions of the treaty as soon as the Afghan Government have shown their willingness to observe it in the spirit, and would tend to delay the renewal of Afghan intrigues until such time as consolidation of the British position in Waziristan would have diminished their importance as a disturbing factor. Again, compliance with such demands by the Ameer would be regarded by many of the tribes as a second betrayal and should lower his prestige among them. An attitude of complaisance, on the other hand, towards the Ameer's present activities would not, in my opinion, minimise the risk of a rupture, since by being mistaken for weakness it might encourage him to proceed to such lengths as would make the continuance of diplomatic relations almost impossible.

11. A further possibility which must be taken into account is whether, in the event of such a stoppage, the Russian Government might not seize the opportunity to fulfil their treaty obligations of supplying arms to the Ameer for use against India. For the fulfilment of the Russo-Afghan Treaty, His Majesty's Government were presumably prepared at the time of its signature, while if the Ameer were so prone to co-operate with Bolshevik designs against India, no greater danger would appear to arise from arms supplied by Russia than from those imported through the good offices of His Majesty's Government. In any case, it appears that the risk is one which will have to be faced if the provisions of article 6 of the treaty are ever to be regarded as anything more than a dead letter.

12. I have not as yet received from the Afghan Government a detailed list of the arms to be imported, and would make it clear that, in my opinion, the actions of the Afghan Government up to the present time, so far as they are known to me from authentic information, would not justify the stoppage of such import. It is only in the event of the reports received from the Government of India of definitely hostile intentions on the part of the Afghan Government being confirmed by subsequent developments that I would recommend the stoppage of these arms, on some such conditions as I have indicated. I have, however, considered it advisable to submit my views on the situation at this stage in greater detail than would be possible if they were subsequently required by telegram.

I of course realise that the question of granting or refusing permission for the import of these arms may be affected by diplomatic considerations regarding the relations of His Majesty's Government with the Italian Government; these, as being beyond my purview, I have not taken into account.

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I shall not fail to keep your Lordship informed by telegram of such occurrences as may serve to discover the present tendencies of Afghan policy on the north-west frontier of India.

13. A copy of this despatch is being sent to the Secretary of State for India and the Government of India.

I have, &c.
F. H. HUMPHRYS.

Enclosure 1 in No. 1.

Translation of a letter dated January 28, 1923 (*corresponding to Dalv* 8, 1301), *from the Afghan Foreign Minister to His Majesty's Minister, Kabul.*

(After compliments.)

HAVING regard to the fact that your Government have undertaken military operations against the people of Waziristan, and that bombardments by aeroplanes and artillery have subjected those people to hardship and misery, I write to say that the action of your Government would appear to be in contravention of article 11 of the treaty signed at Kabul, and also of the official letter dated the 22nd November, 1921, written by Mr. Dobbs, chief British delegate, in that the British Government have given no information to my Government with regard to their military aims and intentions prior to the advance of the troops and have pressed on their military operations despite the fact that the Governments of Afghanistan and Great Britain, as a proof of their benevolent intentions towards the tribes residing close to their borders, have agreed, in the event of such action (being contemplated), each to inform the other in order to avoid misunderstandings. You are also aware that the question of the welfare of the frontier tribesmen is one which affects both parties.

For many years past the British Government have seen that, owing to the proximity of their country and to ties both racial and religious, the Afghan Government regard the question of the frontier tribesmen as one of their most important problems, a fact which was fully realised by Mr. Dobbs. It was for this reason that Mr. Dobbs, regarding the state of tribes on the frontiers of the two Governments as a source of anxiety to Afghanistan, gave the assurance in his official letter.

Since, however, without any intimation to me, British troops have commenced operations on the southern frontier of Afghanistan which have reduced the people of Waziristan to a serious state of alarm, I express to you officially the grief and regret of my Government, and I desire you to write a reply to our Foreign Office, which will satisfy us and will give us reason to anticipate an amelioration of the lot of the Wazirs and Mahsuds, in order that this frontier disturbance, which can be settled without use of arms, the frontier tribesmen being given a guarantee of equitable (good) treatment, may be removed, and the friendly relations existing between the Governments of Afghanistan and Great Britain become strengthened day by day.

Regarding this matter as a source of grief to my Government, I have addressed you officially on the subject, and I expect that you will take immediate steps to settle the question.

(Usual ending.)

Enclosure 2 in No. 1.

Translation of a letter No. 34, *dated March* 9, 1923 (*corresponding to Hoot* 16, 1301), *from His Majesty's Minister, Kabul, to the Afghan Foreign Minister.*

(After compliments.)

I HAVE the honour to inform your Excellency that I have received instructions from His Britannic Majesty's Government to reply to your letter dated the 28th January, 1923 (corresponding to the 8th Dalv, 1301), in the following terms:—

The recent operations in Waziristan, to which the Afghan Government have taken exception, are merely a continuance of operations which began before the Anglo-Afghan Treaty was signed, and which have been in progress for more than three years. They cannot, therefore, be regarded as new operations, concerning which under article 11 of the treaty it would have been necessary to give formal intimation to the Afghan Government.

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The operations from the air have been conducted against a few scattered settlements, the inhabitants of which are small in number, but whose lawlessness has been evinced by a series of brutal outrages on British subjects. These outrages, which have been committed in opposition to the wishes of the tribes as a whole, have formed the sole obstacle for many months past to a general peace between the whole Mahsud tribe and the British Government. The operations on the ground have been confined to the area round Makin, which is inhabited by certain persons who have been frustrating the conclusion of peace by their raids on British subjects.

All these operations have been undertaken for the purpose of accelerating a complete settlement with the tribes of Waziristan, and the institution of the Khassadar system by which local levies will be largely responsible for the protection of their own country is in itself a proof that His Majesty's Government wish to deal with the Waziristan tribes in a spirit of goodwill and generosity. His Majesty's Government will never waver from their determination to observe the terms of the treaty, both in the letter and in the spirit, and they confirm the assurance given by Sir Henry Dobbs that the British Government entertain feelings of goodwill towards all the frontier tribes and have every intention of treating them generously, provided that they abstain from outrages against the inhabitants of India.

I hope that your Excellency will be satisfied with the sincere explanation contained in this letter and will believe that the British Government, no less than the Afghan Government, desire that a complete and satisfactory peace, which will be in the interests of the tribes of Waziristan as well as the British subjects in the frontier districts, will soon be concluded.

(Usual ending.)

Enclosure 3 in No. 1.

Translation of a letter dated March 31, 1923 (*corresponding to Hamal* 10, 1302), *from the Afghan Foreign Minister to His Majesty's Minister, Kabul.*

(After compliments.)

WITH reference to your letter No. 34, dated the 16th Hoot (corresponding to the 9th March, 1923), written in reply to my letter of protest, wherein you have given assurances in regard to current events in Waziristan, I write to say that the arguments of your Government as to the long standing nature of the military operations in Waziristan are clear, but from what we read in the English newspapers and constantly hear from reliable frontier reports regarding the renewal of these agonising events, it appears to us that these operations constitute a breach of article 11 of the Anglo-Afghan Treaty. For, although the operations of the British Government on the frontier may have been started before the treaty, at a time when differences existed between the Afghan and British Governments, yet, when the high contracting parties were able to remove their misunderstandings on a common question and conclude a treaty, it was necessary for the British Government to pay just attention to the attitude of the Afghan Government in respect of the observance of the treaty clauses in their bearing on all questions in general and on the frontier question in particular. Your Government should have refrained from every kind of military operation, such as the action at Makin, of which official intimation was received from you after the occupation of Makin.

Therefore, while calling attention to the attitude of my Government with regard to the welfare of the frontier tribes and the promise of your Government, I desire the solution of this important question on a basis of justice and benevolence, in order that the disturbance on the frontier and the frontier fighting may not create misunderstandings amongst the frontier subjects of Afghanistan which would give rise to difficulties.

(Usual ending.)

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Enclosure 4 in No. 1.

Copy of a telegram (P) No. 365/S, of March 30, 1923, from the Secretary to the Government of India in the Foreign and Political Department, Delhi, to His Majesty's Minister, Kabul.

IN view of fact that situation was becoming disturbed, Wazirforce asked for news from Kabul on 28th. In explanation of this request, he now telegraphs as follows:—

"The following are disturbing features of the tribal situation:—

"(*a.*) Since the middle of February, Brigadier Adam Khan has paid over 20,000 Rs. to Wana Wazir jirgas and half a lakh to Haji levies and other hostiles.

"(*b.*) He is now sending word to friendlies in Wana that Wana, which British are shortly evacuating, will be handed over to Ameer.

"(*c.*) It is reported that lashkar for attack on Wana is forming under his orders at Birmal.

"(*d.*) He says that Ameer will engage large numbers of our tribesmen as his khassadars, and is promising further large rewards to Mahsuds and Wazirs.

"(*e.*) It appears that Russian cartridges and money which were despatched last month from Kabul are materialising in Waziristan.

"(*f.*) As reported by me, influx of letters from Kabul regarding holding of big jirga about the 3rd May in Urgun. Letters include promises of employment of thousands of Mahsuds and of large money rewards. Result is unsettlement in Wana, and Mahsuds are wondering whether they should stick by their promises which they made at Tauda China or postpone fulfilment till falsity or truth of reports is seen."

Enclosure 5 in No. 1.

Copy of a telegram (P) No. 100, of April 1, 1923, from His Majesty's Minister, Kabul to the Secretary to the Government of India in the Foreign and Political Department, Simla.

THE possibility that the Afghan Government's present frontier policy may be considered by His Majesty's Government unfriendly and even provocative has been brought to the attention of the Afghan Foreign Minister by me in a letter dated the 24th March. The ground has thus been prepared for holding up the importation of Afghan arms should this be decided on eventually. I have sent you a copy of this letter by yesterday's post, and have as yet received no reply to it. At the next interview I shall bring the matter forward and shall send a despatch shortly. I was recently emphatically assured by Wali that neither the Mahsuds nor Wazirs had received any encouragement or assistance from the Afghan Government. I request that reports from Waziristan should be sifted and that, whenever possible, detailed confirmation should be sent me. (For instance, how has it been ascertained that the cartridges are Russian?) This is necessary in order to give point to my representations.

The reference is to your telegram of the 30th March.

Enclosure 6 in No. 1.

Translation of a letter dated March 24, 1923 (corresponding to Mamal 3, 1302), No. 54, from His Majesty's Minister, Kabul, to the Afghan Foreign Minister.

(After compliments.)

I HAVE the honour to invite your Excellency's attention to reports which have reached my Government regarding the attitude of certain officers of the Independent Government of Aghanistan towards the tribes living on the British side of the frontier. These reports speak of the sending of letters by Afghan officers, encouraging the persons who have been chiefly responsible in the past for outrages

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against British subjects to delay the conclusion of a friendly settlement and even of rendering assistance to such people. It is indeed possible that such actions of the local officers are not always known to the Central Government itself, as for instance in the recent case in which, as I informed your Excellency, certain Afghan soldiers were sent to Thal under the orders of the Hakim-i-Ala of Khost to collect taxes from tribesmen living in the British districts of Kohat and Peshawar. But whether the Central Government is aware or not of such activities, its responsibility in the eyes of my Government is the same, and the occurrence of such incidents has created a painful impression in the mind of my Government that the Afghan Government is interfering in matters beyond its own dominions. This impression is strengthened when articles such as that recently published in the "Ittihad-i-Mashriqi" of the 3rd March appear in Afghan newspapers, speaking in threatening language of the unity of the Pathan tribes living on the British side of the frontier with the great Afghan nation. The Afghan newspapers for some weeks past have in fact exhibited most unfriendly sentiments towards the British Government, and many of the articles which have been published are so expressed as may lead my Government to believe that they could not have been written without the cognisance of the Afghan Government. At a time when satisfaction for raids on British territory from inside Afghanistan, such as those at Barshore and Spinchilla, to which I have repeatedly invited your Excellency's attention, has not yet been received, the conclusions drawn by my Government from such incidents may have an unfortunate effect on the development of friendly relations arising from the neighbourly treaty now happily existing between the two States.

My friend! My Government is in no way alarmed on its own account by such actions of the frontier officials of the Afghan Government any more than by the publication of such articles as I have mentioned, but there is a possibility that in the light of such incidents my Government may consider that the intentions* of the Government of Afghanistan are no longer friendly*—nay more (which God forbid!) that that Government has determined* on a provocative* policy* towards my country. To your Excellency, who like myself is anxious that the two States should draw ever closer in friendship, such a result would, I am sure, be a matter of much regret, and I have, therefore, thought it right to warn you seriously of such a possibility.

(Usual ending.)

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* The same terms in Persian have been used as in the official text of the Anglo-Afghan Treaty (article 6 and letter No. 1).

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AFGHANISTAN. [May 28.]

CONFIDENTIAL. SECTION 1.

[N 4782/920/97] No. 1.

Extracts from Report on Events of April 1923 *by His Majesty's Minister at Kabul, May* 2, 1923.—(*Received in Foreign Office, May* 28.)

AFGHAN FOREIGN RELATIONS.

Great Britain.

ON the Indo-Afghan border four incidents of outstanding importance occurred during the month under review. These were :—

1. The bombing of the Tazi Khels by British aeroplanes on the 2nd April.

In this connection an official protest was received from the Afghan Government on the 18th April, together with a formal intimation that all official conversations with myself were suspended until satisfaction had been accorded. As has already been reported to His Majesty's Government, this letter was subsequently withdrawn and another substituted, in which a joint enquiry was requested. This enquiry has been granted by His Majesty's Government, and the arrangements necessary for its inception are now under consideration.

2. The murder of Majors Anderson and Orr at Haidari Kandao on the 8th April by two Afghan Sangu Khels.

3. The murder of Mrs. Ellis at Kohat and abduction of Miss Ellis on the 14th April by a small gang of Bosti Khel and Tirah Jowakis.

My own conclusions as to how far it would be just on the facts ascertained, or politic in view of the obvious danger involved both of stiffening the Ameer's resistance to a demand for retribution, and of confirming his estimate of his own ability to influence the frontier tribes, to represent either of these crimes as in any way connected with his recent official activities have already been submitted to His Majesty's Government. In view of certain suggestions which have been made in the North-West Frontier Province Intelligence Bureau Diary, it is important to notice that the alleged violation of Afghan territory was mentioned to me on the 7th April, the day before the Landi Kotal murders were committed (*vide* my telegram No. 104, dated the 8th April, 1923, to the Government of India; copy sent by mail of the 21st April).

Press comments on these outrages have been singularly conflicting and misleading. Apart from the meaningless extracts from articles in the "Times" and "Daily Telegraph" which have been communicated by Reuter's Agency, there appeared in the Indian press an article, dated the 10th April, stating that "no political significance is so far attached to" the Landi Kotal murders. This was followed on the 12th April by a communiqué from the Administration of the North-West Frontier Province to the effect that the same murders were "of great political significance." The "Civil and Military Gazette" of the 26th April contained the surprising statement that the road on which Majors Orr and Anderson were murdered "has up to date been considered perfectly safe," and an Associated Press telegram of the 18th April reported that Miss Ellis had been seen with her captors "near a stream in the Tirah country close to the Afghan border." The reference was presumably to the part of the Mastura River in Sturi Khel country, where it flows within 3 miles of British India. This river nowhere approaches the Afghan border. It is unnecessary to enlarge on the dangerously false impressions likely to be conveyed to the public by such wild statements.

On receiving the report of the Tazi Khel incident, the Afghan Foreign Minister made excuses to avoid granting me his weekly interview, and on the 25th April fell ill. He was attended by the surgeon of this Legation. Accordingly, on the 26th April, I requested a private audience with the Ameer; this was granted at 9 P.M. on the 30th April. I had received on the 28th April explicit instructions from your Lordship as to the line my representations were to follow. A detailed note of the course of the discussion is appended to this despatch. His Majesty's attitude, in my opinion, was, on the whole, satisfactory. I do not, however, attach much weight to his verbal assurances until they are fulfilled. Of his personal desire for the

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friendship of His Majesty's Government on his own terms I am convinced, but am not equally certain of his power to withstand the pressure of Afghan public opinion or the influence of his advisers.

4. Withdrawal of the scouts, together with the local Political Officer, on the 13th April from Wana.

The fact that this operation followed closely on the representations made by me regarding the intrigues of Adam Khan, and has preceded an exposition of policy to the Afghan Government, which, in accordance with your Lordship's instructions (conveyed to me in telegram No. 16, dated the 18th April, 1923), makes it clear that the continuance of Afghan intrigue can only tend to delay the withdrawal of British forces from advanced positions, seems particularly unfortunate. To the Afghan, perhaps because he is himself so lavish of assurances, deeds speak louder than words, and in such cases as this he can hardly be expected to distinguish between *post* and *propter*. With reference to the suggestion spontaneously made by the Ameer at the audience on the 30th April that he should depute one of his officers to explain his attitude to the Mahsuds and Wazirs, I have the honour to invite your Lordship's attention to the correspondence regarding a similar proposal made by the General Officer Commanding, Waziristan Force, which has passed between the Government of India and myself.* As I have already suggested in previous despatches, the Ameer's own interests as he sees them at present point to the necessity of preserving his influence with the tribes on the British side of the Durand line, while in my view, which I understood from your Lordship's despatch No. 47, dated the 30th October, 1922, is also that held by His Majesty's Government, the destruction of that influence is a condition precedent to any lasting consolidation of the British position in Waziristan and the North-West Frontier generally. It is clearly fantastic to expect that the Ameer will co-operate in the destruction of his own influence in that region, and his present proposal appears to me to be devised, not as a self-denying ordinance, but to ensure and to advertise the maintenance of that influence. That such would, in fact, be the result, even if unequivocal subservience to British dictation on the part of the Afghan delegate could be assumed, seems to me inevitable. The possibility of securing a temporary quiescence in Waziristan by some such means may be admitted, but only at a price which leaves the Ameer more potentially dangerous than ever. It is presumably owing to his apprehension that the pursuance by His Majesty's Government of their present policy in Waziristan may finally remove the tribes beyond the reach of his appeals that the Ameer has, entirely on his own initiative, made so specious an offer.

The "Ittihad-i-Mashriki" has moderated its virulence during the month, although the tone of its article on the Landi Kotal murders in its issue of the 25th April leaves much to be desired.

Detailed Account of Audience granted by His Majesty the Ameer of Afghanistan to His Majesty's Minister, Kabul, on April 30, 1923.

In response to my request for an audience, which I despatched on the 26th April, the Ameer received me quite alone at the Palace at 9 P.M. on the 30th April. The interview lasted two and a half hours.

I started the conversation by saying that the latest news from Lausanne held out hopes of an early settlement of the Turkish problem, and I asked the Ameer whether there was any truth in the reports which had appeared in the newspapers that he would attend a conference at Angora shortly after a peace treaty had been signed. The Ameer replied that it was impossible for him to leave Afghanistan, as the many reforms which he had initiated in the country could not be brought to completion without his guidance.

In order to take the wind out of his sails, I first informed him that my Government had expressed their willingness to assist in an early enquiry into the alleged bombing of Afghan territory by British aeroplanes, and I assured him that, if it was proved that a wrong had been committed, the fullest possible amends would be made. The Ameer replied that, on the advice of his council, he had instructed his Foreign Minister, after the receipt of a detailed report from the Governor of Khost, to suspend all relations whatsoever with the British Legation until this case had been satisfactorily settled. I pointed out that such an attitude was unreasonable, and might have had far-reaching effects, which had not been contemplated by the

* Not printed.

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Afghan Government, and he remarked that he had since cancelled the order and now awaited the result of the joint enquiry.

I then informed him that the object of my seeking a private audience was to impress on him personally the danger of the course on which the policy of the Afghan Government appeared to be drifting.

First, there were the eighteen-months-old Barshore and Spinchilla outrages, for which, in spite of repeated promises, no amends whatever had been made, while the gravity of the situation had been increased by a further attack by the authors of these crimes on British Baluchistan last January, which showed that the Afghan Government had utterly failed to keep the Shahjui Wazirs in check. The Ameer replied that his Foreign Minister had these very difficult cases well in hand, and it was hoped that they would soon be brought to a satisfactory conclusion.

Secondly, the intrigues of Adam Khan and other Afghans on the Waziristan border seemed to be designed to delay the settlement with the tribes which my Government had nearly completed, and His Majesty's Government demanded that these intrigues should finally cease. Adam Khan must be recalled immediately; but this was not enough. The Afghan Governmnent must take definite steps to prevent the recrudescence through other instruments of all anti-British intrigues whatsoever. The Ameer replied that, as the result of my former representation, he had issued orders ten days ago for the prompt recall of Adam Khan to Kabul. An enquiry would be made into the report that Adam Khan had diverted Government funds entrusted to him for irrigation works to political purposes, and if the case against him seemed clear he would be court-martialled. Orders prohibiting any encouragement being given to Wazirs or Mahsuds to act in a manner prejudicial to the settlement which was being negotiated by the British Government with the tribes had already been given and would be repeated all along the frontier as the Ameer's personal instructions. He spontaneously offered to send a civil or military official through India to Waziristan, to be the guest of the British general in command of the forces, who would announce in open jirga that the Ameer of Afghanistan was a friend of the British Government and had sent through him a message to the tribes of Waziristan that they should immediately accept the terms offered them and settle down in peace. I said that this was a novel proposal which I could not discuss at the moment, but I demanded that the orders which the Ameer had expressed himself ready to give to Afghan officials and others on his borders should be despatched immediately. I then explained the advantages of the Khassadar system, and told the Ameer that. if the tribesmen failed to make a success of this generous scheme, sterner and more unpopular measures would have to be introduced, since my Government were unalterably determined to stamp out lawlessness in this area. The Ameer admitted that the problem of the frontier tribes was chiefly economic, and agreed that the Khassadar system recently introduced might well provide the final solution. He said that he would encourage propaganda in favour of a settlement on these terms. He told me that it was quite impossible, in view of the careful arrangements which he had made, for Bolshevik money or ammunition to reach the tribesmen except in the most trifling quantities.

I went on to complain of the outrageous anti-British articles published by the "Ittihad-i-Mashriki" in Jalalabad at the time of the Ameer's residence in the Eastern Province and I referred with surprise to a statement published in the issue of this paper of the 4th April that the editor had been rewarded by the Ameer with a pen for his good work. The Ameer said that this announcement, which had been brought to his notice, was a misrepresentation of the facts. What really happened was that the editor approached his table one day and asked if he might take a pen out of a packet which had recently arrived from India, and that he had granted him permission to do so. I said that this explanation was interesting, but the fact remained that the editor had been admitted to the Ameer's presence and had received a favour at his hands. The bestowal of such a favour and the announcement of it in the press could give the public no other impression than that the Afghan Government approved of the scurrilous articles and poems which had been recently published in the paper. These articles had given offence in England and India, and the impression had been gained that an anti-British virus had also been communicated to the tribal jirgas which had been invited to Jalalabad from British territory. The Ameer vehemently protested that neither he himself nor any of his Ministers in their talks with the tribes had even remotely suggested the encouragement of hostility towards Great Britain. On the contrary, the tribesmen had been exhorted to drop their feuds, cultivate a spirit of unity and abstain from raids and all forms of

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violence. I said that the anti-British campaign in the Jalalabad papers, coupled with the excitement produced by the gathering of the tribesmen, had engendered an atmosphere of unrest which was detrimental to harmonious relations between our two countries. The Ameer replied that the question of correcting the tone of the press had already been represented by me to his Foreign Minister, who would resume discussion of the subject with me on the earliest possible opportunity.

I then described the horror and indignation which had been aroused in India and England by the news of the Landi Kotal and Kohat tragedies. I said that I had received conclusive evidence that the Landi Kotal murders had been committed by two Sangu Khel Afghan subjects, who had since publicly boasted of their crime. As there was no Extradition Treaty between the two countries, I could not demand that the murderers should be handed over for trial by a British court, but it was the plain duty of a neighbouring and friendly State to arrest and punish the murderers in the promptest possible manner. Should there be any failure of justice in this respect—which I could hardly conceive possible—the British Government and public would draw their own conclusions, and I warned the Ameer in the most solemn terms that the treatment of this case would be regarded as the test of the goodwill of the Afghan Government and of their claim to be reckoned as a civilised State. The Ameer expressed his horror at the Kohat tragedy, and described the Landi Kotal murders as bestial ("haiwantob"). He wrote down the names of the murderers concerned in the latter case at my dictation, and gave me a most emphatic assurance that he would personally supervise the investigation of this senseless and abominable crime, and the result would be the test of his sincerity.

The Ameer then briefly discussed the negotiations of the trade delegates, about which a separate report is being submitted, and the question of a site for the new British Legation buildings.

Finally, I summed up the charges which I had made against the Afghan Government, and, placing before the Ameer a Persian copy of the Anglo-Afghan Treaty, I drew his attention to the wording of letter No. 1 attached to the treaty, and plainly warned him that the cumulative effect of recent events was to produce an impression on the mind of His Majesty's Government that the Government of Afghanistan was adopting an unfriendly, and even provocative, attitude towards Great Britain. In order to efface this unfortunate impression, I told him that it was essential that the Afghan Government should (1) immediately suppress all forms of anti-British intrigues on the Waziristan border and elsewhere in Afghanistan, the recall of Adam Khan to be the first earnest of their good faith; (2) make amends as early as possible for the Barshore, Spinchilla and Baluchistan outrages; (3) correct the tone of the Afghan press; (4) take drastic steps for the prompt arrest and punishment of the Landi Kotal murderers. The Ameer repeated his assurances that compliance would be made as early as possible with my demands, and concluded the interview by protesting that the progress and welfare of Afghanistan depended primarily on the friendship of the British Empire, and that the policy of himself and his Ministers would be directed in all sincerity towards the strengthening of that friendship. I reiterated that the time had come to translate such assurances into action, and withdrew.

F. H. HUMPHRYS.

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AFRICA. [January 24.]

CONFIDENTIAL. SECTION 1.

[A 561/561/60] No. 1.

Mr. C. Russell to the Marquess Curzon of Kedleston.—(*Received January* 24, 1922.)

(No. 164.)

My Lord, *Adis Ababa, December* 31, 1921.

I HAVE the honour to state that the agent referred to in my despatch No. 137 of the 1st October has returned here, and reports as follows :—

Mohammed-bin-Abdullah Hassan, accompanied by his wives, brothers, and about 100 Somalis armed with rifles, arrived at Goanneh, near Imi, on the Webi Shebeli, early in October 1920. A fort was built by them with a wall 6 feet high and 4 feet thick, with two entrances. They made it as strong as possible, and cleared a space in front of the fort. As soon as news of the Mullah's presence reached Fitaurari Seyoum, who was in command of the Abyssinian garrison at Ginir, he sent one of his officers, Garazmatch Ayale, to find out who the invader was, and why he had entered Abyssinian territory. The Mullah received this messenger well. He said that he had been beaten in battle by the English, and had come to Abyssinia in search of protection. After two days Ayale returned to Ginir. He took with him as presents from the Mullah two rifles and a revolver for himself and two Lee-Metford rifles for the Fitaurari. Before leaving he undertook to send provisions to the Mullah. Fitaurari Seyoum reported the matter by telephone to Ras Taffari, who gave orders not to attack the Mullah, but to keep him under observation, and prevent his escape. The promised provisions were not given, and the Mullah sent one of his brothers and a follower, Abdi Sheikh, to ask the Fitaurari for food. The latter, acting on the orders of the Central Government, threw these envoys into chains. Sickness and famine fell on the Mullah's camp. In December he died; his death was caused by bleeding and vomiting blood. He was buried in a hut at Goanneh. In accordance with Moslem custom, a small oval mound was erected over his grave. The spot is not regarded as holy, nor is it a place of pilgrimage.

Many of his followers died at the same time of sickness and hunger. Among the survivors were Abdi Sheikh, Ussuf Sheikh, Sultan and Jama. Subsequently they were raided by men of the Karanle tribe, who looted what little property remained to them. A hundred and seventy-six rifles were found in the fort. These were appropriated by Fitaurari Seyoum. There are still a few of the Mullah's kin and followers in the district. They eke out a precarious livelihood by begging.

(Copy sent to Berbera.)

I have, &c.

CLAUD RUSSELL.

[7761 *aa*—1]

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AFRICA. [September 5.]

CONFIDENTIAL. SECTION 1.

[A 5598/486/1] No. 1.

Major Dodds to the Marquess Curzon of Kedleston.—(*Received September* 16.)

(No. 104.)

My Lord, *Addis Ababa, August* 16, 1922.

I HAVE the honour to report that on the 5th instant twenty-six liberated slaves arrived here from Aden in charge of a havildar of the Aden police and four sepoys with the attached letter from the Acting Resident at Aden.

The uninterrupted journey of the party to the capital is undoubtedly due to the tactful manner in which the havildar carried out his duties. The Abyssinian authorities at Diré Daoua are notorious for their capacity to annoy and impede travellers. In view of the nature of the party in this case, and that they were accompanied by five uniformed British policemen, their speedy arrival at Addis Ababa without incident is surprising.

Their arrival has caused a sensation here. The Abyssinians are saying that the British have brought home the truth of their accusations in respect to slave dealing in their country, and they are unanimous in declaring that the slave dealers in this case should be brought to justice and punished.

I lost no time in bringing the matter to the notice of the Abyssinian Government, and I requested them to assist me to obtain the manumission of the slaves according to local customs, and to repatriate them to their countries. I explained that Shahema-bin-Umar was in the hands of the French authorities at Jibuti. I have received a letter in reply from Ras Taffari, a translation of which I enclose for your Lordship's information. In the meantime the twenty-six people remain at this Legation, and I am having them housed and fed.

The receipt of your Lordship's instructions to liberate the slaves employed by Legation servants coincided with the arrival of the party from Aden, and I took the opportunity to speak to Ras Taffari on this subject at the same time. He has also promised to help me in any manner I require in this connection.

I am now proceeding with this matter, and I find it to be more easily accomplished than I anticipated.

The servants, with two exceptions, are perfectly willing to give their slaves freedom, and in almost every case they refuse to accept the price originally paid for the slaves, either from His Majesty's Government or the slaves themselves for reasons which I will explain in due course.

I hope to report very soon that there are no slaves either in the compound or in the possession of an employee of the British Legation.

(Copy sent to Aden.)

I have, &c.
HUGH DODDS.

Enclosure 1 in No. 1.

Acting Political Resident, Aden, to Major Dodds.

Sir, *Aden, July* 24, 1922.

I HAVE the honour to inform you that the commander of H.M.S. "Cornflower" captured a dhow near the Hedjaz coast containing slaves whom he removed and brought with the crew to Aden. During the trial it was ascertained that an Abyssinian, named Shahema-bin-Umar, had been dealing in slaves, whom he purchased either on his own behalf or as a broker, in the interior of Abyssinia and shipped at Tadjourah for the Arabian coast.

Shahema has been discharged at the Aden court for want of jurisdiction as he is not a British subject and the offence was not committed in British territorial waters. Orders for the deportation to Jibuti of Shahema and his nephew Abdul Kader, age about 12 years, have been issued, and I have informed the French consul of the facts in case the French authorities at Jibuti wish to take further action in the matter.

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The released slaves, whose names are attached, are being repatriated to Abyssinia viâ Jibuti under police escort. I shall be grateful if arrangements can be made to take them over from the police and to send them to their homes. I also request that the matter be brought to the notice of the Abyssinian Government, if you see no objection.

I have, &c.
C. BARRETT.

Enclosure 2 in No. 1.

Ras Taffari to Major Dodds.

(Translation.)
(After greetings.)

I AM in receipt of your letter, dated the 8th August, 1922, relative to the twenty-six slaves who have been caught in a dhow at the Hedjaz coast. We are quite willing to help these liberated slaves and to let them live in liberty wherever they like. If they prefer to go to their respective countries we shall give them sufficient money for their provisions and also a man who will escort them to the place, and we shall give them a certificate for their liberty so that they would not be claimed as slaves for a second time. Should they prefer to live in this country we shall also give them a certificate for their freedom. And if they are desirous of learning we shall put them in touch with learned men of our country and will arrange that they should be educated in the churches and convents, and we shall give them their clothing and rations during the time they are at school.

As we were very desirous of finding out to catch and punish these slave raiders we have to inform you to send us the copy containing the conversation of these liberated slaves, if they have been examined, whether they knew the persons and places wherefrom they have been raided.

(Seal of Ras Taffari.)

August 12, 1922 (*7th Nahasei*, 1914).

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AFRICA. [September 11.]

CONFIDENTIAL. SECTION 1.

[A 5614/486/1] No. 1.

The Marquess Curzon of Kedleston to Major Dodds (Addis Ababa).

(No. 135.)

Sir, *Foreign Office, September* 11, 1922.

I HAVE received your despatch No. 104 of the 16th ultimo respecting the arrival at Addis Ababa of twenty-six liberated slaves from Aden, and also your telegram No. 68 reporting the liberation of the slaves hitherto held by certain servants of His Majesty's Legation.

2. I approve your action in dealing with both these matters and have to congratulate you on the successful results of your efforts.

3. As regards the slaves from Aden, I should be obliged if you would make use of their capture by the British authorities and their return to Abyssinia in order to impress upon the Abyssinian authorities, in whatever way you think best, the very great importance, from their own point of view, of taking the most stringent steps to prevent slaves being exported from the country. If it continues to be possible for slaves to be sent abroad from Abyssinia there can be little doubt that some of the worst features of the old slave trade will be reintroduced and that Abyssinia will, in consequence, lose the sympathy of European peoples. It is difficult, therefore to exaggerate the importance which this question possesses for the Abyssinians themselves, and I have no doubt that you will bring this aspect of the matter home to Ras Taffari.

4. I may add, for your confidential information, that the attention of both the French and Italian Governments has been called to the recent capture of slaves, which affords evidence that the trade can by some means be carried on across French or Italian territory, or both.

I am, &c.
CURZON OF KEDLESTON.

[98 l—1]

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AFRICA. [November 21.]

CONFIDENTIAL. SECTION 1.

[A 7040/6552/1] No. 1.

Major Dodds to the Marquess Curzon of Kedleston.—(*Received November* 21.)

(No. 127.)

My Lord, *Addis Ababa, October* 25, 1922.

I HAVE the honour to inform your Lordship that I have for some time been impressed with the advantage of cultivating a friendship with the Empress Zauditou in order to further our interests in this country, particularly as regards Lake Tana. Although Ras Taffari's authority has in no manner diminished, the approval of the Empress, and incidentally of her entourage of chiefs, is required for the settlement of more important questions.

With this object I have visited Her Majesty occasionally and with my wife.

Recently Ras Taffari was anxious that I should go to the Empress and tell her frankly my views on the present conditions in Abyssinia. The Ras arranged that I should be alone with Her Majesty. For one and a half hours after the usual exchange of compliments we discussed Abyssinian affairs. I was careful to explain that I was giving my personal views as a friend.

I do not propose to weary your Lordship with a detailed account of our conversation. It will be enough to say that we discussed the conditions prevailing in Abyssinia, and compared the system of Abyssinian administration with that of other States. We agreed on the necessity for reform. I remarked that during my eleven years' residence in the country I had heard with nauseating regularity that the Government intended to introduce reforms. The intention, I hope, remained; the reforms were absent. The country was no more advanced than it was a couple of hundred years ago. Any advantages, such as the railway, had been introduced through European enterprise. Frankly, I said, in my personal opinion the Abyssinian Government were not capable of introducing reforms without European assistance. The Abyssinian method of administration, hampered by intrigue, the pernicious habit of bribery and a suspicion of their neighbours, made reforms impossible. Her Majesty interposed with a remark that it was perfectly true that Abyssinia had talked and accomplished nothing. She asked me for a remedy. I suggested purification of administrative methods and friendship, tempered by a confidence in her European neighbours. It occurred to me that the example of Japan's progress might be useful and interesting. I gave Her Majesty a brief history of that country, and told her how Japan had put herself wholeheartedly into the work of reform and accepted European advice without stint, and had nevertheless retained her independence. There was nothing to prevent Abyssinia from doing the same. If she neglected to take measures and cherished a suspicion of European intentions, I foresaw a continuation of the present chaos for all time, or until the European Powers were forced against their will to impose their wishes on the country.

During our conversation I touched briefly on British interests in Abyssinia. These, I explained, were a sincere wish to see the country prosperous, a trade increase, and a satisfactory settlement of our Tana project.

In conclusion, I advised Her Majesty to look to the slavery question, which the Abyssinian Government could not afford to neglect. I did not like to lay greater stress on this subject in the absence of instructions from your Lordship.

Her Majesty was good enough to pay close attention to all I had to say, and when I took my leave she thanked me for speaking as frankly as I had done, which, she said, was a true sign of friendship.

Subsequently two important chiefs, besides Ras Taffari, told me the Empress had given them a detailed account of our conversation, and they expressed their gratitude to me for having thus spoken in the interests of Abyssinia.

I am addressing copies of this despatch to Cairo and Khartoum.

I have, &c.

HUGH DODDS.

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MOROCCO. [December 21.]

CONFIDENTIAL. SECTION 3.

[W 9902/1/28] No. 1.

Mr. Robertson to the Marquess Curzon of Kedleston.—(*Received December* 21.)

(No. 79.)

His Majesty's principal representative at the Tangier Conference presents his compliments to the Secretary of State for Foreign Affairs and transmits herewith signed copies of the Convention, the Règlement de Police annexed thereto, the Shereefian Dahir and the Judicial Dahir.

Tangier Conference, Paris,
December 18, 1923.

Convention relative à l'Organisation du Statut de la Zone de Tanger.

SA MAJESTÉ LE ROI DU ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES, SA MAJESTÉ LE ROI D'ESPAGNE, LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE, désireux d'assurer à la ville de Tanger et à sa banlieue le régime prévu par les traités en vigueur, ont nommé à cet effet pour leurs plénipotentiaires, savoir :

SA MAJESTÉ LE ROI DU ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES :

M. Malcolm Arnold Robertson, Ministre Plénipotentiaire, Agent et Consul général de Sa Majesté Britannique à Tanger ; et

M. Gerald Hyde Villiers, Conseiller d'Ambassade, Chef de Section au Foreign Office ;

SA MAJESTÉ LE ROI D'ESPAGNE :

M. Mauricio Lopez Roberts y Terry, Marquis de la Torrehermosa, Chambellan de Sa Majesté le Roi d'Espagne, Ministre Plénipotentiaire, Chef de la Section coloniale du Ministère d'Etat, son plénipotentiaire à la Conférence relative à l'organisation du statut de Tanger ; et

M. Manuel Aguirre de Carcer, Ministre Résident de Sa Majesté le Roi d'Espagne, Chef de la Section du Maroc au Ministère d'Etat, son plénipotentiaire adjoint à cette Conférence ;

LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE :

M. Maurice-Paul-Jean Delarüe Caron de Beaumarchais, Ministre Plénipotentiaire, Sous-Directeur au Ministère des Affaires Étrangères :

LESQUELS, après s'être communiqué leurs pleins pouvoirs respectifs, trouvés en bonne et due forme, ont arrêté et signé les articles suivants :—

ARTICLE 1er.

Conformément aux dispositions de l'article 1er du Traité de Protectorat du 30 mars 1912 et de l'article 7 de la Convention franco-espagnole relative au Maroc du 27 novembre 1912, les trois Gouvernements contractants conviennent que dans la

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région définie à l'Article 2 ci-après et qualifiée de Zone de Tanger il appartient aux autorités et organismes désignés d'autre part et par délégation de Sa Majesté Chérifienne, d'assurer l'ordre public et l'administration générale de la Zone.

ARTICLE 2.

La zone de Tanger est comprise dans les limites fixées par le paragraphe 2 de l'Article 7 de la Convention franco-espagnole du 27 novembre 1912.

ARTICLE 3.

La Zone de Tanger est placée sous le régime de la neutralité permanente. En conséquence, aucun acte d'hostilité sur terre, sur mer ou par air ne pourra être accompli par ou contre la Zone, ni dans ses limites.

Aucun établissement militaire terrestre, naval ou aéronautique, aucune base d'opérations, aucune installation susceptible d'être utilisés dans un but de guerre ne pourront être ni créés ni maintenus dans la Zone

Sont interdits tous dépôts de munitions et de matériel de guerre.

Sont toutefois autorisés ceux qui seront constitués par l'Administration de la Zone pour les besoins da la défense locale contre les incursions de tribus ennemies. D'autre part, l'Administration pourra, dans la même limite, prendre toutes mesures autres qu'un groupement de forces aériennes et même élever des ouvrages et fortifications peu importants de défense sur le front de terre.

Les approvisionnements militaires et les fortifications ainsi autorisés sont soumis à l'inspection des officiers mentionnés au dernier paragraphe du présent Article.

Les aérodromes civils établis dans la Zone de Tanger sont également soumis à l'inspection des mêmes officiers.

Aucun approvisionnement aéronautique ne dépassera les quantités nécessaires à l'aviation civile et commerciale.

Toute l'aviation civile ou commerciale à destination, en provenance ou à l'intérieur de la Zone de Tanger sera assujettie aux lois et dispositions de la Convention portant réglementation de la navigation aérienne.

Toutefois, les convois de ravitaillement et les troupes à destination ou en provenance des zones française et espagnole pourront, après avis préalable à l'administrateur de la Zone de Tanger, utiliser le port de Tanger et les voies de communication reliant ce port à leur zone respective pour le passage à l'entrée et à la sortie.

Les Gouvernements français et espagnol s'engagent à n'user de cette faculté qu'en cas de nécessité réelle et pendant le délai strictement nécessaire à la mise en route et aux opérations du transbordement. En aucun cas, le délai ne devra dépasser quarante-huit heures pour une troupe armée.

Aucune taxe ni aucun droit spéciaux de transit ne peuvent être perçus pour ce passage.

L'autorisation de l'Administration de Tanger n'est pas nécessaire pour les visites des vaisseaux de guerre, mais avis préalable de ces visites doit néanmoins être donné à l'Administration si les circonstances le permettent.

Les Gouvernements contractants ont la faculté d'affecter à leurs consulats à Tanger un officier chargé de les renseigner sur l'observation des engagements d'ordre militaire qui précèdent.

ARTICLE 4.

La surveillance de la contrebande des armes et des munitions de guerre dans les eaux territoriales de la Zone de Tanger est exercée conjointement par les forces navales britanniques, espagnoles et françaises.

Les délinquants seront déférés au Tribunal Mixte de Tanger.

ARTICLE 5.

La Zone de Tanger dispose, par délégation de Sa Majesté Chérifienne et sous réserve des exceptions prévues, des pouvoirs législatifs et administratifs les plus étendus. Cette délégation est permanente et générale, sauf en matière diplomatique, où il n'est pas dérogé aux dispositions de l'Article 5 du Traité de Protectorat du 30 mars 1912.

Toutefois les autorités qualifiées de la Zone peuvent traiter avec les consuls les questions intéressant la Zone dans les limites de son autonomie.

ARTICLE 6.

A l'étranger la protection des sujets marocains de la Zone de Tanger et de leurs intérêts est confiée aux agents diplomatiques et consulaires de la République française, conformément aux dispositions de l'Article 5 du Traité de Protectorat du 30 mars 1912.

ARTICLE 7.

La Zone de Tanger respecte les traités en vigueur.

L'égalité économique entre les nations, telle qu'elle résulte de ces traités, continuera à être observée à Tanger, même si lesdits traités venaient à être abrogés ou modifiés.

ARTICLE 8.

Les accords internationaux conclus à l'avenir par Sa Majesté Chérifienne ne s'étendront à la Zone de Tanger qu'avec l'assentiment de l'Assemblée législative internationale de la Zone.

Par exception, s'étendent de plein droit à la Zone les accords internationaux auxquels toutes les Puissances signataires de l'Acte d'Algésiras sont parties contractantes ou auront adhéré.

Les dispositions des articles 141 et suivants du Traité de Versailles continuent à s'appliquer à la Zone de Tanger. Les dahirs chérifiens pris en conséquence de ces textes ne peuvent être modifiés qu'après accord avec le pouvoir central chérifien.

ARTICLE 9.

Par application des dispositions des Articles 141 et suivants du Traité de Versailles, des Articles 96 et suivants du Traité de Saint Germain-en-Laye, des Articles 80 et suivants du Traité de Trianon, les dispositions du présent Statut ne pourront en aucun cas être invoquées par les ressortissants allemands, autrichiens et hongrois.

ARTICLE 10.

Il est interdit de se livrer dans la Zone de Tanger à aucune agitation, propagande ou préparation d'entreprise contre l'ordre établi dans les zones française et espagnole du Maroc.

Il est de même interdit de se livrer à aucun agissement analogue contre tout pays étranger.

ARTICLE 11.

Sous réserve du respect de l'ordre public, le libre exercice des différents cultes est assuré dans la Zone de Tanger.

ARTICLE 12.

Les Puissances signataires de l'Acte d'Algésiras ont le droit de maintenir dans la Zone de Tanger les écoles et tous les établissements qui leur appartiennent ou qui appartiennent à leurs ressortissants, à la date de la mise en vigueur de la présente Convention.

Les établissements qui viendraient à être créés devront se conformer aux règlements qui seront promulgués. Les principes généraux de ces règlements devront s'inspirer des dispositions en usage dans les Zones française et espagnole de l'Empire Chérifien.

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ARTICLE 13.

Par l'effet de l'établissement à Tanger du Tribunal Mixte prévu à l'article 48, les Capitulations sont abrogées dans la Zone. Cette abrogation entraîne la suppression du régime de la protection.

Les sujets marocains, dont les droits à la protection auront été préalablement reconnus, sont personnellement, et leur vie durant, justiciables du Tribunal Mixte de Tanger.

Les listes de protection actuelles seront revisées dans un délai qui ne dépassera pas six mois, à dater de la mise en vigueur de la présente Convention, d'un commun accord entre le représentant du Gouvernement chérifien et le consulat intéressé.

Les dispositions de la Convention de Madrid du 3 juillet 1880 demeurent en vigueur en ce qui concerne la naturalisation. La liste des sujets marocains naturalisés à Tanger sera revisée de la même manière et dans le même délai.

ARTICLE 14.

A défaut de l'institution d'un Office postal, télégraphique et téléphonique interurbain propre à la Zone de Tanger, institution qui ne pourra être provoquée qu'avec l'approbation unanime du Comité de Contrôle, les Puissances signataires de l'Acte d'Algésiras pourront conserver, à Tanger, les bureaux postaux et les stations de câbles qu'elles y possèdent à la date de la mise en vigueur de la présente Convention.

En cas de création d'un Office postal, télégraphique et téléphonique interurbain propre à la Zone de Tanger, l'Office chérifien des postes et des télégraphes transférera à cet Office les droits exclusifs qu'il détient en matière de télégraphie et de téléphonie interurbain en vertu des accords intervenus entre le Gouvernement chérifien et la Société concessionnaire des Télégraphes et des Téléphones interurbains.

Il ne sera pas porté atteinte aux droits des Etats ou compagnies qui possèdent actuellement des câbles télégraphiques atterrissant à Tanger.

L'établissement de nouveaux câbles devra être concerté avec l'administration de la Zone.

ARTICLE 15.

D'accord entre un représentant du Gouvernement chérifien et le consulat intéressé et dans un délai qui ne dépassera pas six mois à compter de la mise en vigueur de la présente Convention, la revision des détentions des biens habous et domaniaux, prévue à l'Article 63 de l'Acte d'Algésiras, sera effectuée dans la Zone de Tanger.

A défaut d'entente, le représentant du Makhzen et le consul intéressé s'en remettront à l'arbitrage d'un membre du Tribunal mixte, choisi par les parties ou désigné par le sort.

ARTICLE 16.

L'Etat chérifien remet son domaine public et privé, y compris ses droits sur les terrains "guich", à la zone de Tanger qui l'administre, en perçoit les revenus à son profit et en assure la conservation sans pouvoir en aliéner aucune partie.

Cette remise prend fin à l'expiration de la présente Convention et le domaine remis à la Zone fait retour à l'Etat chérifien.

ARTICLE 17.

Le domaine public comprend :

(*a*) domaine maritime : la mer et ses rivages avec un franc-bord de six mètres, déjà grevé de la concession consentie à la compagnie concessionnaire du port que la Zone de Tanger devra respecter. Les revenus de la pêche, y compris les redevances

prévues en faveur de l'Etat dans les concessions de pêche déjà accordées par le Gouvernement chérifien reviendront, ainsi que les obligations dérivant de ces concessions, à la Zone de Tanger.

(*b*) domaine terrestre :

la route de Tanger à Tétouan,
la route de Tanger à Larache et à Rabat,
la route du Cap Spartel,
la route de la gare au port et en bordure du port,
les voies publiques urbaines,
les égoûts et adductions d'eau et leurs dépendances, étant réservés les droits de tout concessionnaire des eaux.

La Zone doit :

1. entretenir en priorité sur les fonds provenant des ressources de la taxe spéciale, les routes de Tanger à Tétouan et de Tanger à Larache et à Rabat dans la Zone de Tanger.

2. laisser à la disposition gratuite de la Compagnie du Chemin de fer franco-espagnol de Tanger à Fez les terrains du domaine qui seront nécessaires à ses installations.

(*c*) domaine fluvial :

Les cours d'eau.
Tous les droits antérieurs et tous les droits d'usage au profit des tiers sont réservés.

(*d*) domaine minier :

Les redevances minières dans la Zone de Tanger et les perceptions sur la sortie des minerais extraits dans ladite Zone reviennent à l'Administration de la Zone.

(*e*) domaine forestier.

ARTICLE 18.

Le domaine privé comprend tous les immeubles bâtis et non bâtis inscrits sur les registres des biens Maghzen et non visés à l'article 17 ainsi que les abattoirs.

Sous réserve des dispositions de l'article 15 ci-dessus, les locations ou détentions de biens Maghzen par des particuliers, de même que tous les droits de gza ou autres, régulièrement établis sur lesdits immeubles, sont respectés. Il en est de même des affectations d'intérêt public dont ces biens sont grevés.

Toutefois, l'Etat chérifien entend se réserver pour les services publics qu'il conservera à Tanger les immeubles suivants :

l'ancienne Légation d'Allemagne et ses dépendances ;
le Palais du Sultan la Kasbah et ses dépendances ;
le Bordj des Mokhaznis sur les remparts ;
le Terrain et le bordj de la montée du Marshan, actuellement occupée par la compagnie chérifienne.

Toute location nouvelle en dehors de celles qui existent ne pourra dépasser le terme de la présente convention.

ARTICLE 19.

En vue de réserver à chaque Zone le produit des redevances minières qui doivent lui revenir, les redevances proportionnelles d'extraction appartiennent à la Zone où la mine est située, alors même qu'elles seraient recouvrées à la sortie par un bureau de douane d'une autre Zone.

ARTICLE 20.

La douane de Tanger ne perçoit que les droits et taxes afférents aux marchandises destinées à la consommation exclusive de la Zone.

Les marchandises débarquées à Tanger et destinées à être utilisées ou livrées à la consommation dans les Zones française et espagnole bénéficient des régimes ordinaires du transit, de l'entrepôt ou de l'admission temporaire, les droits de douane y afférents devant être perçus aux bureaux de douane de la Zone de consommation.

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Le régime du transit s'inspirera des conclusions de la Conférence de Barcelone de 1921.

Les marchandises d'importation transitant par les zones française et espagnole acquittent, de leur côté, les droits de douane à l'importation à Tanger.

Les droits d'exportation ne portent que sur les marchandises originaires de la Zone.

ARTICLE 21.

La Zone de Tanger participe pour sa part au service des emprunts de 1904 et de 1910.

Cette participation est proportionnelle au montant des recettes douanières encaissées par la Zone par rapport aux recettes totales encaissées dans les ports des trois Zones du Maroc pendant l'année précédente.

Le montant en est annuellement fixé sur les chiffres recettes douanières après entente avec les autorités des deux autres Zones.

Pour la première année, cette participation ne sera définitivement établie qu'en fin d'exercice et les prélèvements de la douane s'exerceront jusqu'à concurrence d'un forfait de cinq cent mille francs et donneront lieu, ultérieurement, à répétition ou restitution.

ARTICLE 22.

L'autonomie de la Zone de Tanger ne pouvant porter atteinte aux droits et privilèges concédés, conformément à l'Acte d'Algésiras, à la Banque d'Etat du Maroc pour tout le territoire de l'Empire, la Banque d'Etat continue de jouir dans la Zone de tous les droits qu'elle tient de son acte de concession et du règlement du 9 novembre 1906 sur ses rapports avec le Gouvernement chérifien.

La Banque d'Etat remplit d'autre part à l'égard de l'Administration de la Zone toutes les obligations qui lui incombent en vertu des actes précités.

Elle désigne un représentant chargé d'assurer ses relations avec l'Administration de la Zone.

Au cas où le statut judiciaire de la Banque d'Etat viendrait à être modifié dans les zones française et espagnole, le Tribunal mixte de Tanger aura, à l'égard de la Banque d'Etat, la même compétence que les juridictions françaises et espagnoles de ces Zones.

ARTICLE 23.

Le franc marocain a cours légal et valeur libératoire dans la Zone de Tanger.

Le budget de la Zone, tous tarifs et opérations comptables qui s'y rattachent, sont établis en francs marocains.

Conformément à l'Article 37 de l'Acte d'Algésiras la monnaie espagnole continue à être admise dans la circulation avec valeur libératoire.

Le taux d'échange entre les deux monnaies, notamment pour leur admission dans les caisses publiques, sera déterminé chaque jour par la Banque d'Etat du Maroc, après contrôle et visa du Directeur des Finances, qui aura mission de veiller à l'exactitude du taux fixé. Ce taux devra correspondre au change moyen entre les prix d'achat et de vente pratiqués sur la place le jour de l'opération.

Les déclarations de valeurs imposables pourront toujours être souscrites dans les deux monnaies. Les percepteurs et collecteurs seront tenus d'afficher dans leurs locaux les tarifs exprimés dans les deux monnaies.

ARTICLE 24.

L'autonomie administrative de la Zone ne pouvant porter atteinte aux droits, prérogatives et privilèges concédés conformément à l'Acte d'Algésiras à la Société internationale de régie

co-intéressée des Tabacs au Maroc, ladite société continue de jouir dans la Zone de tous les droits qu'elle tient des actes qui la régissent. L'autonomie de la Zone de Tanger ne pourra pas faire obstacle à son action et les autorités lui faciliteront le libre et complet exercice de ses droits.

Les tabacs importés à Tanger et qui y seront admis sous le régime de la suspension des droits de douane, conformément à l'article 20 ci-dessus, n'y acquitteront ni droit de porte ni taxe indirecte locale.

Le droit de 2½%, dont sont passibles les tabacs importés par Tanger, est intégralement acquis à la Zone.

Le tarif des prix de vente des tabacs en Zone de Tanger est celui de la Zone française. Il ne peut être modifié que par un accord de l'Assemblée législative avec la Régie.

Pour le partage de la redevance fixe annuelle et des bénéfices (Articles 20 à 23 du Cahier des Charges) on applique un pourcentage déterminé par la consommation effective de la Zone dans l'année précédente par rapport à la consommation totale de l'Empire.

Le même pourcentage s'appliquerait à la charge de la Zone de Tanger en cas de rachat anticipé de la société.

ARTICLE 25.

L'autonomie de la Zone ne pouvant porter atteinte aux droits de souveraineté de Sa Majesté le Sultan, ni à son prestige et à ses prérogatives de Chef de la communauté musulmane de l'Empire et de Chef de la famille chérifienne en résidence à Tanger, l'administration de la population indigène et des intérêts musulmans dans la Zone ainsi que l'exercice du pouvoir judiciaire continuent à être assurés, en respectant les formes traditionnelles, par un personnel marocain nommé directement par le Sultan et contrôlé par ses agents.

ARTICLE 26.

Sous réserve du maintien de l'ordre public, le respect et le libre exercice de la religion des indigènes et de ses pratiques traditionnelles, l'observation des fêtes religieuses musulmanes et israélites traditionnelles et de leur cérémonial sont garantis dans la Zone.

ARTICLE 27.

Le trois Puissances Contractantes s'engagent à faire élaborer dans le plus bref délai possible le statut administratif et juridique de la communauté israélite marocaine de Tanger.

ARTICLE 28.

Les sujets marocains, musulmans et israélites jouissent en matière d'impôts et de taxes de toute nature d'une complète égalité par rapport aux ressortissants des Puissances.

Ils doivent acquitter exactement ces taxes et impôts.

Ils bénéficient dans les mêmes conditions que les ressortissants étrangers des œuvres d'assistance, d'hospitalisation, et d'enseignement que la Zone viendrait à créer ou à subventionner.

ARTICLE 29.

Sa Majesté Chérifienne désigne pour la représenter à Tanger un Mendoub qui promulgue les textes législatifs votés par l'Assemblée internationale avec le visa pour contreseing du Président du Comité de Contrôle. Le Mendoub administre directement la population indigène. Il remplit les fonctions de Pacha et exerce les attributions d'ordre administratif et judiciaire normalement dévolues à cette charge dans l'Empire. Il a droit d'expulsion à l'égard des sujets marocains. Il exerce le même droit à l'encontre des justiciables du Tribunal mixte, après avis

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conforme de l'Assemblée générale du Tribunal des Membres titulaires du Tribunal.

Lorsqu'il s'agit d'un individu appartenant à une nationalité non représentée dans le Tribunal, son consul a le droit de prendre part à la délibération.

L'expulsion est de droit lorsqu'elle est demandée par le consul de l'intéressé.

Le Mendoub vise dans les considérants de l'Arrêté d'expulsion l'avis du Tribunal.

Il a le devoir de faire observer et exécuter par ses administrés les clauses générales du Statut de la Zone et notamment d'assurer, par les moyens administratifs et judiciaires à sa disposition, l'exacte rentrée des impôts et taxes dus par la population indigène.

Le Mendoub préside l'Assemblée législative internationale et peut intervenir dans ses délibérations, mais sans prendre part au vote.

ARTICLE 30.

Le Comité de Contrôle se compose des consuls de carrière des Puissances signataires de l'Acte d'Algésiras ou de leurs intérimaires de carrière.

Les fonctions de président du Comité de Contrôle sont assumées à tour de rôle par chacun des consuls de ces Puissances. Ces fonctions durent un an. Elles consistent à provoquer les réunions du Comité, à lui transmettre toutes les communications qui lui sont adressées, et à suivre les affaires de sa compétence.

Le consul appelé le premier à remplir les fonctions de Président est désigné par le sort. Le tour des consuls en ce qui concerne la présidence est ensuite réglé d'après l'ordre alphabétique des Puissances représentées au Comité. Si le consul désigné pour la présidence ne pouvait pour une raison quelconque en accepter ou remplir les fonctions, elles seraient exercées par le consul de la Puissance qui suit immédiatement dans l'ordre alphabétique. Il en est de même en cas de suppléance du président pour absence, maladie ou tout autre empêchement.

Chaque membre du Comité de Contrôle ne dispose que d'une voix.

Le Comité de Contrôle a pour mission de veiller à l'observation du régime de l'égalité économique et des dispositions insérées dans le statut de Tanger.

Le Président, soit de sa propre initiative, soit à la demande d'un des membres, convoque le Comité de Contrôle et lui soumet les questions qui relèvent de sa compétence.

ARTICLE 31.

Le Comité de Contrôle reçoit, par les soins de l'administrateur, dans un délai maximum de huit jours, les textes législatifs ou règlements votés par l'Assemblée.

Dans un délai de quinze jours à compter de cette notification, le Comité de Contrôle a le droit d'opposer son veto à la promulgation du texte.

Dans ce cas, ses décisions sont prises à la majorité. Elles doivent invoquer dans leurs motifs la non-observation des clauses et principes du statut de Tanger.

Sauf stipulation contraire, les votes du Comité de Contrôle sont acquis à la majorité des voix.

En cas d'égalité, une seconde délibération doit avoir lieu dans un délai maximum de huit jours.

Si, au cours de la seconde délibération, aucune majorité n'est acquise, la voix du Président est prépondérante.

La décision du Comité est notifiée au Mendoub par le Président.

ARTICLE 32.

Les pouvoirs législatifs et réglementaires appartiennent à une Assemblée législative internationale présidée par le Mendoub et composée des représentants des communautés étrangères et indigènes.

Toutefois, les codes visés à l'Article 48 ci-dessous ne peuvent être ni abrogés ni modifiés qu'après accord entre les zones française et espagnole de l'Empire chérifien et le Comité de Contrôle statuant à l'unanimité.

Les textes réglementaires et fiscaux dont la liste fait l'objet de l'article suivant ne peuvent être ni abrogés ni modifiés, pendant une première période de deux ans. A l'expiration de cette période ils pourront être abrogés ou modifiés avec l'assentiment du Comité de Contrôle votant à une majorité des trois quarts des voix.

Les codes, ainsi que les textes réglementaires et fiscaux visés ci-dessus seront rédigés par des commissions de techniciens britanniques, espagnols et français dont les travaux devront être terminés dans un délai de trois mois à dater de la signature de la présente Convention.

ARTICLE 33.

Les textes réglementaires et fiscaux prévus au paragraphe 3 de l'article précédent sont les suivants :

Dahir sur le régime des associations.

Dahir réglementant l'ouverture et l'exploitation des débits de boissons.

Dahir réglementant l'exercice des professions de médecin, pharmacien, dentiste, vétérinaire et sage-femme.

Dahir réglementant l'ouverture et l'exploitation des établissements insalubres, incommodes et dangereux.

Dahir sur la protection des monuments historiques et des sites,

Dahir sur les alignements, plans d'aménagement et d'extension, servitudes et taxes de voirie.

Dahir fixant le régime de l'expropriation et de l'occupation temporaire pour cause d'utilité publique.

Cahier des clauses et conditions générales imposées aux entrepreneurs de travaux publics.

Dahir déterminant les conditions de l'occupation temporaire des parcelles du domaine public.

Dahir établissant une procédure de délimitation des biens du domaine privé de l'Etat.

Dahir sur l'exploitation des carrières.

Dahir mettant au point le régime minier de 1914.

Règlement de comptabilité publique.

Dahir fixant la taxe et déterminant le régime des alcools.

Dahir réglementant les taxes de consommation sur les sucres, les principales denrées coloniales et leurs succédanés (thé, café, cacao, vanille, etc.), les bougies, les bières.

Dahir sur l'enregistrement (droits de mutation) et le timbre.

Dahir précisant les conditions de la transmission de la propriété foncière selon le droit commun (chrâa).

ARTICLE 34.

En considération du nombre des ressortissants, des chiffres du commerce général, des intérêts immobiliers et de l'importance du trafic à Tanger des différentes Puissances signataires de l'Acte d'Algésiras, l'Assemblée législative internationale comprend :

4	membres	français
4	,,	espagnols
3	,,	britanniques
2	,,	italiens
1	membre	américain
1	,,	belge
1	,,	hollandais
1	,,	portugais,

désignés par leurs consulats respectifs et en outre :

6 sujets musulmans du Sultan désignés par le Mendoub et 3 sujets israélites du Sultan désignés par le Mendoub et pris sur une liste de neuf noms présentés par la communauté israélite.

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L'Assemblée nomme parmi ses membres trois vice-présidents, un citoyen français, un sujet britannique, et un sujet espagnol chargés d'assister le Mendoub dans la présidence de l'Assemblée et de le suppléer en cas d'absence ou d'empêchement.

ARTICLE 35.

Un administrateur exécute les décisions de l'Assemblée et dirige l'Administration internationale de la Zone.

L'administrateur a sous ses ordres deux administrateurs-adjoints et deux ingénieurs.

Un des administrateurs adjoints est plus spécialement chargé avec le titre de directeur, des services d'hygiène et d'assistance; l'autre administrateur adjoint est plus spécialement chargé, avec le titre de directeur, des services financiers.

Pour une première période de six ans, l'administrateur est de nationalité française; l'administrateur adjoint, chargé des services d'hygiène et d'assistance, est de nationalité espagnole; l'administrateur adjoint chargé des services financiers est de nationalité britannique. L'administrateur, les deux administrateurs adjoints et les deux ingénieurs sont nommés par Sa Majesté Chérifienne sur la demande du Comité de Contrôle à qui ils sont présentés par leurs consulats respectifs.

Après cette première période de six ans, l'Assemblée nomme l'administrateur et les administrateurs adjoints parmi les ressortissants des Puissances signataires de l'Acte d'Algésiras. Toutefois, les trois postes ne pourront être confiés qu'à des ressortissants de nationalité différente.

En raison des intérêts particuliers de la France et de l'Espagne dans les travaux publics, dans les entreprises et dans les concessions de travaux publics de la Zone de Tanger, l'ingénieur des travaux publics d'Etat est de nationalité française; l'ingénieur chargé des travaux municipaux est de nationalité espagnole. Les deux ingénieurs sont présentés au Comité de Contrôle par leurs consulats respectifs.

Le Comité de Contrôle pourra, le cas échéant, à la majorité des trois quarts des voix, soumettre une demande motivée de remplacement de l'administrateur à Sa Majesté Chérifienne qui nommera un candidat de même nationalité.

Si la collaboration d'un des administrateurs adjoints ou d'un des deux ingénieurs ne donne pas satisfaction à l'administrateur, celui-ci soumet une demande motivée de remplacement au Comité de Contrôle qui présentera à Sa Majesté Chérifienne un candidat de la même nationalité.

ARTICLE 36.

Les traitements des fonctionnaires sont fixés par l'Assemblée.

Toutefois, pour une première période de six ans, les traitements de l'administrateur, des administrateurs adjoints et des ingénieurs sont fixés comme suit :

Administrateur	50,000	francs	marocains
Administrateur adjoint ...	40,000	,,	,,
Ingénieur	38,000	,,	,,

L'administration pourvoit en outre au logement de ces fonctionnaires.

Au cours de la première période de six ans visée ci-dessus, ces traitements peuvent, à titre exceptionnel, être modifiés sur la demande de l'Assemblée par une décision motivée du Comité de Contrôle statuant aux trois quarts des voix

ARTICLE 37.

Le recrutement des fonctionnaires de l'Administration internationale autres que ceux prévus à l'article 36 ci-dessus est effectué par une commission présidée par l'administrateur et composée des trois vice-présidents de l'Assemblée et du chef du service intéressé.

Les candidats agréés sont nommés par l'administrateur après approbation de l'Assemblée.

ARTICLE 38.

Le produit de la taxe spéciale revenant à la Zone de Tanger est versé à Banque d'Etat pour le compte de la zone.

Cette recette est affectée par priorité :

aux travaux et à l'entretien dans la Zone de Tanger des routes de Tanger à Tétouan et de Tanger à Larache et à Rabat;

aux travaux d'amélioration et l'entretion de l'éclairage maritime et du balisage autres que les feux du port et le balisage du port.

Le surplus des disponibilités sera affecté, conformément à l'article 66 de l'Acte d'Algésiras, aux dépenses et à l'exécution de travaux publics intéressant le développement de la navigation et du commerce en général.

ARTICLE 39.

L'Administration du Contrôle de la Dette conserve les droits, privilèges et obligations qu'elle tient de la convention du 21 mars 1910.

Cette Administration demandera au Gouvernement chérifien de désigner le chef du Service de la Douane de Tanger qui relèvera de l'administration des douanes marocaines.

Le service des Douanes et Régies de Tanger perçoit et encaisse les droits de douane sur les marchandises importées pour la consommation de la Zone et sur les marchandises exportées de ladite Zone.

Il perçoit et encaisse également les redevances et bénéfices du monopole des tabacs et le droit de 2½% établi par l'Acte d'Algésiras au titre de la taxe spéciale des travaux publics.

Il perçoit et encaisse en outre le produit des diverses taxes de consommation.

Il ne perçoit pas les autres impôts et produits, notamment la taxe urbaine, le tertib, les droits aux portes, les revenus du domaine, les produits du mostafadat.

Le service des Douanes et Régies prélève d'office sur les sommes qu'il encaisse, et après remboursement de ses frais de Régie, le montant des diverses dépenses obligatoires de la Zone de Tanger qu'il remet à l'échéance aux créanciers auxquels elles reviennent :

1. à la délégation des porteurs de titres des emprunts de 1904 et de 1910;
   la part de Tanger dans le service desdits emprunts;
2. à l'Etat chérifien :
   Les droits de douane payés par le Monopole des tabacs et ne correspondant pas à la consommation tangéroise;
3. à la Compagnie du Tanger-Fez :
   la part de Tanger dans la garantie de ses emprunts.
4. à la Compagnie du port de Tanger :
   les annuités du service de ses emprunts.

Le Service des Douanes et Régies remet, d'autre part, le produit de la taxe spéciale à la Banque d'Etat du Maroc.

Si les recettes encaissées demeuraient inférieures au total des prélèvements ci-dessus, le déficit serait imputé par préférence sur l'ensemble des recettes de Tanger, ou, le cas échéant, sur son fonds de réserve;

Si elles leur étaient supérieures, l'excédent serait versé à la Banque d'Etat, à la disposition de l'Administration de la Zone.

Le budget du service de la douane est présenté chaque année, avant le 15 novembre, à l'administrateur qui le soumet à l'approbation de l'Assemblée. En cas de désaccord le différend entre l'Administration de la Zone et le service de la douane est arbitré par le Comité de Contrôle qui statue à la majorité des voix. Une majorité des trois quarts est nécessaire pour les différends relatifs à la création et à la suppression d'emplois.

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Si l'approbation du budget du service de la douane n'intervient pas avant le 1er janvier, les prévisions budgétaires de l'année antérieure s'appliquent d'office au nouvel exercice.

Le Comité de Contrôle pourra, le cas échéant, et à la majorité des trois quarts, soumettre au Gouvernement chérifien une demande motivée de remplacement du chef du service de la douane.

ARTICLE 40.

Sous les conditions expresses ci-après, le Gouvernement chérifien délègue à la Zone de Tanger :

1. les droits et charges qu'il tient du contrat de concession du port en date du 21 juin 1921 ;

2. la reprise par déchéance, rachat ou fin de concession au profit de la Zone de Tanger.

La zone s'acquittera intégralement des obligations incombant au Gouvernement chérifien d'après le contrat de concession. Les annuités du capital garanti par le Gouvernement chérifien seront payées par la Zone de Tanger par prélèvement en priorité sur les produits des douanes et les bénéfices de l'exploitation et des terrains du port.

Seront soumis à l'approbation du Gouvernement chérifien :

(*a*) toutes modifications aux clauses du contrat et aux statuts de la société concessionnaire du port ;

(*b*) toute cession partielle ou totale de l'entreprise ;

(*c*) la déchéance ;

(*d*) le rachat.

Tant que la garantie du Gouvernement chérifien restera en jeu, seront également soumis à son approbation :

(*a*) toute transformation d'actions nominatives en actions au porteur ;

(*b*) tous traités, dispositions et arrangements conformes aux dispositions du contrat et ayant pour effet d'augmenter le capital fourni par la société comme il est dit à l'article 10 de la Convention du port.

L'approbation du Gouvernement chérifien pourra être donnée en son nom par son représentant à la Commission du Port.

A défaut d'exécution par l'Administration de Tanger des obligations prévues aux paragraphes ci-dessus, le Gouvernement chérifien reprendra, seul, le contrôle financier de la concession.

Sur la demande de l'Administration de Tanger le Gouvernement chérifien exercera le droit qu'il tient du dernier alinéa de l'article 6 de la Convention de Concession du Port de Tanger, étant entendu que cette Administration aura l'obligation expresse de rembourser au Gouvernement chérifien les charges nées de l'exercice de ce droit.

Sur la demande de l'Administration de Tanger le Gouvernement chérifien exercera également le droit qu'il tient de l'article 6 de la Convention du Port de Tanger d'accélérer l'amortissement des obligations garanties, dans la mesure où cette Administration par ses propres moyens assurera les frais de ladite accélération.

Les titres tant actions qu'obligations émis par la compagnie concessionnaire seront dans la Zone de Tanger exempts de tous impôts, taxes et contributions.

ARTICLE 41.

Il sera constitué une Commission du Port qui aura les attributions du Service du Contrôle telles qu'elles sont définies à l'Acte de Concession et sous réserve des dispositions de l'Article 40 ci-dessus.

En ce qui concerne l'exécution des travaux de construction et d'entretien la commission prendra ses décisions sur l'avis de l'ingénieur chargé des travaux d'Etat de la Zone et de la surveillance des travaux du port à qui appartient la responsabilité technique. Dans le cas où la commission serait en désaccord avec l'ingénieur, l'avis de ce dernier sera annexé au procès-verbal.

Sous l'autorité du Comité de Contrôle la commission veille à l'observation du régime de l'égalité économique dans l'exploitation du port.

La commission est composée :

d'un représentant du Gouvernement chérifien ;
d'un représentant de l'Assemblée législative ;
d'un représentant du Comité de Contrôle.

L'ingénieur assiste aux séances avec voix délibérative.

L'administrateur de la Zone a le droit d'assister avec voix consultative aux séances de la commission.

Y sont également appelés de droit, avec voix consultative :
un représentant des intérêts commerciaux de Tanger élu par les Chambres de Commerce, et les directeurs ou chefs de Service de l'Administration internationale, pour les affaires qui les intéressent.

Le directeur local de la société concessionnaire pourra aussi être entendu.

Sur leur demande les consuls seront entendus sur les questions qui les intéressent.

En dehors des réunions périodiques qu'elle aura décidé de tenir, la commission pourra être convoquée sur l'initiative d'un de ses membres, et en cas d'urgence sur celle de l'administrateur de la Zone.

Le règlement intérieur de la commission sera approuvé par le Comité de Contrôle.

La commission désignera son président. A défaut de désignation la présidence sera exercée à tour de rôle par chacun des trois membres.

Les fournitures de matériaux importées ainsi que le matériel de l'exploitation (abstraction faite de toute fourniture ou achat de matériel relevant d'un contrat d'adjudication publique) feront l'objet d'appels à la concurrence, sous le contrôle de la Commission du Port.

La commission, dans le cas de marchés de fournitures dont le montant excédera vingt mille francs sans être supérieur à cent mille francs :

1°. arrêtera la mode de passation des marchés et les conditions suivant lesquelles il sera procédé, soit aux appels d'offres en vue de marchés de gré à gré, soit aux adjudications publiques ;

2°. approuvera les marchés et adjudications.

Pour les fournitures dont l'importance dépassera cent mille ~~vue de marchés de gré à gré, soit aux adjudications publiques ;~~ francs, il sera procédé à une adjudication publique.

ARTICLE 42.

Les droits d'ancrage existant en vertu des anciens traités de commerce sont remplacés par les droits de stationnement prévus au Contrat de Concession du Port.

ARTICLE 43.

L'Administration de Tanger veillera à ce que les litiges qui pourraient survenir entre la société concessionnaire du port de Tanger et la compagnie du chemin de fer de Tanger à Fez soient réglés par arbitrage comme il est respectivement prévu aux contrats des deux concessionnaires.

ARTICLE 44.

L'Administration de Tanger aura, en ce qui concerne le chemin de fer de Tanger à Fez, tous les droits et obligations qui lui reviennent dans l'étendue de la Zone, d'après le Protocole franco-espagnol du 27 novembre 1912, et la Concession du 18 mars 1914, et ses annexes.

Tout avenant à la concession, intervenu après accord entre les Gouvernements français et espagnol, avant la mise en vigueur du présent statut, s'appliquera à la Zone de Tanger.

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ARTICLE 45.

Sauf stipulation contraire dans la présente convention, les droits et obligations résultant de toutes les concessions accordées dans la Zone de Tanger avant la mise en vigueur de la présente convention reviennent à ladite Zone.

Toute concession accordée, à l'avenir, par la Zone de Tanger pour un délai dépassant la durée de la présente convention et celle des périodes pour lesquelles elle pourra être éventuellement renouvelée, n'engagerait le Gouvernement chérifien, en cas de non renouvellement du statut, que si ledit Gouvernement avait, au préalable, formellement approuvé cette concession, à la diligence du soumissionnaire.

ARTICLE 46.

Il est créé un budget de la Zone de Tanger. Ce budget est établi et exécuté suivant les règles déterminées par le Dahir organique ci-joint.

ARTICLE 47.

La sécurité dans la Zone est exclusivement assurée par un corps de gendarmerie indigène mis à la disposition de l'administrateur. Cette force, commandée par un officier belge du grade de capitaine, assisté de cadres français et espagnols, ne dépassera pas 250 hommes. Elle peut tenir garnison dans la ville de Tanger et entretenir des postes dans la banlieue. Le règlement concernant la gendarmerie est annexée à la présente convention.

ARTICLE 48.

Une juridiction internationale, dénommée tribunal mixte de Tanger et composée de magistrats français, britanniques et espagnols, est chargée d'administrer la justice aux ressortissants des Puissances étrangères.

Le Ministère public est confié à deux magistrats, l'un Français et l'autre Espagnol.

Le Tribunal mixte de Tanger fait l'objet du dahir spécial ci-joint. Il remplace les juridictions consulaires existantes.

Le dahir instituant le Tribunal mixte de Tanger ne pourra être modifié qu'avec l'assentiment de toutes les Puissances signataires de l'Acte d'Algésiras.

Les relations des autorités judiciaires de la Zone française ou de la Zone espagnole avec le Tribunal mixte de Tanger sont réglées par l'accord du 29 décembre 1916 touchant les rapports entre les autorités judiciaires de ces deux zones.

Les trois Gouvernements s'engagent à faire établir dans un délai de trois mois à compter de la signature de la présente convention les codes nécessaires pour le fonctionnement du tribunal. Ces codes sont les suivants :

Code sur la condition civile des étrangers dans la Zone,
Code de commerce,
Code pénal,
Code de procédure criminelle,
Code des obligations et contrats,
Code de procédure civile avec une annexe fixant les frais de justice,
Code de l'immatriculation.

ARTICLE 49.

A dater de la mise en vigueur du nouveau régime, les agences diplomatiques à Tanger seront remplacés par des consulats.

ARTICLE 50.

Les commissions et comités actuels de Tanger sont supprimés.

Le soin de fixer le tarif des valeurs douanières applicable dans les trois zones, qui incombe actuellement à la Commission des

Valeurs douanières, est confié à une commission composée de représentants des trois Zones. Cette commission se réunira à Tanger au moins deux fois par an.

ARTICLE 51.

L'arabe, l'espagnol et le français sont les seules langues officielles dans la Zone de Tanger. L'Assemblée législative réglementera leur emploi.

Les textes législatifs et réglementaires devront être publiés dans les trois langues.

ARTICLE 52.

Les jeux de hasard sont interdits dans la Zone de Tanger.

Il ne pourrait être dérogé à cette interdiction que par une décision du Comité de Contrôle statuant à l'unanimité.

ARTICLE 53.

Les Gouvernements contractants reconnaissent que le Gouvernement chérifien conserve la propriété du phare du Cap Spartel, la Convention du 31 mars 1865 demeurant provisoirement en vigueur.

ARTICLE 54.

Les différends qui viendraient à s'élever au sujet de l'interprétation et de l'application des dispositions de la présente convention seront portés soit devant la Cour permanente de Justice internationale, soit, du commun accord des parties, devant la Cour permanente d'Arbitrage de La Haye.

ARTICLE 55.

Sont abrogés toutes clauses des traités, conventions ou accords antérieurs qui seraient contraires aux stipulations du présent Statut.

ARTICLE 56.

La présente Convention sera communiquée aux Puissances signataires de l'Acte d'Algésiras près desquelles les trois Gouvernements contractants s'engagent à se prêter mutuellement appui pour obtenir leur adhésion.

La Convention sera ratifiée et les ratifications seront échangées à Paris aussitôt que faire se pourra.

Elle est conclue pour une durée de douze années à partir de sa ratification.

Elle sera renouvelée de plein droit pour une ou plusieurs périodes égales, si au moins six mois avant son expiration aucune des Puissances contractantes n'a demandé qu'elle soit revisée. En ce cas, elle continuera à s'appliquer pendant la durée de la revision effectuée d'un commun accord.

En foi de quoi, les Plénipotentiaires soussignés ont signé le présent Traité.

Fait à Paris, le dix-huit décembre dix neuf cent vingt-trois en trois exemplaires.

ARNOLD ROBERTSON.
G. H. VILLIERS.

Ad referendum et sous les réserves faites par nous en ce qui concerne les articles 2, 3, 6, 8, 9, 13, 14, 25, 29, 32, 33, 40, 41, 45, 47 et 56 et d'une manière générale sous toutes les réserves faites au cours des négociations :

MAURICIO LOPEZ ROBERTS,
MARQUIS DE LA TORREHERMOSA.
M. AGUIRRE DE CARCER.
M. DE BEAUMARCHAIS.

Les soussignés, dûment autorisés par le Gouvernement Royal, déclarent que leurs signatures doivent désormais être considérées comme données sans conditions ni réserves (Signé) Mauricio Lopez Roberts Paris, le 7 février, 1924.
Marquis de la Torrehermosa.
(Signé) M. Aguirre de Carcer.

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ANNEXE À LA CONVENTION DU 18 DÉCEMBRE 1923 RELATIVE AU STATUT DE TANGER.

RÈGLEMENT DE LA GENDARMERIE DE LA ZONE DE TANGER.

I.—Organisation.

ARTICLE 1er.

Il est constitué à Tanger une gendarmerie de la zone.

ARTICLE 2.

Cette gendarmerie doit :

1°. Maintenir l'ordre dans la zone. Elle devra prêter son concours à la police locale sur la réquisition de l'administrateur ;

2°. Garantir d'une manière efficace la sécurité de la zone.

ARTICLE 3.

La gendarmerie est placée sous l'autorité de l'administrateur de la zone.

ARTICLE 4.

Elle est commandée par un capitaine qui aura sous ses ordres comme cadres européens :

Lieutenants ou sous-lieutenants dont un officier comptable ;

Un sous-officier adjoint à l'officier comptable.

ARTICLE 5.

Si ces officiers ou sous-officier européens sont promus au grade supérieur au cours de leur contrat, ils devront être remplacés par des officiers du grade prévu à l'article 4 ci-dessus.

ARTICLE 6.

L'effectif de la troupe sera au maximum de 250 hommes indigènes marocains, sous-officiers indigènes compris.

L'unité sera mixte (infanterie et cavalerie).

La répartition de l'effectif et l'encadrement seront fixés par l'Assemblée internationale avec l'approbation du Comité de Contrôle.

ARTICLE 7.

Toutefois la composition de la gendarmerie (proportion dans laquelle entre chacune des armes) pourra être modifiée selon les données de l'expérience.

ARTICLE 8.

Les frais d'entretien de la gendarmerie sont à la charge de l'administration de Tanger.

ARTICLE 9.

Un contrat passé entre l'administration de Tanger et les officiers européens détermine les conditions de leur engagement et fixe leur solde qui sera ordonnancée par le Directeur des Finances.

II.—Recrutement.

ARTICLE 10.

La gendarmerie comprend des sous-officiers, caporaux et soldats marocains, mariés ou célibataires, n'ayant encouru aucune punition grave.

Les hommes de troupe seront âgés d'au moins 24 ans et de 45 ans au plus.

ARTICLE 11.

Pour la constitution de la gendarmerie le capitaine commandant cette unité choisira de préférence parmi les gradés et les askers provenant des tabors de police N° 1 et N° 2 dissous.

ARTICLE 12.

Le recrutement des hommes de troupe se fait par voie d'engagement et de rengagement.

L'engagement est contracté pour une période de trois ans.

Tout homme qui, après trois ans de service dans la gendarmerie, rengage dans cette unité pour une même période aura droit à une haute paye journalière de 0 fr. 50.

Tout engagement nouveau donnera droit à une nouvelle haute paye de 0 fr. 50 s'ajoutant aux précédentes.

III.—Attributions du Commandement Discipline.

ARTICLE 13.

Le capitaine commandant a toutes les attributions d'un chef de corps.

Il doit assurer l'instruction, la discipline et l'administration de l'unité.

En ce qui concerne la discipline : Pour les Caïd Mia et les hommes de troupe marocains, il se conformera aux prescriptions du règlement qui sera établi ultérieurement.

Pour le cadre européen, le capitaine commandant adresse, sous sa responsabilité, un rapport avec des conclusions à l'administrateur de Tanger.

Celui-ci transmet ce rapport au consul de la nation à laquelle appartient l'officier ou le sous-officier en cause.

IV.—Service des Salves.

ARTICLE 14.

La gendarmerie assure avec un détachement prélevé sur son effectif le service de la batterie pour les salves réglementaires.

Fait à Paris le dix-huit décembre 1923, en trois exemplaires.

ARNOLD ROBERTSON.
G. H. VILLIERS.

Ad referendum et sous les réserves déjà exprimées :

MAURICIO LÓPEZ ROBERTS,
MARQUIS DE LA TORREHERMOSA.
M. AGUIRRE DE CARCER.
M. DE BEAUMARCHAIS.

Les soussignés . . . . . réserves [See Convention].
Paris, le 7 février, 1924.
Mauricio Lopez Roberts
Marquis de la Torrehermosa
M. Aguirre de Carcer.

Les Gouvernements des Puissances signataires de la présente Convention s'engagent à recommander à l'adoption de Sa Majesté Chérifienne les deux dahirs suivants relatifs à l'administration de la Zone de Tanger et à l'organisation d'une juridiction internationale à Tanger.

Fait à Paris le dix-huit décembre 1923, en trois exemplaires.

ARNOLD ROBERTSON.
G. H. VILLIERS.
MAURICIO LOPEZ ROBERTS,
MARQUIS DE LA TORREHERMOSA.
M. AGUIRRE DE CARCER.
M. DE BEAUMARCHAIS.

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PROJET DE DAHIR CHÉRIFIEN ORGANISANT L'ADMINISTRATION DE LA ZONE DE TANGER.

Chapitre I.—Clauses générales.

ARTICLE 1er.

Dans la région définie à l'article 2 ci-après et qui est qualifiée Zone de Tanger, Nous octroyons par les présentes à une administration internationale une délégation générale et permanente, sous réserve de l'exercice de Nos droits et pouvoirs à l'égard de Nos sujets dans ladite zone, droits et pouvoirs qui seront exclusivement exercés par Notre Mendoub et par Nos fonctionnaires chérifiens à Tanger, et sous réserve du respect de Notre prestige de chef de la communauté musulmane de Notre Empire et de chef de la famille chérifienne, en résidence à Tanger qui sera sauvegardé conformément aux assurances données par le Gouvernement de la République française à Notre prédécesseur pour l'ensemble du Maroc.

Cette délégation générale et permanente ne s'applique pas en matière diplomatique, où il n'est pas dérogé aux dispositions de l'article 5 du traité de Protectorat du 30 mars 1912. Toutefois, l'administration internationale est qualifiée pour traiter avec les consuls des Puissances à Tanger les questions intéressant ladite zone dans les limites de son autonomie.

ARTICLE 2.

La Zone de Tanger est comprise dans les limites fixées par le paragraphe 2 de l'Article 7 de la Convention franco-espagnole du 27 novembre 1912.

ARTICLE 3.

Les membres de Notre Famille Chérifienne ayant régné sur Notre Empire et résidant dans la Zone de Tanger y jouiront de considération et d'égards particuliers.

Les objets qui entrent en douane ou qui en sortent à leur usage, comme au Nôtre, continueront à ne pas payer de droits.

Chapitre II.—Autorités de la Zone de Tanger.

ARTICLE 4.

Nous confions à Notre Mendoub la charge d'exercer à l'égard de Nos sujets dans la Zone de Tanger, conformément aux règles et usages traditionnels de Notre Empire, les pouvoirs d'administration et de justice dévolus aux Pachas et Caïds au Maroc. Dans l'exercice de ces fonctions, Notre Mendoub sera assisté de deux Khalifas que Nous désignerons à cet effet.

Le Mendoub chérifien préside l'Assemblée législative internationale prévue ci-après ; il peut intervenir dans ses délibérations, mais sans prendre part au vote.

Il signe pour promulgation et exécution les textes législatifs ou réglementaires votés par l'Assemblée et sur lesquels le Comité de Contrôle n'a pas exercé son droit de veto.

Le Président du Comité de Contrôle vise pour contreseing les textes en question.

Il doit veiller au respect de l'ordre et de la tranquillité publics et des clauses générales du statut de la Zone par les populations soumises à son administration. Il peut requérir, à cet effet, auprès de l'administrateur, le concours de la force publique de la Zone.

Il doit veiller, également, à la rentrée des taxes et impôts dus par Nos sujets et légalement perçus dans la Zone sans distinction de nationalité ni de religion.

Le Mendoub chérifien a le droit d'expulser les sujets marocains.

Il exerce le même droit à l'encontre des justiciables du Tribunal mixte, après avis conforme de l'Assemblée générale

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de ce Tribunal donné suivant la procédure prévue à l'article 29 de la Convention en date du . . .

L'expulsion est de droit lorsqu'elle est demandée par le consul de l'intéressé.

Le Mendoub vise dans les considérants de l'arrêté d'expulsion l'avis du Tribunal mixte.

ARTICLE 5.

Le budget de la zone contribue annuellement pour une somme forfaitaire de 125,000 francs marocains au paiement des services de l'Administration indigène.

Les paiements imputés sur cette somme sont ordonnancés par le Directeur des Finances.

ARTICLE 6.

Sur la désignation et sous la direction de Notre Maghzen chérifien, le Cadi, les membres du Chrâa, les agents des habous et d'une manière générale des autres administrations se rattachant aux institutions intéressant le statut personnel et la religion de Nos sujets continuent à exercer leurs fonctions dans les formes et suivant les coutumes traditionnelles en usage dans Notre Empire.

ARTICLE 7.

Le respect et le libre exercice de la religion des sujets marocains et de ses pratiques traditionnelles sont garantis. Le maintien de leurs fêtes religieuses et de leur cérémonial est assuré sous réserve que l'ordre public ne soit pas troublé.

ARTICLE 8.

Nos sujets musulmans et israélites jouissent en matière d'impôts et de taxes de toute nature d'une complète égalité par rapport aux ressortissants des Puissances. Ils doivent acquitter exactement ces taxes et impôts.

Ils bénéficient dans les mêmes conditions que les ressortissants étrangers des œuvres d'assistance, d'hospitalisation, et d'enseignement que la zone viendrait à créer ou à subventionner.

ARTICLE 9.

L'organisme international chargé, sous les réserves ci-dessus, d'administrer la Zone de Tanger en Notre nom et en vertu de Notre délégation générale de pouvoirs, est composé d'une Assemblée législative internationale et d'un administrateur, dont les attributions respectives sont déterminées plus loin. L'exercice de ses attributions est soumis à la surveillance d'un Comité de Contrôle.

Aucune responsabilité ne peut être imputée à Notre Gouvernement chérifien par suite de réclamations motivées par des faits qui se produiraient dans la Zone de Tanger du chef de l'administration de l'organisme international.

ARTICLE 10.

L'administration de la Zone assure la tranquillité publique et, sauf stipulation contraire, introduit toutes les réformes administratives, économiques, financières et judiciaires, qu'elle juge utile.

ARTICLE 11.

L'Administration de la Zone est tenue de respecter les traités actuellement en vigueur entre Nous et les Puissances.

S'étendent notamment de plein droit à la Zone de Tanger les accords internationaux auxquels toutes les Puissances signataires de l'Acte d'Algésiras sont parties contractantes ou auront adhéré.

En cas de désaccord entre les stipulations desdits traités et les lois et règlements établis par l'Assemblée législative internationale, les stipulations des traités prévaudront.

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L'Administration de la Zone veille d'une façon spéciale à l'observation des articles 3, 7 (paragraphe 2), 8 (paragraphe 3), 10, 11 et 12 de la Convention en date du . . . .

ARTICLE 12.

Les accords internationaux, conclus à l'avenir par Notre Majesté Chérifienne, ne s'étendront à la Zone de Tanger qu'avec l'assentiment de l'Assemblée législative internationale. Il en sera de même de Nos décrets rendus conformément à l'article 5 du Traité de Protectorat du 30 mars 1912.

Par exception, s'étendront de plein droit à la Zone de Tanger :

1. Les accords internationaux auxquels toutes les Puissances signataires de l'Acte d'Algésiras seront parties contractantes ou auront adhéré.

2. Toutes dispositions législatives applicables aux deux Zones française et espagnole et relatives—

(*a*) au fonctionnement des services postaux et télégraphiques chérifiens avec l'étranger ainsi qu'à l'unification des tarifs y applicables ;

(*b*) au commerce des armes et des munitions à leur usage.

ARTICLE 13.

Par application des dispositions des articles 141 et suivants du traité de Versailles, des articles 96 et suivants du traité de Saint-Germain en Laye, des articles 30 et suivants du traité de Trianon les dispositions du présent statut ne pourront, en aucun cas, être invoquées par les ressortissants allemands, autrichiens et hongrois et les dispositions de Nos dahirs des 9, 10 et 11 janvier 1920, du 11 janvier 1921 et du 8 août 1922 relatifs au statut des ressortissants de l'Allemagne et aux marchandises de provenance allemande ainsi que de Nos dahirs en date du 6 septembre 1920 et du 8 janvier 1921 concernant le commerce avec l'Autriche et les ressortissants autrichiens, sont applicables à la zone de Tanger.

ARTICLE 14.

L'administration internationale ne peut, sans entente préalable avec les autorités des deux autres zones, réglementer :

(*a*) les questions concernant le cabotage et toutes autres matières connexes aux questions douanières et intéressant la généralité des ports marocains ;

(*b*) les postes, les télégraphes et les téléphones interzoniers.

ARTICLE 15.

Les impôts et les ressources de toute sorte dans la Zone de Tanger sont affectés aux dépenses de ladite Zone comme il est dit ci-après.

ARTICLE 16.

Le Gouvernement chérifien ne peut être appelé à participer à aucun titre aux dépenses de la Zone de Tanger, sauf en ce qui concerne les traitements des fonctionnaires indigènes directement nommés par Nous.

ARTICLE 17.

L'administration de la Zone de Tanger ne pouvant porter atteinte aux droits, prérogatives et privileges antérieurement concédés aux porteurs des titres des emprunts de 1904 et de 1910, à la Banque d'Etat du Maroc et à la Société internationale de régie co-intéressée des tabacs au Maroc, pour tout le territoire de l'Empire par Notre Gouvernement, ces droits, prérogatives et privilèges sont respectés par l'administration internationale qui veille notamment à l'observation des articles 21, 22 et 24 de la Convention en date du . . . .

Chapitre III.—Comité de Contrôle.

ARTICLE 18.

Nous confions à un Comité de Contrôle composé des consuls de carrière des Puissances signataires de l'Acte d'Algésiras ou de leur intérimaires de carrière et organisé conformément aux dispositions de l'Article 30 de la Convention en date du . . . le soin de veiller à l'observation des clauses du statut de la Zone de Tanger, tel qu'il est déterminé par la Convention en date du . . et par le présent dahir.

Tous les textes législatifs ou réglementaires votés par l'Assemblée internationale sont soumis au Comité de Contrôle dans les conditions indiquées à l'Article 31 de la Convention en date du . . .

Les séances du Comité de Contrôle ne sont pas publiques ; mais les procès-verbaux les concernant sont, sauf décision contraire du Comité, tenues sur place en tout ou en partie à la disposition des membres de l'Assemblée qui désireront en prendre connaissance.

ARTICLE 19.

Le Comité de Contrôle a le droit de convoquer et d'entendre l'Administrateur de la Zone accompagné, s'il y a lieu, des chefs de service intéressés.

Chapitre IV.—Assemblée législative internationale.

ARTICLE 20.

L'Assemblée législative internationale exerce le pouvoir législatif et réglementaire.

Elle est présidée par le Mendoub et est composée de 26 représentants des communautés étrangères et marocaines dans les conditions suivantes :

4	membres	français
4	,,	espagnols
3	,,	britanniques
2	,,	italiens
1	membre	américain
1	,,	belge
1	,,	hollandais
1	,,	portugais

désignés par leurs consulats respectifs,

6 de Nos sujets musulmans désignés par Notre Mendoub, et

3 de Nos sujets israélites choisis par Notre Mendoub sur une liste de 9 candidats présentés par la communauté israélite de Tanger.

Il est pourvu, suivant la même procédure, dans un délai maximum de trois mois au remplacement des membres décédés ou démissionnaires.

ARTICLE 21.

Tout membre de l'Assemblée internationale doit occuper, à titre de propriétaire ou de locataire, un local porté soit au rôle de la taxe urbaine pour une valeur locative annuelle de 600 francs marocains, soit au rôle de la taxe rurale correspondante pour une valeur locative équivalente. Il doit être âgé d'au moins 25 ans et résider depuis une année dans la Zone de Tanger.

Ne peuvent faire partie de l'Assemblée internationale ni les fonctionnaires de carrière des consulats, ni les fonctionnaires appointés par l'Administration de la Zone.

Les membres étrangers doivent appartenir à la nationalité du consulat qui les désigne.

En cas d'absence de la Zone de Tanger, tout membre de l'Assemblée peut confier à un de ses collègues le soin de disposer de son vote, par un avis écrit, daté et signé, adressé au Président de l'Assemblée. Aucun membre de l'Assemblée ne peut disposer de plus de deux voix.

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ARTICLE 22.

La durée du mandat de l'Assemblée législative internationale est de quatre ans. A l'expiration de cette période une nouvelle Assemblée est constituée dans le délai d'un mois.

Les pouvoirs des membres de l'Assemblée peuvent être renouvelés.

Les fonctions des membres de l'Assemblée sont gratuites.

L'Assemblée est présidée par Notre Mendoub, assisté d'un vice-président français, d'un vice-président espagnol et d'un vice-président britannique, nommés annuellement par l'Assemblée.

L'Assemblée se réunit de droit chaque mois en session ordinaire et en session extraordinaire toutes les fois que son président ou l'administrateur le jugent utile ou que neuf de ses membres en ont fait la demande par écrit.

Les questions sur lesquelles l'Assemblée est appelée à délibérer sont portées à l'ordre du jour par l'administrateur d'accord avec le bureau. Aucune question dépassant la compétence de l'Assemblée ne peut être inscrite à son ordre du jour.

L'Assemblée ne pourra pas, notamment, ouvrir de sa propre initiative de délibérations sur des sujets impliquant une entente du Gouvernement marocain avec les Puissances.

En cas de refus du bureau d'inscrire une question à l'ordre du jour, appel de cette décision pourra être fait devant le Comité de Contrôle sur la demande motivée et signée de neuf membres de l'Assemblée ou sur la demande motivée de l'Administrateur.

ARTICLE 23.

L'Assemblée ne peut délibérer valablement qu'autant que dix-huit de ses membres sont présents ou représentés.

Lorsque les membres de l'Assemblée ne sont pas réunis en nombre suffisant pour délibérer valablement, l'Administrateur, d'accord avec le bureau, procède à une seconde convocation pour une nouvelle réunion qui ne peut avoir lieu qu'après un délai de quarante-huit heures. Les délibérations de cette seconde séance sont valables quel que soit le nombre des membres présents.

Les délibérations de l'Assemblée sont prises à la majorité des voix des membres présents ou représentés. En cas d'égalité de voix, le vote n'est pas acquis.

Les membres de l'Assemblée ne peuvent prendre part aux délibérations relatives aux affaires dans lesquelles ils ont un intérêt, soit en leur nom personnel, soit comme mandataire.

ARTICLE 24.

L'administrateur participe à titre consultatif aux délibérations de l'Assemblée. Il peut se faire assister par un ou plusieurs des chefs de services.

ARTICLE 25.

Les textes législatifs et réglementaires votés, ainsi que les délibérations et décisions prises par l'Assemblée, sont transmis dans un délai maximum de huit jours au Comité de Contrôle par les soins de l'administrateur.

ARTICLE 26.

Doivent être immédiatement annulées par le Comité de Contrôle les délibérations et décisions :

1. prises en violation de la loi ou des traités;
2. portant sur une question étrangère aux attributions de l'Assemblée ou prises hors de ses réunions légales;
3. celles auxquelles aurait pris part un membre de l'Assemblée, intéressé personnellement ou comme mandataire, à l'affaire qui en fait l'objet.

ARTICLE 27.

Les lois et règlements votés par l'Assemblée et qui dans le délai prévu par l'article 31 de la Convention en date du . . . n'ont pas été l'objet du veto du Comité de Contrôle ne sont exécutoires qu'après promulgation par Notre Mendoub, avec le contreseing du Président du Comité de Contrôle.

Ne sont également exécutoires que dans les mêmes conditions les délibérations portant sur des matières intéressant directement ou indirectement les finances de la Zone ou l'organisation de l'administration internationale de ladite Zone.

ARTICLE 28.

Les codes judiciaires visés à l'article 48 de la Convention en date du . . . ne peuvent être ni abrogés, ni modifiés qu'après un accord préalable entre les Zones d'influence française et espagnole de Notre Empire, et le Comité de Contrôle statuant à l'unanimité.

Les textes réglementaires et fiscaux visés à l'article 32 de la Convention en date du . . . ne peuvent être ni abrogés, ni modifiés pendant une première période de deux ans à dater de la mise en vigueur du Statut. A l'expiration de cette période, ils pourront être abrogés ou modifiés avec l'assentiment du Comité de Contrôle statuant à une majorité des trois quarts des voix.

ARTICLE 29.

La dissolution de l'Assemblée peut être prononcée par une décision motivée du Comité de Contrôle prise à la majorité des trois quarts de ses membres. Elle doit, autant que les circonstances le permettent, être précédée d'un avertissement.

En cas de dissolution, une nouvelle Assemblée doit être constituée dans le délai d'un mois.

ARTICLE 30.

L'Assemblée fera son règlement intérieur dès son installation et au plus tard dans un délai de trois mois. Ce règlement sera soumis à l'approbation du Comité de Contrôle.

Faute par l'Assemblée de procéder dans le délai imparti au vote dudit règlement, le Comité de Contrôle établira un règlement provisoire qui s'appliquera à l'Assemblée jusqu'à l'établissement par ses soins du règlement définitif.

Chapitre V.—Administration internationale de la Zone.

ARTICLE 31.

Le pouvoir exécutif est confié à l'administrateur qui représente l'organisme international à l'égard des tiers, et transmet les décisions de l'Assemblée au Comité de Contrôle. Il les notifie aux chefs des services intéressés, qui en assurent l'exécution sous sa responsabilité.

L'administrateur n'a pas de pouvoir indépendant; il exécute les décisions de l'Assemblée.

ARTICLE 32.

L'administrateur a sous ses ordres deux administrateurs-adjoints : un premier adjoint qui le remplace en cas d'absence et qui, sous sa direction, est plus spécialement chargé des Services d'Hygiène et d'Assistance et un second adjoint qui, sous sa direction, est plus spécialement chargé des services financiers.

Les autres services administratifs de la Zone sont directement rattachés à l'administrateur.

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ARTICLE 33.

La police de la Zone comprend :

1. un corps de gendarmerie indigène composé de 250 hommes au maximum. Son commandement sera confié à un officier belge, du grade de capitaine, assisté de cadres français, espagnols et marocains ;

2. une police civile composée d'agents européens et indigènes, dont l'effectif est fixé par l'Assemblée. La police est placée sous les ordres d'un commissaire nommé par l'Assemblée sur la présentation de l'administrateur.

ARTICLE 34.

Le statut des fonctionnaires de l'Administration internationale fera, au point de vue de l'avancement, des traitements et de la discipline, l'objet d'un règlement soumis par l'administrateur à l'Assemblée. Ce règlement devra être approuvé par le Comité de Contrôle.

ARTICLE 35.

La Zone de Tanger devra créer une caisse de prévoyance pour les agents et employés de l'Administration internationale.

Le règlement d'organisation de cette caisse de prévoyance, préparé par l'administrateur, devra être approuvé dans un délai d'un an par l'Assemblée internationale, faute de quoi il y sera pourvu d'office par le Comité de Contrôle.

ARTICLE 36.

Le recrutement des fonctionnaires de l'Administration internationale, autres que ceux prévus à l'Article 35 de la Convention en date du . . ., est effectué par une commission présidée par l'administrateur et composée des trois vice-présidents de l'Assemblée et du chef du service intéressé.

Les candidats agréés sont nommés par l'administrateur après approbation de l'Assemblée.

ARTICLE 37.

Aucune création de service nouveau ne peut être décidée par l'Assemblée qu'avec l'approbation du Comité de Contrôle prise à la majorité des trois quarts des voix.

ARTICLE 38.

Les règlements d'ordre intérieur concernant l'Administration internationale seront soumis par l'administrateur à l'approbation de l'Assemblée et du Comité de Contrôle.

Chapitre VI.—Ressources et Budget de la Zone.

ARTICLE 39.

Les ressources de la Zone sont constituées par le produit d'ensemble de tous les impôts, taxes et revenus publics perçus sur le territoire de la Zone.

ARTICLE 40.

L'Etat chérifien remet son domaine public et privé, y compris ses droits sur les terrains " guich," à la Zone de Tanger qui l'administre, en perçoit les revenus à son profit et en assure la conservation sans pouvoir en aliéner aucune partie.

Cette remise prend fin à l'expiration de la Convention en date du . . . . et le domaine remis à la Zone fait retour à l'Etat chérifien.

ARTICLE 41.

Le domaine public comprend :

(*a*) Domaine maritime : la mer et ses rivages avec un franc-bord de 6 mètres, déjà grevé de la concession consentie à la compagnie concessionnaire du port que la Zone de Tanger devra

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respecter. Les revenus de la pêche, y compris les redevances prévues en faveur de l'Etat dans les concessions de pêche déjà accordées par le Gouvernement chérifien, reviendront, ainsi que les obligations dérivant de ces concessions, à la Zone de Tanger.

(*b*) Domaine terrestre :

la route de Tanger à Tétouan,
la route de Tanger à Larache et à Rabat,
la route du Cap Spartel,
la route de la gare au port et en bordure du port,
les voies publiques urbaines,
les égouts et adductions d'eau et leurs dépendances,

étant réservés les droits de tout concessionnaire des eaux.

La Zone doit :

1. entretenir en priorité, sur les fonds provenant des ressources de la taxe spéciale, les routes de Tanger à Tétouan et de Tanger à Larache et à Rabat dans la Zone de Tanger ;

2. laisser à la disposition gratuite de la Compagnie du Chemin de fer franco-espagnol de Tanger à Fez les terrains du domaine qui seront nécessaires à ses installations.

(*c*) Domaine fluviale :

Les cours d'eau.

Tous les droits antérieurs et tous les droits d'usage au profit des tiers sont réservés.

(*d*) Domaine minier :

Les redevances minières dans la Zone de Tanger et les perceptions sur la sortie des minerais extraits dans ladite Zone reviennent à l'Administration de la Zone.

(*e*) Domaine forestier

ARTICLE 42.

Le domaine privé comprend tous les immeubles bâtis et non bâtis inscrits sur les registres des biens Maghzen et non visés à l'article précédent ainsi que les abattoirs.

Sous réserve des dispositions de l'Article 15 de la Convention en date du . . . les locations ou détentions de biens Maghzen par des particuliers, de même que tous les droits de gza ou autres, régulièrement établis sur lesdits immeubles, sont respectés. Il en est de même des affectations d'intérêt public dont ces biens sont grevés.

Toutefois, sont réservés à l'Etat chérifien pour les services publics qu'il conservera à Tanger les immeubles suivants :

l'ancienne légation d'Allemagne et ses dépendances ;
Notre palais chérifien ;
la Kasbah et ses dépendances ;
le bordj des Mokhaznis sur les remparts ;
le terrain et le bordj de la montée du Marshan, actuellement occupés par la compagnie chérifienne.

Toute location nouvelle en dehors de celles qui existent ne pourra dépasser le terme fixé au statut de Tanger.

ARTICLE 43.

Appartiendront en propre à la Zone de Tanger, qui en disposera librement, les immeubles qu'elle acquiérera à titre onéreux ou qu'elle édifiera ou ceux provenant de dons et legs, qu'elle acceptera dans les conditions prévues par les règlements de la Zone.

ARTICLE 44.

Les biens qui pourraient Nous appartenir personnellement sont expressément exclus du domaine privé de l'Etat.

ARTICLE 45.

L'Assemblée législative internationale, soit de sa propre initiative soit sur la proposition de l'administrateur, a tout

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pouvoir de créer les impôts et taxes qu'elle jugera nécessaires avec l'approbation du Comité de Contrôle.

Ces impôts et taxes s'appliqueront également aux ressortissants des Puissances et aux sujets marocains.

ARTICLE 46.

Le budget ordinaire de la Zone de Tanger est divisé en deux parties :

l'une relative aux recettes et aux dépenses d'intérêt général,

l'autre relative aux recettes et aux dépenses d'intérêt municipal.

Les principales recettes d'intérêt général sont fournies par :

les douanes,
les taxes de consommation sur le sucre, le thé, le café, les bières, les bougies, l'alcool, les denrées coloniales,
le produit de la taxe spéciale de 2½% sur les importations,
le produit des taxes d'enregistrement et de timbre,
les revenus du domaine,
la taxe urbaine,
la patente sur les bénéfices commerciaux et industriels,
le tertib,
le produit de la vente des tabacs.

Les principales dépenses d'intérêt général sont :

la contribution aux emprunts de 1904 et de 1910,
la participation aux charges du chemin de fer franco-espagnol de Tanger à Fez,
le services des emprunts garantis de la Société du Port,
les frais de la justice, de l'administration centrale, et de la perception des impôts,
la gendarmerie,
l'entretien des routes et des ouvrages publics.

Les trois premières catégories de dépenses ci-dessus sont dites obligatoires et sont imputées par priorité sur le produit des douanes et des taxes de consommation. Le service de la douane est géré conformément aux dispositions de l'Article 39 de la Convention en date du . . . .

Les principales recettes d'intérêt municipal sont :

les droits aux portes,
les taxes d'abattage,
les droits de marché,
les droits de voirie.

Les principales dépenses d'intérêt municipal sont :

les frais d'administration,
les travaux d'édilité,
le nettoyage et l'éclairage de la ville,
la police de la ville,
l'hygiène et l'assistance,
le fonctionnement des abattoirs.

L'Assemblée législative établira toutes autres catégories de recettes et de dépenses qu'elle jugera utiles.

ARTICLE 47.

Les règles de comptabilité publique sont celles fixées par Notre dahir de ce jour pris et appliqué dans les conditions stipulées à l'Article 32 de la Convention en date du . . .

ARTICLE 48.

En dehors des dépenses obligatoires, l'ordonnancement des dépenses appartient au Directeur des finances.

En dehors du produit des douanes et des taxes de consommation, l'encaissement des recettes et le paiement des dépenses est effectué par un comptable nommé par le Comité de Contrôle.

ARTICLE 49.

Si des crédits supplémentaires sont nécessaires en cours d'exercice, il est procédé de la même façon que pour l'établissement du budget primitif.

ARTICLE 50.

Il sera établi un budget extraordinaire, au cas où la Zone de Tanger contracterait des emprunts.

ARTICLE 51.

Le jugement des comptes appartient au Tribunal Mixte, qui s'adjoint, avec voix délibérative, deux assesseurs techniques n'appartenant pas au personnel administratif de la Zone.

ARTICLE 52.

L'administrateur, avec le concours du directeur des finances, prépare le budget et le présente à l'approbation de l'Assemblée, deux mois avant l'ouverture de l'exercice.

Il en assure l'exécution et procède à son règlement, qui sera également présenté à l'approbation de l'Assemblée dans les trois mois suivant la clôture de l'exercice.

ARTICLE 53.

Le Comité de Contrôle reçoit communication du projet de budget et du projet de règlement.

En cas de dépassement ou de toute autre difficulté, il renvoie le projet de budget à l'Assemblée, en l'invitant à le mettre en équilibre.

Il s'assure que le produit des douanes et des taxes de consommation suffit à assurer les dépenses obligatoires, et, dans le cas contraire, affecte tous autres produits qu'il juge utiles à l'acquittement intégral des dites dépenses.

Il s'assure également que les services essentiels de la Zone reçoivent les dotations suffisantes.

Au cas où le budget ne serait pas voté par l'Assemblée à la date de l'ouverture de l'exercice, le Comité de Contrôle en ordonne l'exécution par douzièmes provisoires sur la base des prévisions du budget précédent.

ARTICLE 54.

Les rôles, états de produits et titres de perception sont rendus exécutoires par l'administrateur.

L'Assemblée, en s'inspirant des dispositions habituelles en la matière, établira un règlement concernant le recouvrement des créances de la Zone et les poursuites auxquelles ce recouvrement peut donner lieu.

Chapitre VII.—Dispositions diverses.

ARTICLE 55.

Sous réserve de l'observation des règlements d'ordre publique les écoles et tous les établissements appartenant, dans la Zone de Tanger, aux Puissances signataires de l'Acte d'Algésiras, ou appartenant à leurs ressortissants, à la date de la mise en vigueur du Statut, peuvent être maintenus et conservent leur entière autonomie en ce qui concerne leur fonctionnement intérieur sous la surveillance de l'autorité de leur pays d'origine.

Les établissements nouveaux qui viendraient à être créés devront se conformer aux règlements qui seront promulgués conformément aux dispositions de l'article 12 de la Convention la date du . . .

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ARTICLE 56.

L'arabe, l'espagnol et le français sont les seules langues officielles dans la Zone de Tanger. L'Assemblée législative réglementera leur emploi.

Les textes législatifs et réglementaires devront être publiés dans les trois langues.

ARTICLE 57.

Dans les cérémonies publiques la préséance des hauts fonctionnaires à Tanger est la suivante :

Le Mendoub ;
Le Président du Comité de Contrôle ;
Les membres du Comité de Contrôle ;
Les membres du Tribunal mixte ;
Les vice-présidents de l'Assemblée ;
L'administrateur.

ARNOLD ROBERTSON.
G. H. VILLIERS.

Ad referendum et sous les réserves faites par nous en ce qui concerne les articles 1, 2, 4, 5, 6, 13, 22, 27, 31, 33, 44, 47, 48, 54 et 57 et d'une manière générale sous toutes les réserves faites au cours des négociations :

MAURICIO LOPEZ ROBERTS,
MARQUIS DE LA TORREHERMOSA.
M. AGUIRRE DE CARCER.
M. DE BEAUMARCHAIS.

[See Convention] Les soussignés ..... réserves.
Paris, le 7 février, 1924.
Mauricio Lopez Roberts.
Marquis de la Torrehermosa
M. Aguirre de Carcer.

TANGER.

ORGANISATION JUDICIAIRE.

Projet de Dahir.

ARTICLE 1er.

Il est institué à Tanger une juridiction internationale qui reçoit le nom de Tribunal mixte de Tanger.

Cette juridiction comprend :

1°. Comme membres titulaires, deux magistrats britanniques, un magistrat espagnol, un magistrat français.

2°. Comme membres adjoints, des sujets ou citoyens de chacune des Puissances signataires de l'Acte d'Algésiras, l'Allemagne, l'Autriche et la Hongrie exceptées, ces sujets ou citoyens étant choisis parmi les notables âgés de plus de 25 ans, en résidence dans la Zone de Tanger depuis plus d'un an.

Les membres titulaires du Tribunal mixte de Tanger sont nommés par dahir de Notre Majesté Chérifienne sur présentation de leurs Gouvernements respectifs. Ils reçoivent un traitement dont le chiffre est fixé ci-après. Leurs fonctions sont incompatibles avec toute autre profession. Tout membre titulaire peut être révoqué par dahir de Notre Majesté après avis des titulaires réunis en Assemblée générale et du Gouvernement sur la proposition duquel il a été nommé.

La liste des membres-adjoints du Tribunal mixte est arrêtée par l'Assemblée générale des titulaires, sur la présentation que chaque consul fait séparément pour ses nationaux. Les pouvoirs des adjoints ont une durée de trois ans ; ils peuvent être renouvelés. Ces magistrats non rétribués restent libres d'exercer un métier, un commerce, une industrie ou une profession libérale sauf celle d'avocat près le Tribunal mixte ou toute autre juridiction tangéroise, mais non une fonction publique. La révocation d'un adjoint peut être prononcée par l'Assemblée générale des titulaires, après avis du consul de l'Etat auquel appartient le magistrat intéressé.

Avant d'entrer en fonctions, les membres titulaires et adjoints prêtent devant les titulaires siégeant en audience publique le serment suivant : " Je jure et promets de bien et fidèlement remplir mes fonctions, de garder religieusement le secret des délibérations, de me conduire en tout comme un digne et loyal magistrat."

ARTICLE 2.

Deux magistrats titulaires sont chargés l'un de fonctions que la loi attribue au juge de paix, l'autre des fonctions dévolues au juge d'instruction.

ARTICLE 3.

Il est statué sur les affaires de la compétence de la Chambre des mises en accusation par une section composée d'un membre titulaire président et de deux membres adjoints.

ARTICLE 4.

Une autre section du Tribunal mixte composée aussi d'un membre titulaire président et de deux membres adjoints, remplit, en matière civile, commerciale, administrative et correctionnelle, les fonctions qui sont dévolues au Tribunal de première instance. Cette section statue comme juridiction d'appel dans les affaires jugées en première instance, par le juge de paix, si l'appel est d'ailleurs recevable, eu égard à la nature et à l'importance des affaires qui lui sont ainsi déférées en second ressort.

En cas de litige immobilier, la section composée ainsi qu'il vient d'être dit s'adjoint deux jurisconsultes musulmans qui ont voix

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consultative. Ces jurisconsultes, ainsi que deux suppléants, sont désignés annuellement par l'Assemblée générale des membres titulaires, sur présentation par Notre Mendoub d'une liste de huit candidats.

ARTICLE 5.

L'appel des décisions rendues en premier ressort par la section instituée à l'article précédent est soumsi aux trois magistrats titulaires qui sont restés étrangers au jugement attaqué et auxquels s'adjoignent, en toute matière, deux membres adjoints n'ayant pas connu de l'affaire, plus, en matière immobilière, deux jurisconsultes musulmans à voix consultative, ces deux derniers pris également en dehors de ceux qui ont participé au jugement en premier ressort et pris sur la liste dont il est parlé à l'Article 4 ci-dessus.

La présidence de la juridiction d'appel appartient au plus ancien, ou en cas d'ancienneté égale, au plus âgé des titulaires appelés à siéger.

En cas d'empêchement de l'un des trois magistrats titulaires appelés à faire partie de cette juridiction supérieure, les membres adjoints siègent au nombre de trois, sans que ladite juridiction puisse se constituer jamais avec moins de deux titulaires. Si la juridiction d'appel comprend deux titulaires et trois adjoints et que les deux titulaires soient mis en minorité par les trois adjoints, l'affaire est, sur la demande des deux titulaires, renvoyée à l'audience de la juridiction d'appel constituée avec les trois titulaires et deux adjoints n'ayant pas participé au premier délibéré.

Les décisions de la juridiction d'appel ne sont pas susceptibles de pourvoi en cassation.

ARTICLE 6.

Si les parties, au civil, ou les inculpés, au pénal, sont d'une même nationalité, il est fait appel à deux des membres adjoints de cette nationalité pour composer soit la section de première instance, soit la section d'accusation, soit la juridiction d'appel.

Si les parties ou inculpés appartiennent à deux nationalités différentes ayant chacune des adjoints au sein du Tribunal mixte, les sections et juridictions d'appel susdites comprennent un adjoint de chacune des nationalités intéressées.

Si les parties ou inculpés appartiennent à plus de deux nationalités différentes représentées chacune dans le Tribunal mixte, le sort détermine parmi les listes des Etats dont les nationaux sont en cause celles qui fourniront les deux adjoints appelés à siéger. Le tirage au sort est effectué par le Président de la section ou de la juridiction d'appel, trois jours au moins avant le jour de l'audience, et cela en présence du magistrat du Ministère public, du greffier, des parties ou de leurs représentants ou ces derniers régulièrement convoqués

Si l'une des parties ou l'un des inculpés appartient à un Etat n'ayant pas d'adjoints en membre suffisant pour la constitution régulière de la juridiction, il lui est loisible de désigner la nationalité de l'adjoint ou des adjoints par qui il désire être jugé. Faute par lui de faire connaître son choix dans le délai à lui imparti par le Président de la section ou de la juridiction d'appel, le choix est fait par ce dernier. Après cette désignation de la nation appelée à fournir un ou deux adjoints, la section ou la juridiction d'appel se constitue selon les règles et distinctions établies dans les trois paragraphes précédents.

Dans le cas exceptionnel où la juridiction d'appel doit se constituer avec trois adjoints, si les parties appartiennent à deux nationalités différentes et qu'il soit ainsi impossible d'appliquer complètement la règle posée au paragraphe 2 du present article, la nationalité du troisième adjoint est déterminée par voie de tirage au sort dans les conditions spécifiées au paragraphe 3 du présent article.

Entre adjoints de la même nationalité le roulement de service se fait conformément aux dispositions d'un règlement à élaborer par l'Assemblée générale des titulaires.

Pour l'application du présent article, les administrations publiques sont assimilées aux justiciables n'ayant pas, dans le Tribunal mixte, d'adjoints de leur nationalité. Il leur appartient, en conséquence, de fixer la nationalité de l'adjoint ou des adjoints qu'elles désirent voir appelés au sein de la section ou de la juridiction d'appel saisie de leur affaire. Il en est de même en ce qui concerne les sociétés de capitaux ayant leur siège social au Maroc.

ARTICLE 7.

Chaque année avant le 2 octobre, l'Assemblée générale des titulaires se réunit pour faire, entre les magistrats titulaires et pour l'année judiciaire commençant à la date de cette réunion, la répartition d'attributions prévue par les Articles 2, 3 et 4.

Cette distribution de fonctions n'implique aucune différence hiérarchique entre les membres titulaires.

Un même titulaire peut d'ailleurs cumuler plusieurs des fonctions énumérées dans les articles précités. Toutefois, en matière de grand criminel, les membres titulaires qui ont procédé à des actes d'information dans une affaire ou qui en ont connu comme membres de la section d'accusation ne peuvent participer au jugement de l'affaire. Cette interdiction ne s'applique pas en matière correctionnelle.

ARTICLE 8.

En cas d'absence, de maladie ou d'empêchement d'un membre titulaire chargé des fonctions de président de la section d'accusation ou de la section de première instance, ou de juge de paix ou de juge d'instruction, l'Assemblée générale des titulaires se réunit sans délai, soit d'office, soit sur l'initiative du représentant du Ministère public, pour désigner un remplaçant provisoire au magistrat absent, malade ou empêché.

L'Assemblée générale peut aussi, par une décision unanime, désigner un titulaire pour remplir les fonctions de juge de paix, concurremment avec le magistrat investi déjà des mêmes fonctions, si l'encombrement du rôle rend cette mesure nécessaire. En ce cas, le titulaire désigné comme second juge de paix conserve les attributions propres qui lui ont été confiées dans les conditions de l'Article 7. Sa délégation spéciale en qualité de juge de paix lui est donnée pour une période déterminée qui ne peut dépasser trois mois dans le cours de la même année judiciaire. Le Président de la section de première instance procède à la répartition des affaires entre les deux commissaires siégeant simultanément comme juges de paix.

ARTICLE 9.

Le premier lundi de chacun des mois de mars, juillet et novembre, le tribunal criminel se constitue pour juger les individus renvoyés devant cette juridiction sous l'accusation de crime.

Il est présidé par le président de la section fonctionnant comme tribunal de première instance ou, en cas d'empêchement de ce magistrat, par un autre titulaire que désigne l'Assemblée générale des titulaires en tenant compte des dispositions finales de l'Article 7. Six jurés délibèrent avec le Président sur la culpabilité des accusés. Le président applique la peine.

La culpabilité ne se prononce qu'avec l'assentiment du Président. Au cas où le Président n'est pas d'accord avec les jurés pour prononcer la culpabilité, l'affaire est renvoyée à la prochaine session du Tribunal criminel présidé par un magistrat titulaire que désigne l'Assemblée générale des titulaires en dehors des magistrats qui ont connu de l'affaire en qualité de juges

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ARTICLE 10.

Si l'accusé est un de Nos sujets, le jury comprend trois de Nos sujets, un sujet britannique, un sujet espagnol et un citoyen français.

S'il appartient à un Etat autre que l'Etat marocain, les membres du jury sont tirés au sort sur la liste des jurés de même nationalité que l'accusé. Dans le cas où il n'existe pas de liste spéciale pour la nation à laquelle appartient l'accusé, l'accusé peut désigner la nationalité de la liste des jurés par lesquels il désire être jugé et le tirage au sort est effectué sur la liste de cette nationalité. Le Président du tribunal criminel lui fait connaître son droit à cet égard dix jours au moins avant l'ouverture de la session. Faute par l'accusé d'user de ce droit dans les 24 heures de l'avis à lui donné par le président, le jury se compose de deux sujets britanniques, de deux sujets espagnols et de deux citoyens français.

En cas de pluralité d'accusés de nationalités diverses, il entre si possible dans la composition du jury, un nombre égal de jurés de chacune des nationalités intéressées. Mais si les accusés appartiennent à quatre ou cinq nationalités différentes, le jury comprend d'abord un membre de chacune des nationalités intéressées, le siège ou les deux derniers sièges qui restent à pourvoir étant attribués par voie du sort à une ou à deux desdites nationalités intéressées.

Les listes annuelles du jury et les listes de session sont établies conformément aux règles édictées par le code de procédure criminelle.

ARTICLE 11.

Aucun pourvoi en cassation n'est possible contre les décisions du Tribunal criminel. Mais Notre Majesté Chérifienne conserve le droit de remettre ou de commuer en peines plus légères, les peines criminelles, correctionnelles ou de police prononcées par les juridictions instituées dans les articles précédents. Les décisions gracieuses de Notre Majesté interviennent sur l'avis du magistrat du Parquet et du président de la juridiction qui a statué.

Aucune condamnation capitale n'est exécutée sans l'assentiment exprès de Notre Majesté, précédé lui-même de l'avis conforme et unanime de l'Assemblée générale des magistrats titulaires.

ARTICLE 12.

Dans les cas de revision prévus par le code d'instruction criminelle, Notre Majesté peut ordonner que l'affaire jugée définitivement par une juridiction répressive soit soumise de nouveau à la même juridiction autrement composée. L'exécution de Notre ordre est assurée par le représentant du Ministère public.

ARTICLE 13.

Les fonctions du Ministère public sont exercées par deux magistrats respectivemnet choisis dans les cadres de la magistrature française et de la magistrature espagnole.

Le magistrat français représente le Ministère public près la section de première instance jugeant correctionnellement et près la juridiction d'appel jugeant correctionnellement. Il adresse aussi tous réquisitoires utiles au juge d'instruction en vue de l'ouverture, de la marche et de la clôture des informations judiciaires. Il a qualité pour fermer opposition aux ordonnances du juge d'instruction.

Le magistrat espagnol représente, de la même façon, le Ministère public près la section de première instance jugeant au civil, près la juridiction d'appel jugeant au civil, près la section d'accusation et près le Tribunal criminel. Son intervention en matière civile, commerciale et administrative est facultative.

Les fonctions du Ministère public faisant l'objet de la répartition ci-dessus déterminée seront alternativement confiées à chacun des deux magistrats par roulement triennal.

Ces deux magistrats portent, l'un et l'autre, le titre de " Procureur près le Tribunal mixte de Tanger." Ils se remplacent mutuellement et de plein droit en cas d'absence, d'empêchement ou de maladie. Avant d'entrer en fonctions, ils prêtent le serment imposé aux magistrats titulaires.

Ils participent aux délibérations de l'Assemblée générale des titulaires dans tous les cas où cette assemblée a à régler des questions d'organisation intérieure et, notamment, dans les cas prévus par les Articles 1, 4, 6, 7, 8, 9, 11, 14, 16 et 21 ainsi que par le dernier paragraphe du présent article.

Ils sont nommés et peuvent être révoqués dans les mêmes formes et conditions que les membres titulaires du Tribunal mixte.

Les fonctions d'officier du Ministère public sont remplies, près le magistrat chargé des attributions du juge de paix, par un commissaire de police que désigne l'Assemblée générale.

ARTICLE 14.

Le service du secrétariat-greffe du Tribunal mixte de Tanger est assuré par un secrétaire-greffier en chef, trois secrétaires-greffiers et deux commis-greffiers qui sont nommés par dahir de Notre Majesté sur proposition de l'Assemblée générale des titulaires.

Ces fonctionnaires sont exclusivement rétribués par un traitement fixe dont le montant sera déterminé ultérieurement.

Ils sont chargés de la tenue du greffe, du notariat et de la comptabilité. Ils opèrent, en outre, les actes de sommation, de notification, d'exécution et de constat ordonnés par les magistrats. Ils sont, enfin, chargés des fonctions de syndic de faillite ou de liquidateur judiciaire ainsi que des fonctions de curateur à succession vacante dans les conditions déterminées par la loi.

Les agents du secrétariat-greffe sont de nationalité britannique, espagnole ou française. Ils doivent être âgés de 25 ans au moins. Ils sont susceptibles d'être révoqués par dahir sur la proposition de l'Assemblée générale de titulaires qui statue soit d'office, soit sur l'initiative de l'un des procureurs, mais, en tout cas, après explications fournies par les agents intéressés ou, au moins, après explications à eux demandées.

Un dahir détermine le montant des droits dus au Trésor à l'occasion des procédures judiciaires ou des actes du greffe et fixe aussi les conditions du recouvrement de ces droits.

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Un interprète judiciaire pour la langue arabe, nommé par l'Assemblée générale des titulaires, est attaché au Tribunal mixte. Il reçoit un traitement fixe dont le montant est déterminé par l'Assemblée générale. Le cas échéant, il est fait appel à des traducteurs-experts pour la traduction des pièces rédigées en des langues autres que la langue arabe.

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Nul ne peut être inscrit au tableau des avocats près le Tribunal mixte s'il ne remplit les conditions de capacité et autres exigées des avocats par la législation des Puissances signataires de l'Acte d'Algésiras ou s'il ne jouit pas du droit d'audience près d'un Tribunal de l'une de ces Puissances et s'il n'est, de plus, agréé à l'unanimité par l'Assemblée générale des titulaires.

Les avocats régulièrement inscrits ou jouissant du droit d'audience près un Tribunal de l'une des Puissances signataires de l'Acte d'Algésiras sont admis, par l'Assemblée générale, à plaider devant le Tribunal mixte et ses sections, mais ils ne peuvent y accomplir les actes de la procédure écrits comme mandataires de leurs clients.

Les devoirs et la discipline des avocats près le Tribunal mixte de Tanger feront l'objet d'un règlement établi par l'Assemblée générale des titulaires.

ARTICLE 17.

Les langues judiciaires sont le français et l'espagnol, les jugements et actes du greffe étant rédigés ou établis en l'une ou l'autre de ces langues, au choix des magistrats s'il s'agit de jugements et du secrétaire-greffier en chef s'il s'agit d'actes du greffe, chaque partie pouvant aussi se servir du français ou de l'espagnol dans la rédaction de ses requêtes et pièces de procédure.

Les notifications et sommations faites en français ou en espagnol sont valables encore que la partie à laquelle elles sont signifiées prétende ignorer la langue dans laquelle elles sont rédigées. Mais cette partie est en droit de réclamer au secrétariat-greffe que lesdites notifications et sommations soient traduites par un expert et à ses frais.

Les plaidoiries sont prononcées en espagnol ou en français, sauf le cas où le Président autoriserait l'emploi d'une autre langue.

ARTICLE 18.

La justice est rendue par le Tribunal mixte de Tanger et ses sections, au nom de Notre Majesté Chérifienne.

ARTICLE 19.

Le Tribunal mixte de Tanger applique les codes et lois spécialement promulgués pour la Zone.

ARTICLE 20.

Eu égard au caractère international du Tribunal mixte de Tanger, les jugements des Tribunaux des Puissances signataires de l'Acte d'Algésiras sont exécutoires de plein droit dans la zone de Tanger à l'encontre des justiciables du Tribunal mixte.

L'Assemblée générale des titulaires détermine les conditions de vérification, de l'authenticité et de la régularité des jugements d'après les lois du pays où ils ont été rendus.

ARTICLE 21.

Outre les attributions spéciales qui lui sont dévolues par les dispositions précédentes du présent dahir, l'Assemblée générale des titulaires a la charge de prendre toutes décisions réglementaires utiles sur les objets suivants :

1°. Ordre et durée des congés qui seront accordés aux magistrats titulaires sans qu'ils puissent dépasser deux mois et demi par an, voyage compris pour chacun d'eux.

2°. Ouverture et fermeture des bureaux du secrétariat-greffe ; jours et heures des audiences pour chaque juridiction.

3°. Choix du costume et des insignes à porter par les magistrats soit aux audiences, soit en transport.

ARTICLE 22.

Le traitement des six magistrate titulaires du Tribunal Mixte est de 30,000 francs marocains. Ils reçoivent en outre une indemnité annuelle de 6,000 francs à titre de frais de logement et de résidence.

ARNOLD ROBERTSON.
G. H. VILLIERS.

Ad referendum et sous les réserves faites par nous en ce qui concerne les Articles 1, 4, 11, 12, 13, 14 et 18 et d'une manière générale sous toutes les réserves faites au cours des négociations :

MAURICIO LOPEZ ROBERTS,
MARQUIS DE LA TORREHERMOSA.
M. AGUIRRE DE CARCER.
M. DE BEAUMARCHAIS.

Les soussignés . . . . . réserves [See Convention].
Paris, le 4 février, 1924.
Mauricio Lopez Roberts.
Marquis de la Torrehermosa.
M. Aguirre de Carcer.

1871 [11046] H. 1490 150 1/24

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SUMMARY

of the

REPORT OF THE AGRICULTURAL ENQUIRY COMMITTEE

of the

PROVINCE OF ONTARIO

1924.

The Agricultural Enquiry Committee Report has been tabled in the Legislature. The Committee comprised Messrs. Jamieson (Grey) as Chairman, Thompson (Lanark), Trewartha, Black, Keith, MacBride, Belanger and Lethbridge.

The Committee held 54 meetings throughout the Province, also conferences with representatives of the railways, manufacturers, wholesale, retail and labor organizations and authorities on economic and social conditions, and accomplished a survey of farming conditions in Ontario by questionnaires sent to Wardens, Township Clerks and agriculturists.

The Report reviews all branches of Ontario agricultural production and outlines a national marketing scheme for the exportable surplus of this production.

The Committee in compliance with requests from the farming community in different parts of the Province followed up and thoroughly sifted all complaints, after which concrete suggestions were laid before whatever authority might afford redress. Results show that in a number of instances cause of local grievances has been removed and in some cases suggestions offered have found acceptation. The Committee was able to secure substantial reduction of feed charges at the cattle markets, improvement in the handling of last season's fruit crop by the railways, improved accommodation for stock and express at different railway points, to bring about cooperation between the Federal Departments and the railways for better shipping facilities in Northern Ontario. At the time of presenting the Report the Committee is continuing efforts to secure better rates on agricultural limestone; on feeder cattle from Western points to Ontario; on seed potatoes from Northwestern Ontario; restoration of settlers' rates to the Districts of Kenora, Rainy River and Thunder Bay. The Committee feels it advisable and necessary that its efforts in regard to the above and other matters should be carried to final decision.

The Report is arranged under the following subjects with recommendations attached:-

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Dairying

"According to the Dominion Dairy Commissioner the value of milk and its products in Canada in 1923 was $238,693,885. The Ontario part of the total was estimated for this Committee by the Ontario Director of Dairying at $84,060,830.

Cheese: "The price of cheese at the factory is recognized as the standard of value of Ontario dairy products. The average price for 1924 was a fraction over 16¢ per lb. The cheese factories being without suitable storage facilities and concerned about realizing on quick sales dispose of their product at low price to Montreal. A distinct phase of dissatisfaction among dairymen in Eastern Ontario is their dependent relationship to the Montreal Produce Merchants' Association. The Federal Government has established large storage in Montreal and of necessity the bulk of the Eastern Ontario cheese goes there before export. A report from the Secretary of the Montreal Harbor Commissioners says the exporting houses storing cheese in Montreal are firms who buy the goods outright and take their own risk on the export market. About 50% of space available for cheese, however, is given over to cooperative organizations of producers.

"It is contended that the grade of export cheese should be branded on the rind. Cheesemakers and patrons hold that without some stamp cheese graded No. 2 may be sold by the exporter at No. 1 price. On May 1, 1924, the Federal authority enforced the regulation under the Dairy Products Act for marking the grade of cheese upon the package for export. The Montreal Produce Merchants' Association then raised the differential between the price of No. 1 and No. 2 grade from ½¢ to 2¢ per lb.

"The Committee took the matter of differential up with the Montreal Produce Merchants' Association with the result that the Executive Committee of that body reported a revised differential of 1¢. Their letter was not written till November 18, although in it the statement was made that the differential had been reduced on May 15. The information of the Committee, however, was that no redress could be secured from firms that had deducted 2¢ during the season. At the United Dairymen Cooperative auction sales the differential was never 1¢ per lb.

"It had also been contended that the grade turned on too slight cause and question was raised as to the qualification of graders." The Report quotes the Dominion Dairy Commissioner who concludes "The competency of the graders is of very great importance to us and we can be depended on I think to see that only good men are employed."

"The business structure built up in Montreal will stand until something of a distinctly better character replaces it. In the opinion of this Committee the future is in the hands of the cooperative movement. But maintenance of price in England cannot be disregarded by cooperative companies. To forestall underbidding and loss in the English market all Canadian cheese should be exported through one Commission national in character."

The Committee went into the few centres of unrest engendered by the Dairy Standards Act but failed to find injury to the cheese industry. It is noted that the quantity of cheese exported has not fallen off, though in point of value there is a decline, accounted for by lower average price in 1924.

The Report quotes the Dominion Dairy Commissioner's strong opinion in favor of reorganization of the factory system in Ontario. He says the situation has been entirely changed in the last few years with the advent of cheese in quantity from the Southern Hemisphere. In Australia, New Zealand and Argentine the factories are all very large. The largest cheese factory in Canada would be called a small one in New Zealand. Quality is not the whole case. The Committee, however, does not recommend drastic forcing of consolidation of Ontario cheese factories, the advantage of which is obvious, but says:- "Inefficient plants can only be eliminated by voluntary action on the part of the patrons concerned and when the producers are convinced of the financial benefits, they will proceed towards consolidation."

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"The Wisconsin consumer with 10 lb. prints and 5 lb. loaves prepared for him eats 1 lb. more cheese than his Canadian neighbor. Development of a domestic taste for cheese must depend upon additional methods. It is recommended that the Dairy Branch ascertain to what extent cheese is placed on domestic sale before being sufficiently matured and whether the manufacture of small loaves in Ontario would increase consumption. We are importing from the United States each month up to ten thousand pounds of cheese which sells in attractively packaged and handy quantities up to 60¢ per lb. The Professor of Chemistry at the Ontario Agricultural College reports that many varieties of soft cheese are wrongly sold under the name "cream" cheese. This Committee believes the Dominion authorities should protect the producer of cream and the public."

Butter: "Ontario butter, increasing in output, looks to the export market, in which uniform quality has high commercial significance." The Dominion Dairy Commissioner is quoted:-"The creameries in Western Canada have been organized on modern lines; they are centralized and have large outputs of uniform quality and under one brand. For that reason the butter from the prairie provinces is the most popular today on the U.K. markets and yet in grading returns the Western ranks lower than butter made in the East. The importers say they don't want to be bothered with small lines of different characters and brands no matter if the quality is right. This is a very important matter in supplying dairy produce to the Old Country under present day conditions."

"The Committee recommends that Sec. 4 of the Act to Improve the Qality of Dairy Products (Dairy Standards Act) be amended to enforce the grades for cream approved by the Dominion Dairy Conference."

Fluid Milk: Fluid milk is considered in its vital relationship to human welfare and Grade A. milk is recommended between certified and ~~xxxxxxix~~ pasteurized 3.25 milk. "If the producer of Grade A. milk receives only 10¢ per can premium it will mean recognition of dairymen who are clean and conscientious in their methods."

The Report reviews the handling and marketing of milk in different States and cities and says the working relations of the Milk Producers' Association and the dairy companies distributing milk in Toronto stand in a measure on the principle of cooperation. Farmers are going more into milk production but not all are making remunerative return. The distribution of milk by municipal service has not yet been undertaken in America.

Cream: "Up to June 29, 1922, Regulations under the Federal Food and Drugs Act contained a minimum standard of 18% milk fat, but in the new Regulations passed on that date there was no mention of cream. No information is forthcoming as to the reason for the dropping of the standard. The omission apparently went unnoticed by the municipalities as the Bylaws of different cities indicate. The Ontario statutes do not provide a standard for cream for human consumption. Wholly inadequate information is obtainable about Ontario commercial cream production."

The Committee recommends a standard of not less than 18% milk fat and not more than 0.2% of acid reacting substances calculated in terms of lactic acid; whipping cream not less than 30% milk fat.

"Cream was exported from all ports in the Province of Ontario in the following quantities:-

Fiscal year ended March, 1924,	731,436 gal.	$1,793,944
April 1st to Sept. 30th, 1924,	673,829 "	1,233,639

It must be remembered that Ontario cream in some quantity is exported through Montreal and other ports. There is an import duty of 20¢ per gallon on cream to the United States."

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Ice Cream: "A Dominion ice cream standard of 14% was effective until May 1, 1918, when Canada Food Board Order No. 34 becoming effective reduced the milk fat to 10%. On the 13th December, 1920, a 7% standard became effective by Regulations passed under the Food and Drugs Act. The 7% standard was dropped in the Regulations of 1922." The Committee recommends the adoption in Ontario of the Saskatchewan standard of 10% milk fat.

Condensed Products: The value of Ontario condensed products in 1923 was $8,460,684. Prices are set from time to time per hundred pounds of milk of a standard amount of fat - usually 3.5. Milk of higher or lower fat content is bought at higher or lower rrice. Steadily increasing absorption of fluid milk in dried milk plants calls for more information concerning this industry. The market for these products is expanding and apparently offers more profit than the manufacture of cheese and butter.

Field Crops

"No single factor in the problem of agriculture is of more immediate concern in Ontario than seed. In legislation and educational activities Ontario should cooperate fully with the Federal Department of Agriculture and the Canadian Seed Growers' Association looking to the success of a Dominion wide scheme of production, control and marketing."

The Quebec plan of seed cleaning is approvingly described from the large cooperative plant at Ste. Rosalie to the local plants serving the average farmer far from the central plant. The Quebec Government grants $150 to farmers who wish to organize into a Seed Club, to regular Farmers' Clubs and to Agricultural Societies. The Government instals the machine and instructs the farmers how to comply with the Federal Seeds Act.

"The Committee has also been impressed by the Quebec Government scheme of demonstration fields originated in 1914 and now including 250 fields. Some of the aims are to encourage the use of well selected and cleaned seeds, to demonstrate the value of the best varieties for each given district and to illustrate the best methods of getting rid of weeds. The policy is not very expensive for the Department to carry. It supplies the seeds and gives instructions concerning preparation of the land and cultural methods. This plan is recommended for Ontario by the Committee."

Weeds: "The Committee recommends that the Noxious Weeds Act be revised and that new legislation on this subject include enforcement by the Department of Agriculture. The Committee also suggests that a strong Province-wide campaign be undertaken to combat weeds with the cooperation of municipal councils, schools, agricultural representatives, organizations of various kinds including Horticultural Societies and Women's Institutes and Clubs."

Beans: "With proper marketing methods and more reasonable railway rates the bean industry in Ontario should be equally profitable for growers and canners. The annual import of graded beans into Canada amounts to fully three-fifths of the Ontario crop. According to figures of the External Trade Branch of the Dominion Bureau of Statistics 43,587 bus. were imported from the United States alone during the fiscal year ended March 31, 1924, in addition to 1, 196,562 lbs. of baked beans in cans."

"In Michigan official grades and regulations have been adopted by the Bean Jobbers' Association and the effect on the market has been a marked improvement. More than 400 bean elevators equipped with bean picking and handling machinery are required in preparing the field run bean crop of that State for market."

Limestone: "With a reduced price for lime, reduced freight rates, provision for financing, help from the Agricultural Representatives, there is no doubt hundreds of farmers in sections requiring lime would take advantage of these opportunities to increase their yields, the effect of which would be felt for years to come."

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Fruit and Vegetables

Apples: The pages of the Report given over to the apple growing industry display high confidence in the right varieties of Ontario apples if properly marketed. Reports from the Director of Plant Industry, State of New York, are quoted as well as the evidence of the Manager of the United Fruit Companies of Nova Scotia. These reports agree that cold storage for export apples is not necessary but that grading has greatly increased the reputation of New York and Nova Scotia apples at home and abroad. In Nova Scotia cooperative methods have been profitable all along the line for the growers, but in New York, because the overhead charges of the cooperative organizations are too high, selling cooperatively has not really increased the net returns of the growers. The Report says:-"If cooperative organizations are to participate in the marketing of Ontario apples they must provide (frostproof) storage warehouses. This Committee cannot recommend Government assistance to either private enterprise or producers' cooperative organizations. Storage is and will continue to be an attractive business proposition."

"This Committee recommends the establishment of a station in the Eastern district to test cultivation of profitable varieties for that section of the Province."

"The Committee recommends that Experts be appointed to assist Agricultural Representatives in large apple growing Counties."

Tender Fruits: In the lake shore fruit districts from Toronto to Niagara the Committee heard representations for precooling of tender fruit. The Clarkson Fruit Growers' Association are anxious to secure a plant for the precooling of strawberries. Reports from the Louisiana Farm Bureau Federation, the Ozark Fruit Growers' Association and the Dominion Fruit Transportation Specialist discount the value of precooling xxxxxx in the full sense of the word. The Dominion Specialist has informed the Committee that the Department is willing to undertake an experiment in the Clarkson district in precooling loaded refrigerator cars of strawberries before shipping, as has been done in British Columbia and New Brunswick. This is the system recommended by the U.S. organizations.

Imports: "A great number of complaints have been made to the Committee by fruit and vegetable growers of the Province that our local markets are every year almost satiated with imported early produce when these Ontario products are ready. There are differences of opinion about meeting the situation. The subject is one, however, for Federal decision and action. All round the United States tariff doubles the corresponding Canadian duties.

"Information is not available upon which a division of xxxxx imports between canning factories and consumers of the fresh products can be based. According to figures supplied by the External Trade Branch of the Dominion Bureau of Statistics, the value of fresh fruits and vegetables, such as Canadian farms produce, imported into Canada from the United States during the fiscal year ended March 31, 1924, was $8,499,721. Included in this total are apples $878,333, pears, $782,464, grapes $773,348, strawberries $740,699, tomatoes $1,010,759."

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Hogs

"Canadian bacon is gaining in the British market. The progress made is not yet proportionate to the opportunity afforded our farmers to produce in quantity bacon hogs suitable for British demand and is not commensurate with Federal and Provincial Government expenditure upon stimulation of bacon export. The total amount of bacon sent from Canada to Great Britain constitutes only 10% of the bacon imported. Canadian like Danish bacon is exported to England as "Wiltshire cuts," that is, sides with the hams and shoulders attached. It is smoked by the English wholesalers prior to distribution to retailers. General Gunn told the Committee that if farmers produce in greater numbers the right kind of hog Ontario will get its full share of the British market and a fair price.

The Deputy Minister of the Dominion Department of Agriculture informs this Committee that in 1922 the average monthly difference in price between Canadian and Danish bacon was 28 shillings per cwt. in favor of Denmark. In 1923 this differential was reduced to 13/6, while for the first eleven months of 1924 the average monthly difference in price was 10/9, with a marked improvement over this during the closing months of 1924, as evidenced by the following monthly averages:-

September	Danish	116/6	Canadian	108/6	- 8/0
October	"	116/6	"	111/6	- 5/0
November	"	115/6	"	110/6	- 5/0

At great expense the Dominion and Provincial Governments have combined in a vigorous campaign for select bacon hog production, and there is evidence that the percentage of selects is increasing. The premium paid for the select hog is an inducement to breed the type wanted by the British consumer of bacon. The Danish hog for this requirement has been developed from the native breed. Denmark as a competitor has had a long start of Canada in this respect.

A general complaint heard was that drovers do not allow the farmers the benefit of grade. " The Dominion Live Stock Commissioner supplied definite information how the bonus can be secured by farmers.

Answering a demand put forward by farmers that the select bacon hog should be followed by Government stamp into the British market, the Report says "The laws of commercial nations recognize health inspection and not type. All British bacon imports come within regulations established under the Food Act, 1907. The Danish red mark known as "Lur Brand" was recognized by the Local Government Board of Great Britain, January 26, 1909, and the same official circular gives equal recognition to the highest Canadian certificate designated "Maple Leaf." These Danish and Canadian markings therefore have the same significance. They certify that the meats so marked are from carcasses absolutely free from disease and in which no trace of tuberculous deposit has been found. All the bacon Denmark delivers to Great Britain bears the red "Lur" mark. Most of the bacon sent from Canada bears the health inspection certificate "Canada Approved," which does not guarantee absolute freedom from disease.

The volume of Canadian export business in the product of U.S. hogs is disclosed by the following extracts from letters from the Deputy Minister of Customs and Excise:-

"The total exports of Canadian bacon and hams, shoulders and sides during the fiscal year ended March, 1924, were, according to our records, 996,245 cwt. This includes American pork cured in Canada." (Aug. 8, 1924)

"The amount of imported American pork, cured and exported, upon which drawback was paid during the fiscal year 1923/24 - 25,242,484 lbs." (Aug. 20, 1924)

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The reply of the packers is given at some length and is in effect that "the trade has disappeared and it no longer has any importance at all in connection with the marketing of our Canadian products."

"In the interests of Canadian farmers and consumers this Committee recommends that bacon from U.S. hogs sold in Canada or abroad be plainly marked to indicate to the consumer that it is the "Product of U.S. hogs." U. S. Health Inspection stamp and marking of packages for consignment abroad "Product of U.S. hogs" are inadequate."

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Ocean Cattle Rates.

"Ocean rates ~~xxxxxxxx~~ hold down export trade to Britain. It is true that 1924 shows the largest shipping of any year since the embargo was removed, running 80,000 head. But it is obvious that Ontario alone is capable of producing beef cattle in volume far exceeding the present export trade. A special bulletin of the Dominion Department of Agriculture in 1923 welcomed removal of the embargo as a new order of things warranting official experiments in the shipment of steers to England. The experiments were intended to demonstrate to cattle raisers that live cattle realize considerably higher returns than chilled beef shipments. This Committee has followed shipments from Western Ontario to England conducted by men experienced in the cattle trade and the results showed that as many were unprofitable as profitable. One of the first witnesses before this Committee said:-

> "I am the only farmer in a ten mile area who has cattle for export in his barn. I have 95 acres and from 50 to 55 cattle. There are a hundred others at least who could feed and accommodate as many in the section. They have the barns. But they do not enter the trade because there is no profit in it. Ontario should be able to ship as many live cattle to England as does Ireland. It would mean prosperity to the Province. The market is in England for as many as we can send, no matter what they say about the dead meat trade. The business does not prosper because it is without the attraction of profit."

The potential power of Ontario to engage in the movement of live cattle to Britain cannot be fully developed because of existing influences. Mr. Shamberg of New York is the chief buyer for export. Mr. Shamberg's agents are in the Union Stock Yards, Toronto; in the office of the International Mercantile Marine at No. 1 Broadway, New York, and at the British ports. The Committee satisfied itself that the usefulness of the Canadian Government Merchant Marine is limited by the North Atlantic Freight Conference. It came to the conclusion that with his widespread power and influence Mr. Shamberg controls the profits of Ontario cattle raisers. He has inside information at all times by reason of which he can cancel optioned spaces or send his own cattle according to the trend of the market. The less optimistic in Ontario have been driven out and the industry is not what it should be."

Correspondence with the Dominion Government in August last is quoted and the Report goes on to say "Inasmuch as definite action by the Dominion Government was thus implied, the Committee thought it inadvisable to carry investigation further."

"The Committee recommends that the Ontario Government strongly urge upon the Dominion Government full consideration of the interests and requirements of Ontario shippers in whatever Federal policy may be decided upon to secure reduction of ocean rates."

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Dairy Cattle: The Report refers to praiseworthy interest among owners of Ontario herds in regard to breeds, breeding and care of cattle. They are practically unanimous for elimination both of the scrub bull and of the scrub purebred. Community breeding is advocated especially in connection with the policy of distributing purebred sires carried on by the Federal and Provincial Governments. Systematic scoring of milk yields is approved and the Scotch policy of milk recording on a strictly public basis is referred to as having its effect on prices paid for good milk record cows. The Report recommends more attention to prevention of bovine tuberculosis in all the essential phases of nutrition, development and sanitary stabling.

Feeder Cattle: The Report makes a strong case for buying feeder cattle at Western Shows and Sales and from range herds. The Dominion Government renders assistance for buying in this way and the Committee has forwarded to the railways a definite request for reduced freight rates on these cattle to Ontario feeding centres, advancing the ground that the railways get their full share of substantial benefits of the business when they rehaul the fattened cattle to market.

Sheep: Reference is made to the decrease shown by statistics in the number of sheep since 1920. The consumer of lamb is held responsible for the relatively higher price of small lamb. The packers are advocating crossing back with small breeds to keep Ontario sheep from becoming oversized. The Report stresses community breeding with fewer breeds looking to development of outstanding Ontario flocks and says the sheep industry in Muskoka should be definitely fostered because the meat and wool of Muskoka sheep have a preference.

Selling & Buying Organizations: "In the marketing of cattle locally or in England, as well as in the handling of the feeder problem, cooperation will have to be depended upon for future headway. This Committee has secured much valuable data from the United States regarding cooperative systems and increase of profits through cooperative selling. The great desideratum is the substitution of an orderly marketing program for the present process where individuals with limited experience and uncertain knowledge of marketing are in a selling competition one with another. Cooperative organizations of live stock producers realize thoroughly the necessity of securing a definite volume of business for terminal markets and local sales to packers." Marketing agreements of various organizations in the United States are quoted.

The Report goes on to say:-"Special attention was given complaints concerning commission and feed charges at the Union Stock Yards. No reduction has in point of fact been made in the commission charge of $17, which is the same as the Chicago charge for a car of 20 head of cattle. In Buffalo the charge is $20 per car. It is right to acknowledge that considerable beneficial service to producers is performed by market agencies in addition to the selling and accounting for live stock. The market agencies carry many risks and necessarily are responsible financially to the shipper. The factor of incidental expense in the conduct of their business is not inconsiderable. The Committee realizes both the extent of the service afforded for the sale charge on a car of cattle and the higher costs of labor since that charge was increased from $10 but endorses the opinion expressed by producers at many of its public sessions that the commission fee, all things considered, is too high and that comparison with the United States is not to be regarded as the final answer to reasonable complaint heard. Nor can any possible injury follow to the market service if financial statements of the Stock Yards are made public by the Dominion Minister of Agriculture. Government supervision in every other direction involves public information concerning the business regulated and an exception in the case of the Stock Yards needs some explanation."

"With regard to the price paid for feed the Dominion Live Stock Commissioner was not slow to admit that the charge at the Toronto Stock Yards, which had remained at the war figure of $42 a ton, was far too high. An immediate reduction followed the transmission through this Committee of complaints in this regard, and as the volume of complaint piled up more substantial modifications were ordered till the price came down to $30 a ton. Poor quality of hay supplied formed an important feature of complaint substantiated by the Committee. Assurance has been given that this condition has been bettered.

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Marketing

"Having examined Ontario production in the foregoing lines, the Committee recognizes widespread need for education in the grading of these products - grade to follow the product from producer to consumer. Grading interests producers, dealers and consumers and affords a basis of conscientious business relationship among them. The value of grading has been demonstrated in other countries and any new system of marketing adopted here must have this basis. All the work cannot be left to the Federal Department of Agriculture. An energetic Provincial Markets Branch whose scope and activities would include a strong campaign of education in grading among producers, dealers and consumers would help in overcoming many of the difficulties in the way of better marketing. Without definite grades and education of the public in these essentials, cooperative marketing cannot succeed.

Much evidence has been examined regarding cooperative marketing. Expert opinion has been consulted and special reports obtained from operating associations, both domestic and foreign. In Denmark statutory incorporation has never been resorted to nor have the voluntary cooperative organizations, though born there of agricultural depression and adversity, received financial aid from the State, with the exception of the breeding associations for live stock improvement. Danish law and Danish cooperative responsibility combine in furnishing guarantees of export products from the Kingdom - butter, bacon, eggs and some skim milk cheese. Cooperation having saved and reconstructed the agricultural industry of the Danish people, they are one with the Government in upholding their system. When the standard of living of the Danish farmer is taken account of, however, it becomes apparent that Ontario must work upon a system suited for Canadians.

In the United States Federal and State Governments are engaged in collecting and distributing information concerning legal, economic and association phases of agricultural cooperation. The movement over there adheres strictly to the well recognized plan of legally incorporated organization. Evidence collected from many quarters in the United States warrants the opinion that successful cooperation depends on the cost of conducting associations. As a rule decreases in marketing costs are being effected wherever directorates of cooperative associations have divested themselves of the tutelage of professional promoters, and, under helpful Government supervision, are following orderly processes of marketing staple crops. Government and the farming community have endorsed the cooperative marketing system as the best means of stabilizing agriculture and both are earnestly studying their duties and responsibilities in this new field of enterprise.

Cooperative organizations in Ontario do not make annual returns as such to the Department of Agriculture and do not differ in legal character from the ordinary limited liability companies. The cooperative movement to a considerable degree is carried on by selling agencies operating upon a contract or agreement with subscribers who in number do not always constitute a majority of the producers of a particular commodity. The Manager of such an agency either receives a commission or a salary, and the service rendered generally includes educational work, supervision, grading and inspection. Competition of one cooperative against another involves financial overburden sometimes too heavy for the undertaking. Examples of success in face of limited education of patrons and diffidence of non-subscribers are not wanting, although complaint is general that overhead is out of proportion to volume of business. Competent management is the outstanding essential.

In numerous replies to special questions submitted by this Committee to cooperative associations of growers in the United States and Canada there is one point of agreement. Cooperative enterprise must have large volume of business if management is to incur the expenditure of publicity. Opponents of cooperation argue that this system of marketing cannot succeed in Ontario unless prepared to advertise on the huge scale of leading United States growers' associations. Advertising is not essential to the success of cooperative marketing. With dependable grading and volume, cooperation will surmount all the difficulties in its way.

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Canada's membership in the British family is to her advantage in seeking export markets. Her geographical advantage was spoken of by members of the New Zealand Dairy Produce Control Board with whom the Committee held a conference in June. As the result of this conference and of careful consideration of all phases of the export problem this Committee feels justified in reporting as its main recommendation the creation of a Canadian National Export Marketing Commission. The New Zealand Board cannot be taken as the model in this respect because in the main branches of farm industry and in the country itself different conditions are presented. But the aim is one and the same, viz., development of a uniform marketing system for national products in volume. The agricultural products of the Provinces of this Dominion are at a disadvantage in competitive markets because they are not brought together and shipped in volume.

Cooperative progress in the Western Provinces, Ontario, Quebec and the Maritime Provinces demands sound business guidance in the trade policies of the Dominion through the coming years. The present time is highly opportune for bringing forward a new trade policy calculated to serve Canada as New Zealand expects to be served by the Dairy Produce Control Board, upon which far-reaching powers have been conferred. The attitude of Great Britain challenges immediate action. Recent British proposals to establish a purchasing department for supplies of food and raw materials point to special Canadian benefit from Imperial trade. The plan has no partisan features and is endorsed by financial experts. Primarily it promises better business for Canadian agricultural producers. A business proposition of this kind should further the cause of cooperative development in the different Provinces - in live stock, dairy products, fruit, etc. Grain, by reason of volume from the Western Provinces, will be a distinct export.

Danish producers ship to Britain twice a week on reports of market conditions furnished by their own cooperative wholesale selling agencies in England. By availing of Halifax transportation facilities and by establishing storage at that port, a Canadian National Export Marketing Commission could enter regularly a weekly market in England. Halifax with fast ocean transportation is but four days removed from Liverpool. A Halifax to Liverpool year round service with adequate storage facilities at the Canadian terminal supplied by Canadian cooperative organizations would revolutionize agriculture. In Ontario it would develop the meat trade, stimulate winter dairying,, improve fruit growing and enable agriculture to regard without concern New Zealand competition under the Dairy Produce Control Board or export features of the cooperative movement in the United States. Cooperative organizations in all the Provinces could sustain year round volume in the British market, with readiness at all times to study and enter American and European markets as immediate conditions might attract. Whilst new and much more advantageous handling of the exportable products of agriculture is required to meet competition of other countries cooperative organized, a National Export Marketing Commission would offer advantage to the manufacturers of Canada.

To make a National Export Marketing Commission representative of cooperative organizations, cooperation must become inter-provincial in scope. A Central Cooperative Council representing all the Provinces is not only a feasible plan but is already an accomplished fact. The Canadian Council of Agriculture would be an effective agency in linking up the cooperative bodies of the different Provinces and in realizing Dominion wide uniform standards. Its representation in a National Export Marketing Commission would be a forward stride in cooperation, bringing Canadian agriculture to the threshold of a great future. The Federal Government should prepare to meet the Provinces cooperatively linked up to furnish volume of export trade. In cheese and bacon Ontario is the largest feeder of the Montreal agencies operating the present export system. Rates are imposed by New York upon Canadian Government ships which exert no beneficial influence upon Canadian trade or upon the problem of ocean transport.

In the opinion of this Committee the Government of Ontario should immediately endeavor to obtain cooperation of the Dominion and other Provincial Governments to meet any British plan of buying the export surpluses. Action in Canada should be entrusted to a National Export Marketing Commission on which Federal and Provincial Governments, cooperative organizations and manufacturing interests would have representation."

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Education

Evidence is quoted in favor of administering school affairs by Township Boards and the attention of the Department of Education is called to the same. Recommendations of the Ontario Agricultural College Alumni Association in favor of agricultural features in the courses of study in public and separate schools are endorsed.

More Continuation Schools, according to extracts from the evidence, are a necessity so that rural children need not be sent away from home to a High School. The Committee expresses the opinion that Continuation Schools established in rural communities are best adapted to meet the requirements of a vocational school in the agricultural sense.

Careful consideration is asked for a recommendation of the O.A.C. Alumni Association that "regulations governing entrance requirements be made as simple as possible so that those who have not had the opportunity of securing matriculation standing should not be barred." Rural young women are recommended to take more advantage of Macdonald Institute.

"By resident teaching the Ontario Agricultural College does not and cannot reach out to all the rural young men of the Province, but prosecution of scientific work looking to increased agricultural production would in large measure justify the expenditure upon the College. Sir John E. Russell in his Presidential Address to the Agricultural Section of the British Association for the Advancement of Science in Toronto in August said the purpose behind world wide interest in agricultural science is 'to discover the principles underlying the great facts of agriculture and to put the knowledge thus gained into a form in which it can be used by teachers, experts and farmers for the upraising of country life and the improvement of the standards of farming.' By extension work, such as the Agricultural Representatives are engaged in, scientific knowledge is being taken to the average farmer of Ontario from the College and it is for the farmer to make use of this knowledge for profit. Rural opinion in every section of the Province upholds the Agricultural Representatives, whose work is direct, practical and helpful. Their influence extends to every branch of farming. The only complaint is that there are not more of them. The Committee recommends the appointment of additional Representatives in centres where evidence taken by the Committee and submitted to the Department shows need for such appointment. The Committee is of opinion that the principles underlying the best agricultural practice and the financial profits to be derived therefrom can be most effectively brought to the attention of farmers through the Agricultural Representatives by means of demonstrations on individual farms which will serve as lessons to the surrounding community."

Immigration and Farm Labor

Reports from the Ottawa and Toronto departments of Immigration and Colonization are included in which stress is laid on present day efforts to secure from Britain and Northern Europe people for settlement on the land both as farmers and laborers. The trend of the evidence is that the immigration system of the last twenty years is wasteful. "It is the opinion of the Committee that real cooperation between Federal and Provincial authorities is essential both abroad and in Canada; that more care should be taken to see that emigrants are fully informed as to conditions they will meet in this Province; that a better organized plan of guidance and supervision for the first year at least is demanded; that immigrants already in the Province be given the first opportunity and offered every facility to return to farming; that cooperation among farmers is applicable to the labor problem; that the same encouragement, opportunities and facilities be extended by the Federal and Provincial Governments to Canadian citizens as to immigrants to take up farming in Ontario."

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The Farm Home.

"Upon the information this Committee has gathered the opinion is based that the movement which on the one hand is called "rural depopulation" and on the other "adjustment of population" presents no other problem to the Legislature and Government of Ontario than recourse to sound measures looking to the advancement of country life, but not at the expense of urban life. Constructive suggestions have been made regarding advancement of country life."

Electric Service: "The question 'Should electric service be carried to the farms of Ontario as one of the modern necessities?' has had more attentive consideration and has been the subject of more discussion at our public sessions than any other under enquiry. The drudgery of women's work on the farm has been stressed by farmers ahead of their own special needs. The farmer is looking into the electrical field with hope that impending achievements in this banner Province will witness his participation in all advantages of Hydro on terms of approximate equality with the urban user. At the Brampton session Major Kennedy, M.P.P., presented the rural Hydro problem as regarded by the majority of farmers:-

> 'You know that after the farmer gets the Hydro at his gate he is under a tremendous further cost. Perhaps $800 will put it into his house and barn. As the farmers must use electricity, a way should be found by subsidy or other means in the knowledge of the Government and the Hydro-Electric Commission to reduce that cost of $800 to say $250. Wherever the money is to be taken from, whether out of the general funds or otherwise, the farmer insists on getting electricity at a price that he can meet. I think the expense could possibly be cut down and I hope the Engineers of the Commission will give attention to the subject. You will see why the assistance should be given the farmers when I remind you that it is good for this country that the farmers in our rural communities live far apart. In France they live in little villages and go out to their fields from these villages. It is good for this country that our farmers do not live on that plan. If they did, Hydro could be brought to them at less cost, practically at city cost.'

"This manner of presentation of the Hydro problem turns entirely upon cost. As the rural point of view it finds support in the Hydro policy of the Province heretofore and from the practice of other countries where Government assistance is either a matter of bonusing or making loans to farmer companies. Varying conditions are encountered over the Province and no single locality has exactly the same cost problem as another. The Government and the Hydro-Electric Power Commission are therefore confronted with a many sided Province-wide demand for rural distribution of electricity."

"As the result of conferences held with the Chairman and Engineers of the Hydro-Electric Power Commission the Committee reports at the outset a public spirited attitude towards the problem of farm service on the part of these officials. It has been pointed out that the Commission has invariably done everything possible to facilitate the distribution of information to all interested in existing and prospective power districts. Requests for meetings have been promptly acceded to, thereby getting the necessary information before those concerned about methods of procedure to secure a supply of electric power. Such information is of public consequence when the advantages of electric power to the farmer are fully considered. Economy of labor comes first. Facility for doing work inside by available power when weather is bad, and actual saving of help are features testified to by those in different parts of the Province who now have service. Electricity means increase of the outrut of the farms in many ways; it means better living conditions for the people and for the animals, shortening the period of time assigned to certain work and a saving in the physical effort of those performing work in the barn as well as in the home."

"The Committee found some lack of exact knowledge as to conditions under which rural service may be secured. To meet this need information from the Commission is made part of this Report."

"The Committee found the rural sections of Old Ontario insistent in their demands for electric service. While appreciating the sympathetic attitude of

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the Government and the measures of assistance already given towards rural distribution, the feeling is general that nothing would have a greater tendency to make rural life more attractive and profitable than more general distribution of electric light and power on the farm. The Committee therefore recommends that the Government pursue as vigorous a policy as possible in seeking to effect a more general use of electric light and power in the rural districts of this Province."

Water Systems: "There is keen desire on the part of farmers and sore need is felt by farm women for running water with all that it implies in the house. The cost is declared to be the obstacle." A plan that could well be carried out is outlined in the Report.

Improvement of Surroundings: "The improvement of the surroundings of farm homes and buildings is another factor." The Committee belives that this is a work which should be encouraged through Village and Township Horticultural Societies.

Country Hospitals: "The question of the small country hospital has become a very important one in rural districts. At many of our meetings complaints were made of the great expense incurred in cases of illness, especially when of a severe nature. We regret that the recently incorporated Association of Registered Nurses has been permitted to frame such a curriculum and enforce such conditions as will practically force all small hospitals to close. The Committee recommends that the Legislature take such action as will prevent this result and protect them in the good work they are doing."

Fire Insurance: "A claim has been put forward by farmers that fire insurance companies are effectually shutting them out by increased rates. The Ontario Fire Marshal reports barn fire losses in Ontario increased from $1,124,403 in 1919 to $2,599,812 in 1923, an increase of 131%. General fire losses for the first six months of 1919 were $3,739,390 and for the same period in 1924, $6,683,064, an increase of 78%. Barn fire losses and the losses of purely mutual companies have increased considerably more than general fire losses in Ontario. The significance of the figures is further emphasized by the Secretary of the Canadian Fire Underwriters' Association who reported that 'a number of companies do not care any longer to write policies upon farm properties; they prefer not to accept these risks rather than write them at what they believe to be a certain loss.' It appears to this Committee that conditions demand a practical investigation in order to further methods of prevention of much of the alarming fire loss suffered in Ontario to crop and farm property, as well as to determine a better plan of rural insurance against fire hazard.

Roads

The Report quotes farm opinion favoring a tax on gasoline. [illegible] Approval is given to suggestions for cooperative promotion of tourist traffic in Ontario as a help to local markets.

Reforestation and Fur Farming are dealt with.

Development of Northern and Northwestern Ontario.

"Many in Old Ontario do not realize the possibilities and needs of the Districts of Kenora, Rainy River, Thunder Bay, Algoma, Sudbury, Cochrane, Temiskaming and Nipissing. These Districts are integral parts of the Province of Ontario, rich in natural resources and requiring population. In the interests of the Districts themselves and of the Province as a whole an improved policy of agricultural development is imperative.

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A new policy of settlement is demanded with roads as part of the preparation. A great deal of hardship could be overcome if certain roads were built before settlers go in, being permitted only to take up land along these roads. As things are now farmers who have been settled for years have no roads. Only land suitable for agricultural purposes should be opened up. Many witnesses represented that timber is made the great harvest under existing conditions, and regulation of pulpwood cutting is desirable. A more complete system of settlement would make it possible to organize cooperative societies and to start creameries and cheese factories. Roads and education are closely linked in the new districts. The settlers are anxious to give education to their children and make heavy sacrifices to build and maintain schools. The settler whose children are obliged to go without schooling inclines to leave the land on the children's account. The Committee is of opinion that a Teachers' Training School should be established to serve the rural sections of Northwestern Ontario.

"While the Committee is convinced that roads should be included in the program of preparation for the settler, the conditions brought about by methods of settlement followed in the past must be remedied. At all the meetings the settlers emphasized the need of roads as their main difficulty. The following is representative:- 'Some 700 settlers in this section have no roads at all, and it is difficult for anyone not intimately understanding conditions to realize the handicap thus placed not only upon the individual settler but upon the progress of a district rich in possibilities and attractive to settlers with agricultural experience. The fact that so many settlers have gone upon the land without roads demands a policy of expedition at the present juncture.'

Financial assistance for the settlers in the form of short term loans direct by the Department of Agriculture is suggested and it is recommended that all long term loans be administered by one Board. The evidence is to the ffect that practically 90% of the incoming settlers are more or less without funds.

It was suggested by one witness that "In looking for settlers there should be a real campaign to get settlers from Old Ontario with previous farming experience. The opportunities in the North should appeal to those considering moving. A trainloan of leading farmers from various counties in Old Ontario would do much to spread the truth of the farming opportunities in these districts to those who are prospective settlers."

"The Committee found the settlers in every section desirous of securing cattle - 'Our need is roads first and then cattle to stock our cleared farms.' They are handicapped because of their great distance from breeders of good stock. With high transportation charges it is impossible for the settlers to get good stock without some Government assistance. Strong desire was expressed that only purebred sires should be used in the North. In many sections the farmers are able and willing to buy good grade cows, and the Committee recommends that Sales be held by the Ontario Live Stock Branch at convenient points. These Sales would be of advantage to Old Ontario breeders as well."

"The Committee recommends that the Department of Agriculture assist the farmers in the establishment of storage and grading warehouses for potatoes and hay."

"There are many lines of agricultural production to which the Districts are especially suited, and the farmers should be encouraged, financially and otherwise, in these directions. It is the opinion of the Committee that the surest and most economical plan of bringing these opportunities and the methods by which they may be attained to the knowledge of the farmers is by individual farmers undertaking on their own farms demonstrations along these lines in cooperation with the Agricultural Representatives. The advantage of this plan over Experimental or Demonstration Farms, as advocated at some meetings, is that the demonstrations and experiments would be conducted under the exact conditions ~~xxxxxxxxx~~ on an actual settler's farm. Such demonstrations should be undertaken in lines best suited to the particular district."

"As some fine agricultural sections of Northern and Northwestern Ontario are without Agricultural Representatives, the Committee recommends that the Government give them the benefit of such help."

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"The Mining industry continues to exercise a powerful and expanding influence for the return of national prosperity. The centres of population that have sprung up in the mining areas are natural customers of the farmers in Old Ontario. Their trade has been estimated at $3,000,000 Old Ontario must not neglect quality and standardization if this business is to be retained and increased. The Western Provinces are sending in butter, whilst British Columbia and Nova Scotia are introducing their apples."

"Many sections are specially suited to sheep raising and reference to the wolf menace was general." A suggestion made to the Committee is that a staff of experienced trappers be employed to trap, poison or otherwise destroy wolves in those sections where they are causing loss to stockmen.

Agriculture and Other Interests

"The phases of this enquiry that deal with comparative relations of agriculture and other interests of the country disclose obstacles in the way of permanent improvement in general economic conditions. The purchasing power of the agricultural population is the mainstay of industrial prosperity. The pinch of agricultural depression passed on to the purchasing power of other classes of the people resulted in unemployment and diminishing consumption. When this enquiry began experts had supplied the farmer with a new phrase to express his economic disadvantage. They had popularized the symbol of the "farmer's dollar" during the process of deflation. Dollars in the pocket of farmer or factory employee represent purchasing power. When farm and factory commodities alike were readily marketed, the farmer was producing to his utmost ability. The mechanic, also enjoying employment at high wages, was equally satisfied with inflation. It was inevitable that the effects of deflation should strike the farmer and the factory employee from different angles. Money had been in unusually abundant supply for both and became scarcer with contraction of world markets. The farmer's commodities being perishable, he had to market them at lower prices and without loss of time. The factory employer could not quickly reduce his price below overhead cost, but he could cut production and make his commodity scarcer. This recourse meant curtailed employment, unemployment for some, part time for other operatives. Factories had to retain some skilled hands not easily replaced.

"The farmer as he sees conditions blames the wages of labor, transportation rates, the price of manufactured commodities, and high interest rates. He claims that these constitute too heavy a tax on production."

Building Trades: "When asked to give definite form to the impeachment of labor, witnesses frequently referred to building trades." The Report quotes replies of the Toronto Building Trades Council and Provincial Builders and Supply Association.

Transportation: "The tenor of the enquiry points to transportation as the farmer's major difficulty. An emphatic claim of witnesses was that salary and wage scales of railway employees constitute the governing factor of high transportation costs, and that the service is managed for the benefit of the employees. The employees' interests were fully presented to the Committee by Senator G. D. Robertson and the Canadian National Railways.

"The high level of rates restricts all business as well as agricultural industry and from this standpoint National railways fail in service as a public utility. This expresses the views of rural witnesses; but does not imply opposition to public ownership in principle. The Committee on every occasion asked for concrete examples of exorbitant charges and a mass of correspondence with the Board of Railway Commissioners and the railways is on file. The railways reply that their

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charges must necessarily be fixed on the principle of profitable operation. They refer to conceded favorable comparison with rates of United States roads. The late Secretary Wallace of the United States Department of Agriculture contended that the lower rates of Canadian roads furnished a reason for downward revision of rates over there. But the rates question is involved by classifications, loadings, etc., that invite scientific readjustment. The per ton value of agricultural produce is relatively low for all farm commodities besides presenting peculiar difficulties of classification. In many instances carlot loadings are unfair to the farmer. The cost of railway service to him is therefore out of proportion to value received.

"The familiar argument was submitted that increased volume of traffic is the first essential to making the Canadian National Railways self-sustaining. Railway employees and executives agree that the Canadian roads are economically managed and that the relations of management and employees are satisfactory. It was not shown to the Committee that railway management had in any outstanding way endeavored to adjust the grievance of agriculture in Ontario under existing rates. Rate adjustments that have been made are not of material aid to Ontario farmers. Nor is the suggestion to stop unprofitable expenditure on extensions adequate to the situation. If the publicly owned National system of railways does not pay, the citizens of Ontario as taxpayers bear the largest share of the distributed loss. The farmer provides his portion of this distribution while supplying to the traffic a high percentage of tonnage. The Committee has repeatedly been reminded that existing rates hinder farm industry in this Province and diminish legitimate railway business.

"The question is not one upon which this Committee can make a direct recommendation. It belongs to the Federal domain. Farmers, because they are both producers and consumers, feel that they are discriminated against. The rural opinion pressed upon the Committee should not be ignored. The Committee would be remiss in its compliance with the Order of the House if it did not take cognizance of the complaints lodged and urge that they be brought to the attention of the Dominion Government.

Manufactures: "At sessions throughout the Province complaint was heard concerning the price the farmer has to pay for manufactured commodities. The Committee held conferences with manufacturers and retailers and the information received forms a chapter of trying experiences all round not wholly surmounted but looking to renewal of conditions of confidence. All declare the necessity for a real spirit of cooperation."

"Reference was made to the spread in price between hides and boots and shoes and harness." The Report then quotes representations made by the tanning companies, Shoe Manufacturers' Association and Boot & Shoe Workers' Union. "Canadian made shoes today are declared to be of as good quality as imported goods and competition among the Canadian factories for the limited requirements of the Canadian market protects the public against excessive prices.

"At many sessions of the Committee farmers asked that manufactured products be marked as to the character of the material in their composition. Various materials enter into many manufactured articles. Boots and shoes are an illustration. The materials entering into their manufacture have not been standardized in any country. The competition met by the Canadian manufacturer comes from the United States and Europe. The best protection the purchaser can seek under the competitive system is the plan of dealing with established, reputable manufacturers and merchants."

"The price of farm implements was a subject referred to at most of the meetings. Implement makers assured the Committee that never in the history of the industry was Canadian demand for machines of every class at so low an ebb as now. The implement manufacturers cannot make overhead upon their export business and in order to stimulate sales a reduced price list for the principal machines sold in Canada was agreed to in December." The Report then gives the reductions on various machines. The prices at which the principal machines are sold in Ontario and abroad are also quoted. Enquiry leads to the conclusion that standardization of farm implements is an aim not easy of accomplishment. Experimental work is in progress.

"The Committee visited the farm implement factories, saw the

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employees at their labor and were afforded all information required. No other conclusion can be come to than that implement factory hands are not receiving unreasonable wages. They are not organized, with the exception of moulders who are partially organized."

Interest Rates

"References were made to the comparative scarcity of money at reasonable interest rates for farm credit. In this connection the Chairman of the Agricultural Development Board declares the experience of the Board indicates that in many sections of the Province there is very little local money available for farm mortgages, and the money available under the Board at 6% has had a steadying influence on interest rates. Ontario farm mortgages are the safest kind of investment. With the restoration of sterling exchange the prospects in January were bright for a considerably increased volume of British funds being made available in Ontario with a resultant drop in mortgage rates."

"The need of a spirit of cooperation between bankers and farmers in connection with short term loans was stressed at many meetings. Banking credit of this description cannot be overlooked as a factor influencing efficiency of farm production, and the Committee regrets that constructive suggestions were not made by any representative of the Canadian Bankers' Association in response to the Committee's invitation."

Appendix

The Appendix contains statements by the President of the Western Ontario United Boards of Trade, the President of the Ontario Agricultural College, Senator G. D. Robertson, Canadian National Railways, Canadian Manufacturers' Association, J. J. Morrison, the United Farmers Cooperative Company and the United Farm Women.

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E-1450-d
C 40641

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.
E.T.

Memorandum for the Prime Minister.

On the 6th January,1919, a Minute of the Privy Council was passed, recommending payment to the Imperial Bureau of Mycology of £250 a year for three years. These payments expired in 1923, and a fresh amount is put in the Estimates for the current year. The Department of Agriculture wish the recommendation for payment to be made by the Secretary of State for External Affairs as in previous years, and it is now submitted for that purpose. A letter from the Deputy Minister of Agriculture to that effect is hereto attached.

2 April 1924

31 March 1924

J. Pope

Ottawa, 2nd April,1924

x signed returned to Ex. Off. April 3rd

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D. J. SHEPHERD et al.

✓ Irrigation
✓ Drought Areas - Prairie Provinces.

C 40644-A

COPY

Submitted

by

THE LETHBRIDGE BOARD OF TRADE

RE: PROBLEM OF THE DRY AREA
OF SOUTH EASTERN ALBERTA.

In that section of Southern Alberta commonly termed South Eastern Alberta opened for settlement over fifteen years ago there have been frequent crop failures, with the result that many farmers in despair have abandoned their farms and in far too numerous instances crossed over to the United States. The Minister of the Interior has displayed a commendable effort to solve the problems of this section of country and the Lethbridge Board of Trade would respectfully urge the Government to thoroughly investigate the situation which exists, from all standpoints but particularly with the object in view of retaining in the country settlers who have courageously endeavored to till the soil under most adverse circumstances.

This Board of Trade considers that the Canada Land and Irrigation Company's system in which your Government is vitally interested on account of financial obligations of the company to the Dominion can be used to stem the further movement of farmers from the lands tributary to it. The Canada Land and Irrigation Company ditches run through a territory which has been settled for many years, but the water is not available to the farmers. If it could be made so the situation of the farmers would be solved, settlers would be saved to the country and revenue would be found for the Irrigation Company. Our particular desire is that everything should be done to keep these worthy settlers in Canada and it seems to us that these people who have invested everything in farms with modern improvements in an area that is unfortunately

W.L. Mackenzie King Papers, Memoranda and Notes 1922-1932 (M.G. 26, J 4).

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C 40641-A-1

short of moisture but which can be enriched by artificial supply of water, deserve immediate consideration, otherwise they may be lost to the country.

Respectfully submitted by the

LETHBRIDGE BOARD OF TRADE,

FILE → (Sgd) D. J. Shepherd, President

Geo. W. Green

W. A. Buchanan

S. G. Porter

FILE → D. J SHEPHERD

October 29th, 1924

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YY-1508 -
X-1915

PRIME MINISTER'S OFFICE Irrigation
Drought Areas -
Prairie Provinces

MEMORANDUM

C40641-A-2.

Memorandum Lethbridge Board of Trade re the Problem of the Dry Area of South Eastern Alberta.

Asks Government to investigate the situation of above section of Alberta, due to repeated drouths and crop failures, and suggests that the Canada Land and Irrigation Company's irrigation system be made use of in an effort to cope with the situation.

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A-1006 C 40642

CANADA

OFFICE OF THE
DEPUTY MINISTER

DEPARTMENT OF
AGRICULTURE

Ottawa, June 12, 1926.

(W. R. Motherwell)

Memorandum for the Minister;

I have just finished the meeting with Mr. Johnson in connection with the Halifax Cold Storage. It has been agreed amongst us that the subvention policy, that is, our policy, is the better as compared with a State-owned Cold Storage Plant.

We are, however, all of the opinion that the estimated cost of the Cowie Plant is very much too high.

J. H. Grisdale
Deputy Minister.

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(N.M. ROGERS TO W.L.M.K.)

C 40643

Re Dairy Products 1928

Tuesday
Mar. 6
1928

(2)

MR. KING:

You have asked me to secure some material bearing on that clause of the Conservative amendment which attacks the Government for its failure to preserve domestic markets for Canadian farm and dairy products.

I have obtained material from Dr. Ruddick, the Dairy Commissioner, and Mr. Horning, of the Bureau of Statistics, in support of two propositions which may assist in meeting the Conservative contention.

1. The memorandum from Mr. Horning points out that a large proportion of the agricultural imports of Canada consists of:

(a) Seasonal goods, and

(b) Exotic goods.

2. Dr. Ruddick's review of the dairy industry in Canada (see page 4 and following) draws attention to the fact that imports of dairy products into Canada have taken place for many years, but that Canada is also exporting these products in increasing quantities. This is particularly true of exports to the United States. It is interesting to note on page 7 of

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Dr. Ruddick's article that in 1913 and 1914 the imports of butter into Canada were greater than during the years 1926 and 1927. The value of the United States market for our exports of dairy products is evidenced by the fact that one-third of our total exports was to the United States during the fiscal year ended March 31st, 1927. The fact that these dairy products entered the United States over the present protective duties shows how extremely profitable this market would have been if the Reciprocity Agreement of 1911 had been carried into effect.

N.McL.R.

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C 40645

The Future of the Dairy Industry in Canada

Extracts from an Address by J. A. Ruddick, Dominion Dairy Commissioner, January 4, 1929

Anyone who has ambition to be known as a true prophet should be very careful in attempting to forecast the future of the dairying industry. The international character of the dairy produce markets, influenced as they are by so many factors such as weather, industrial conditions, labour difficulties, etc., spread over many countries in both the Northern and Southern hemisphere, makes the course of events in the dairying world rather uncertain.. It is the unexpected that very often happens. For instance, if anyone had predicted in 1924 that it would be necessary for Canada to import butter inside of two years he would have laid himself open to ridicule, but just because weather conditions produced good crops of wheat in the prairie provinces, and because the successful wheat grower is always careless of his opportunities in dairying, the expected large increase in butter production in those provinces has been turned into a decrease. I am glad to note that during the last three months there has been a substantial increase in the output, especially in Saskatchewan, over the same period in 1927. Importation of butter has been necessary, as it has been in former periods, because the increase in the east alone has not been equal to the greatly increased home consumption.

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Production in 1928: Let us take the matter of production first. I am not one of those who would estimate the progress of the industry by the quantities that are produced or exported of any particular produce. In the final analysis, it is the production of milk that matters. The producer is the vital element of the industry. He diverts his milk from one outlet to another, usually because he expects to get a better price for it. Of course, the manufacturer has a different point of view. He naturally desires to maintain, if not increase, the output of the particular product which he manufactures and, if it falls off, he is inclined to think that the industry is going to the dogs while, as a matter of fact, it may be quite the opposite so far as the producer is concerned.

Production of Cheese: The season of 1928 was a notable one in more than one respect. While possibly not ideal, the climatic conditions were, on the whole, favourable for the production of milk. In any case, the output of cheese in 1928, for all Canada, will exceed that of 1927 by 8 million or 10 million pounds, possibly more. There was a wider spread than usual in the comparative prices for butter and cheese and this favoured some diversion of milk from the creamery to the cheese factory. The average price of cheese for the season

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was exceptionally high and very nearly three cents per pound above the price obtained in 1927.

Production of Milk the Basis of the Dairy Industry:

There are dairymen in this country who pin their faith on the making of cheese and who refer to it as the "basic" branch of the industry, which, of course, is hardly the correct view. The production of milk is the base of the industry. The making of cheese, or any other product, is only a means to an end. The decrease in cheese production in this country, from the maximum of the year 1903, is sometimes referred to with regret. Surely those who take that view overlook the fact that if Canada had continued to produce cheese at the maximum rate, the market would have been greatly over-supplied with the constantly increasing production of New Zealand. It was a very fortunate thing indeed, for all concerned, that some Canadian producers of cheese milk found other and more profitable channels for its disposal. It has also been a fortunate coincidence that the increase in New Zealand exports have been very evenly balanced by the decrease in the Canadian exports. In this connection too, I should like to point out that it is not true, as is sometimes said, that New Zealand cheese had supplanted Canadian cheese on the British market. No cheese can supplant Canadian cheese on the British

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market so long as the quality is superior. However, there is consolation for those who would like to see the cheese output increased, regardless of consequences, in the fact that the production in 1928 shows a substantial increase over 1927, and there is this to say also, that those producers who have stayed with the cheese factory are benefiting because a certain number have found it profitable to leave it.

Increased Home Consumption:

Our home consumption of dairy products has shown great increase during the past four years. A calculation based on total production, per capita consumption, exports, imports and stocks in storage shows that the home consumption of all dairy products in Canada in 1928 exceeded the requirements in 1924 by the equivalent of 148,000,000 pounds of cheese or 70,000,000 pounds of butter. This increasing home market must not be lost sight of in any estimation of the progress of the industry.

Tourist Trade and Increased Production and Consumption of Milk:

The per capita consumption has been increased by the number of tourists entering Canada. The figures for 1928 are not yet available, but the total number of motor cars entering Canada from the United States in 1927 was over three million.

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and the average number of persons per car was 3½, so that something like 11 million people entered Canada from the United States in motor cars alone during that year, many more than the total population of the country. A large percentage of the cars came on 24 or 48 hour permits, but others remained for considerable periods. It is said that the number of motor cars entering Canada in 1928 was very much greater than in 1927. Indeed Canada has become during the past two or three years probably the greatest tourist ground in the world. I do not think it is possible that any other country receives so many visitors during the year. Now, of course, while the United States citizens are consuming dairy products in Canada they are not consuming any at home, so that it does not affect the international situation but it does affect the local situation in Canada. We have after careful figuring and estimating, reached the conclusion that the consumption of dairy products by those tourists was the equivalent of 12 million to 15 million pounds of butter last year. This item of home consumption was of course included in the figures already given. There is every prospect that this tourist traffic will increase.

Our Competition:

I have no time left to deal with the question of

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competition. Undoubtedly we shall have competition, and it is well that we should have. We need a spur of some kind to keep us up to the mark. As proof of that I need only remind you that the cheese industry in this country has improved more rapidly as the competition from New Zealand has increased. The premium for Canadian cheese has increased from ½ a cent per pound in 1925 to over 1 cent in 1928.

A great deal has been said about the advantage which the New Zealand producer has in what is practically year round pasturage. Undoubtedly there is some advantage in that, although I think it is overestimated, especially by those who view the matter from a distance or who make casual visits to the country and see only the surface of things. In any case, pasturage is only one factor in several connected with the cost of milk production in New Zealand. The high cost of land, the small return from by-products, labour conditions and high cost of manufacturing and marketing are important considerations. In 1925 the relative cost of manufacturing and marketing cheese from a number of New Zealand and Canadian factories was worked out by Mr. J. F. Singleton of the Dairy Branch, from actual sales and the actual pay out to the producers in both cases. It was found that while the New Zealand farmer received 68.73 cents of

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each dollars worth of cheese sold in London, the Canadian farmer received 83.32 cents for every dollar's worth sold in the same market, a difference of 14.59 cents on every dollar. These figures were published at the time and they have never been challenged.

I suppose that with my knowledge of conditions in both countries, I am in as good a position as any one to form a correct judgment in the matter and I do not hesitate to say that Canadian cheese producers have no reason to fear New Zealand competition if they make the most of their opportunities.

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C 40652

PRODUCTION AND VALUE OF DAIRY PRODUCTS, 1915-27.

	CREAMERY BUTTER		FACTORY CHEESE	
	Quantity	Value	Quantity	Value
	Lb.	$	Lb.	$
1915	83,991,453	24,385,052	183,887,837	27,097,176
1916	82,564,130	26,966,355	192,968,597	35,512,622
1917	87,526,939	34,274,218	194,904,336	41,180,623
1918	93,298,348	41,859,156	174,878,313	39,456,532
1919	103,890,707	56,371,985	166,421,871	44,586,168
1920	111,691,718	63,625,203	149,201,856	39,100,872
1921	128,744,610	48,135,439	162,117,494	28,710,030
1922	152,501,900	53,453,282	135,821,116	21,824,760
1923	162,834,608	56,873,510	151,624,376	28,645,192
1924	178,893,937	60,494,826	149,707,530	24,201,923
1925	169,494,967	63,008,097	177,139,113	36,571,556
1926	177,209,287	61,753,390	171,731,631	28,807,841
1927	176,978,947	65,709,986	138,056,908	25,522,148

EXPORTS OF DAIRY PRODUCTS, FISCAL YEARS ENDING MARCH 31, 1916-28.

	CREAMERY BUTTER		FACTORY CHEESE	
	Quantity	Value	Quantity	Value
	Lb.	$	Lb.	$
1916	3,441,183	1,018,769	168,961,583	26,690,500
1917	7,990,435	2,491,992	180,733,426	36,721,136
1918	4,926,154	2,000,467	169,530,753	36,602,504
1919	13,659,157	6,140,864	152,207,037	35,223,983
1920	17,612,605	9,844,359	126,395,777	36,336,863
1921	9,739,414	5,128,831	133,620,340	37,146,722
1922	8,430,591	3,224,390	133,849,760	25,440,322
1923	21,994,578	8,243,138	114,548,900	20,828,234
1924	13,648,968	5,070,691	116,777,000	23,426,282
1925	24,501,981	8,715,962	126,963,200	24,112,475
1926	23,303,865	8,773,125	148,333,500	33,718,587
1927	9,878,400	3,351,589	136,665,400	24,956,179
1928	2,643,300	1,053,553	105,212,600	21,100,625

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MEMORANDUM RE IMPORTS OF FARM PRODUCTS INTO CANADA.

An examination of the statistics showing exports and imports of farm products to and from Canada shows that, while Canada is essentially an agricultural country, for a large majority of the exports of such goods from Canada, there is a corresponding import. This is due in a large measure at least to two causes: (1) the seasonal nature of the agricultural industry and (2) the difference in the variety and quality of articles of the same kind produced at home and abroad. In addition, of course, there are large quantities of articles of agricultural origin which are imported into Canada which are quite exotic to Canada and incapable of economical production here. The following examples might be cited:

(1) Outstanding examples of "seasonal goods" are, of course, fruits and vegetables. New potatoes are eagerly sought for early in the summer and quantities are brought in from the Southern States in the first instance before new potatoes produced in Canada are available. As the season progresses the line of production moves northward and finally reaches the northern boundary of the United States and then crosses into Canada, at which time the import of new potatoes ceases and Canadians are supplied from their own production. Similarly, the season for tomatoes has been extended after the ordinary Canadian season closes in the fall by hothouse production extending same into the winter months. Importation then commences from Mexico and the Southern States moving northward as in the case of potatoes. This is true of many many lines of fruits and vegetables. Strawberries form another outstanding example. The increased efficiency in transportation and refrigeration has allowed for the movement of these goods in prime condition at such a low expense that householders in Canada may procure them under existing circumstances at what is considered a reasonable cost. What a few years ago were delicacies have become more

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comparatively general in use.

(2) When we speak of difference in quality, grapes may be cited. Canada produced in 1926 a total of 38,400,000 pounds of grapes, practically all of which came from the Province of Ontario. During the fiscal year ended March 31st, 1927, she imported 16,806,808 pounds of grapes. Our grapes were imported from the Southern States and Spain and consisted to a large extent of fancy table grapes. While some of the more fancy varieties are brought in all the year round, this importation too is more or less seasonal in character. Some other table fruits also compete with Canadian produced goods on a quality as well as seasonal basis.

(3) The best known examples of exotic products which may be produced to a small extent in Canada consist again of certain fruits and vegetables which owing to climatic and other conditions are grown much more cheaply in other parts. Imported fruits of this nature such as bananas and oranges undoubtedly compete with Canadian apples and other fruits for table use.

I am attaching statements showing imports of specified fruits and vegetables by months supporting statements above.

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C 40655

REPORT OF SPECIAL COMMITTEE APPOINTED BY THE GREATER WINNIPEG BOARD OF TRADE TO CONSIDER RESEARCH RUST WORK

For obvious reasons we do not think it advisable to mention the names of any of the parties interviewed but we have interviewed a number who are qualified to express an opinion on this work. Our findings are as follows:

That as far as providing equipment for the carrying on of research work is concerned, there is no complaint at the present time. Since the establishment of the rust research building at the Manitoba Agricultural College some three years ago, satisfactory equipment has been supplied and the staff have been left to carry on the work without interference from the outside but there is a serious condition which is bound to be a severe handicap to those carrying on the work and which will inevitably delay the day when satisfactory means of combating the rust evil will be discovered. The unsatisfactory condition that exists at the present time is with regard to salaries paid to the staff. This rust research work is carried on under the Dominion Department of Agriculture and apparently the scale of salaries regulated through the Dominion Department of Agriculture by the Civil Service with the result that the most efficient, valuable men on the staff from time to time receive offers from the United States and Eastern Canada at salaries from one-half to two-thirds more than they are receiving. Apparently the scale of salaries for this work is based on the scale paid in the Dept. of Agriculture rather than the scale of salaries paid in the Universities, as it should be. Several of the men employed in this work have a University Degree of Doctor of Philosophy and should receive salaries at least on a par with those paid to University Professors. The present scale of salaries is so much lower than the University scale that these men cannot be blamed if they leave to take positions elsewhere.

A recent case in point is that of Dr. D. L. Bailey, B.A., M.S. Ph.D. the Senior Pathologist in charge of the Dominion Rust Laboratory at the Manitoba Agricultural College. Dr. Bailey is a graduate of Queens, Cornell and Minnesota Universities and one of the foremost authorities on wheat rust in America. Dr. Bailey is shortly leaving Manitoba and the Dominion Civil Service to fill the chair of Plant Pathologist at the University of Toronto and the appointment of Provincial Plant Pathologist for the Province of Ontario. We may mention that this information regarding Dr. Bailey was not secured from Dr. Bailey himself, but from a circular sent out by the Agricultural section of the Board of Trade in connection with a lecture which was recently given by Dr. Bailey in Theatre "A" in the University of Manitoba. Dr. Bailey has had a staff of thirteen carrying on this work. Surely it is poor economy from the standpoint of the people of the Province of Manitoba, and in fact the Dominion as a whole, to allow Dr. Bailey to be taken away from this work by the University of Toronto and the Province of Ontario and the continuity of the work inevitably broken to some extent. From enquiries we have made we find that whereas Dr. Bailey was in charge of our rust research work here, the position he is going to is a minor one in comparison in that he is not the Head of a Department and will not have the responsibility of a large staff under him as he has had here, but still he could not afford to refuse the considerably larger salary which the position offered.

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As the farmers of Manitoba have unquestionably lost more money from rust than any other one source, possibly than from all other pests and diseases combined, anything that retards the carrying out of this work to a successful conclusion is a very costly and serious business, not only to all residents of Manitoba but to the country as a whole.

Unless immediate steps are taken to remedy this situation the United States will from time to time be taking men away from this work, as they have been doing in other lines of work for some time past. We recommend that representations be made to the Civil Service Commission urging that the scales of salaries paid for research work in connection with agriculture be placed on a par with salaries paid in other lines of research work in comparison with the education, training and qualifications involved, and that further, the matter be taken up with Premier King, the Hon. W. R. Motherwell, Minister of Agriculture, the Hon. C. A. Dunning, Minister of Railways, the Hon. James Malcolm, Minister of Trade and Commerce and the Hon. Robert Forke, Minister of Immigration.

April 9th, 1928.

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N.M. ROGERS TO WLMIC

C 40657

O-1600

E-1201

Ottawa,
December 19, 1928

MR. KING:

Mr. Deachman points out that the Council of Horticulture and the National Dairy Council, which receive grants from the Dominion Government, are engaged in active propaganda which he considers prejudicial to the Government. There has been recently formed a Canadian National Poultry Council, which will also seek financial assistance from the Government and will doubtless engage in similar activities.

Mr. L. F. Burrows is the Secretary of the National Horticultural Council and of the National Poultry Council.

Mr. Burrows organized the large deputation protesting against the abolition of dumping duties during the past session. As this deputation coincided with protests made in the House of Commons by Members of the Conservative Party, there is ground for believing that it formed part of a campaign which was expected to influence the provincial elections in British Columbia. During the past summer Mr. Burrows has been active in organizing the Okanagan Fruit Growers for the purpose of requesting relief from dumping of American fruit. The remedies suggested are along the lines advocated by the Conservative Party.

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Mr. Calder and Mr. Stephen, of the National Dairy Council, organized a deputation which met the Government last year and protested against the Australian Treaty.

The grant paid to the National Dairy Council is $5000.00.

The grant paid to the Horticultural Council is $8000.00.

No grant has yet been made to the National Poultry Council.

If these grants are withheld immediately the activities of these organizations would still continue on a basis of individual contribution. Moreover, such a drastic action on the part of the Government might consolidate opposition and might give to Mr. Burrows and others the dignity of martyrdom. On the other hand, Mr. Deachman is perfectly right in pointing out that the propaganda of these organizations is of such a character as to injure the Government and strengthen the opposition. Certainly, no organization in receipt of Government funds should be allowed to carry on such propaganda without vigorous protest. If such a protest were ignored, these organizations would have no just grounds for objection to the discontinuance of their grants.

N.McL.R.

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The Canadian Horticultural Council was organized in May, 1922. The First President was Colonel H.L.Roberts of Grimsby,Ont., the Vice-Presidents being F.W.Bishop,Kentville,N.S., and R.R.Scott, Winnipeg,Man. The Directors were W.R.Groves, Hamilton,Ont., W.H.Stewart, Aylmer,P.Q., and Jas.Wagstaffe, Hamilton,Ont., and the Secretary was and still is L.Burrows of Ottawa.

The Canadian Horticultural Council acted, and still acts for the fruit industry in the same manner as the National Dairy Council acts for the dairy industry for the Dominion of Canada, and, consequently, when the Horticultural Council was founded the Department of Agriculture was approached with a view to obtaining a grant from the Federal Government for assistance in meeting the necessary expenditures which would be involved.

For the first year - 1922-23 - the Federal Government made a special appropriation of $5,000 to this organization, and this was increased to $8,000 by special vote for the fiscal year 1923-24 and also 1924-25. For 1925-26 the grant of $8,000 was provided for in the Main estimates of the Department, and a similar amount has been appropriated ever since.

The present officers of the Canadian Horticultural Council are:-

President, J.T.Mutrie, Vernon, B.C.
First Vice-President, Paul Fisher, Burlington,Ont.,
Second Vice-President, J.H.Lavoie, Quebec, P.Q.,
Secretary-Treasurer, L.F.Burrows,Ottawa,Ont.,

Directors

F.W.Bishop, Paradise, N.S.,
Thos.Abriel, Nakusp, B.C.
W.J.Cooke, Kingston,Ont.,

Members

Thos. Abriel, ...Nakusp,B.C.,
Paul Fisher,.....Burlington,Ont.
W.J.Tawse, ... Macdonald College, P.Q.
A.G.Turney,..... Fredericton,N.B.
Robt.Leslie,.....Cambridge Station, N.S.
F.W.Bishop,.....Paradise,N.S.

Vegetable Growers

J.T.Mutrie,..... Vernon,B.C.
W.J.Cooke,.....Kingston,Ont.
Thos.Rowley,.....Leamington,Ont.
J.H.Lavoie,.....Quebec, P.Q.
J.J.McEvoy,.....Montreal, P.Q.

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Nurserymen

E.B.Luke.....Montreal, P.Q.

Florists & Gardeners

Chas.Craig.....Ottawa,Ont.

Cooperage Manufacturers

W.A.Fraser.....Trenton,Ont.

Canners

W.R.Drynan.....Hamilton,Ont.

Amateur Horticulturists

J.E.Carter.....Guelph,Ont.

Western Canada Fruit Jobbers

Herbert Emery,.....Winnipeg,Man.

Eastern Canada Fruit Jobbers

W.J.McCart.....Toronto,Ont.

Committee Chairman

Publicity, E.B.Luke,.....Montreal, P.Q.
Plant Registration, W.T.Macoun,Ottawa,Ont.
Transportation, H.L.Roberts, ..Grimsby,Ont.
Legislation, C.W.Baxter, ...Grimsby,Ont.
Standard Score Cards....Prof.T.G. Bunting, Macdonald College,
Markets, Paul Fisher.....Burlington,Ont.) P.Q.

P

Provincial Representatives Advisory Committee

British Columbia.

W.H.Robertson.....Victoria.

Ontario

P.W.Hodgetts.....Toronto

Quebec

L.H.Lavoie.....Quebec

New Brunswick

A.G.Turney.....Fredericton,

Nova Scotia

W.A.Middleton.....Truro.

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The National Dairy Council of Canada was organized in October,1919, - the first annual meeting being held in February,1920. The Department of Agriculture was approached in November of that year by a delegation from the National Dairy Council with a request that some financial assistance be granted to the Council to assist in meeting the expenses of an educational campaign to inform the people of Canada of the food value of milk and its products.

An appropriation $3,000 was especially passed by Parliament for that purpose for the fiscal year 1921-22. Similar special appropriations were made for the fiscal years 1922-23, 1923-24 and 1924-25.

In 1925-26, a grant of $3,000 was provided for in the Main Estimates of the Department of Agriculture for the National Dairy Council, and this grant was increased to $5,000 for the following year, and also for the fiscal year 1928-29.

The first President of the Council was Mr.E.H. Stonehouse of Weston,Ont., the Vice-President being Alex McKay of Winnipeg, and the Secretary-Treasurer, D'Arcy Scott of Ottawa.

The officials of this Council at the present time are as follows;-

President, J.A.Caulder, Saskatchewan Cooperative Creameries Ltd., Regina,Sask.
Vice-President, F.E.M.Robinson, Richmond,P.Q.
Secretary-Treasurer, W.F.Stephen, Ottawa,Ont.

The organizations affiliated with the National Dairy Council at its inception were as follows;-

The Ontario Milk and Cream Producers Association,
The Dairymens Association of Western Ontario
The Dairymens Association of Eastern Ontario.
The Dairymens Association of the Province of Quebec,
The Montreal Milk Producers' Cooperative Agricultural Assn.
The Canadian Milk Distributors Association,
Canadian Ice Cream Manufacturers Association,
The Western Canada Ice Cream Manufacturers' Association,
Canadian Creamery Association,
The Western Dairy Manufacturers' Executive
Milk Condensaries
The Provincial Dairymens Association of Manitoba,

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The Provincial Dairymens Association of Saskatchewan
The Provincial Dairymens Association of Alberta
The Provincial Dairy Association of British Columbia
The Fraser Valley Milk Producers Association
The New Brunswich Dairymen's Association
The Nova Scotia Dairymens Association
The Prince Edward Island Dairymens Association
Milk Powder Manufacturers
The Holstein-Friesian Association of Canada
Canadian Ayrshire Breeders' Association
Canadian Jersey Cattle Club.

The organizations affiliated with the National Dairy Council at the present time are;-

British Columbia Dairymen's Association
Western Producers,
Alberta Dairymen's Association
Western Ice Cream Manufacturers
Alberta Producers Association
Saskatchewan Dairy Association
Western Butter Manufacturers
Manitoba Dairy Association
Western Milk Distributors
Dairymen's Association of Western Ontario
Eastern Ontario Dairymen's Association
Canadian Creamery Association
The Ontario Milk Producers' Association
Canadian Association of Ice Cream Manufacturers
Quebec Dairy Association
Montreal Milk Producers' Association
Montreal Milk Distributors
Canadian Produce Merchants' Assn.
New Brunswick Dairymen United,
Nova Scotia Dairymen's Association
Prince Edward Island Dairy Association
Holstein-Friesian Association
Canadian Ayrshire Breeders' Association
Canadian Jersey Cattle Club.

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W. R. MOTHER WELL **C 40663** OCT, 1929.

Liberal Party & the West ✓
agriculture ✓
Railway Policy ✓

As last Session of the Canadian Parliament was a particularly fruitful one, from the standpoint of prairie agriculture particularly, my desire is to first make a number of observations relative thereto.

First, and to a considerable extent foremost, was the legislation prohibiting in grades, Nos. 1, 2 and 3 Northern, the mixing of anything that would degrade, debase or adulterate our wheat and thus render it less valuable to the buyers and millers on the markets of the world. As this practice had been going on at the head of the Lakes for many years - part of the time without legal sanction and part of the time with - one can well understand that the trade beneficiaries therefrom would not give up this reprehensible adulteration of the greatest and most important export product that Canada possesses, without a struggle. All during the winter the mixers and the anti-mixers, both in Parliament and out, in the Agricultural Committee and in the Sub-Committee thereof, wrestled early and late, in season and out, until finally victory crowned the efforts of those who desired that Canada's wheat should go forward to the various markets of the world in the same high condition of quality as received from the farmers' cars, while passing Winnipeg or other initial inspection points. The anti-mixing provision of the new law, however, does not come into force until August of 1930 which enabled the new Board to be appointed, established and their work in the meantime reorganized in conformity with the new law.

The Hon. James Malcolm, Minister of Trade and Commerce has been peculiarly fortunate in securing the services of such men as Messrs Ramsay, Hamilton and McGibbon to constitute the personnel of the new Board of Grain Commissioners, all of whom start off at the outset in the enjoyment of the full confidence of a great majority of the producers and I trust of all other interested parties also.

It might be here indicated that many of the amendments to the Grain Act made at the session of Parliament just closed were taken from the interim report of the Brown investigating Commission appointed by Premier Gardiner last Fall.

The farmers of the West scarcely require being reminded that the Federal Department of Agriculture is strongly behind the idea that the best way to promote inter-empire trade is by a continuous supply of products on a quality basis, and in the case of wheat that much to be desired end can only be attained by preserving our top grades from any adulteration or admixture whatever with off-grades of an undesirable or spurious nature.

Second only to this legislative improvement in the grading and non-mixing of Canada's three top grades of wheat (1, 2 and 3 Northern), is the provision for a new seed cleaning and storage warehouse, or small elevator now in course of construction at Moose Jaw and which is anticipated will be rented to

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the Saskatchewan Registered Seed Growers' Association, which Company has been doing a very substantial business in registered and certified seed grain during the past few years, but under great handicaps and inconveniences.

This new seed cleaning plant and equipment when completed in November will be the best, indeed the only plant of its kind in Canada and one of the few best on this Continent.

The ownership of this warehouse will be retained in the Crown and whoever operates it will have it publicly controlled, through its lease so that greater care may be taken in developing, cleaning and distributing the necessary estimated 500,000 bushels that Saskatchewan alone requires of improved seed to be supplied from somewhere each year in order that the quality of our aggregate output may be maintained at a high uniform level from year to year.

As you are aware, we have in Canada an organization known as the Canadian Seed Growers Association, the members of which are producing greater and greater quantities of high class seed each year. In order that this seed may be utilized to the fullest extent by the farmers of this Province, it appears to be absolutely necessary that proper facilities be provided for assembling, cleaning and distributing this seed and it is hoped that the elevator just referred to may prove immensely valuable in connection with this undertaking.

Two other similar seed cleaning and storage plants will be provided for next year, if desired, one for Manitoba and one for Alberta so that this service will extend right across the prairies and we hope will go far towards eliminating a great many of the undesirable varieites now grown and substitute therefor the very best varieites obtainable and at the minimum cost to the farmer by reason of the volume that will be handled through the seed plants referred to.

This Moose Jaw plant will continue as the old one, to be administered strictly on the pool basis and in close co-operation with the commercial wheat pools of the West.

Doubtless you have all learned of the big World Grain Congress that is to be held in the City of Regina in co-operation with the Exhibition Association, with its fine buildings, in 1932. In the Supplementary Estimates of last session was included $100,000.00 as a preliminary vote for getting out prize lists and other initial expenses in connection with this great world enterprise. While the prize list, now practically ready for printing will be of major importance to many, the great event of the occasion will be the educational side represented by the various sections of the Congress that will be run concurrently during the whole period of the Congress. It is expected that the presence of the leading plant pathologists and cereal scientists from all over the grain growing world will be secured for the occasion in question and that their experience on such matters as rust, root rot and all the other diseases that the cereal world is subject to, will be made available either by word of mouth or through the medium of the Congress report to the thousands of farmers scattered throughout the

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prairie West.

Information has come to me that the large milling concerns of the United Kingdom, as well as Germany, are very deeply interested in this undertaking and it is not unlikely that they will be well represented on this occasion.

With all these three mentioned forces, (anti-mixing legislation, better seed facilities and supply, and the educational effect of the World's Grain Exhibition) working on behalf of the betterment of Canada's wheat crop and the farmers themselves further inspired to also excel in their production methods, supplemented by the return of our usual good weather, harvesting and threshing conditions, we confidently can look forward to Canada's grain rapidly regaining its former position of high eminence in the markets of the world.

In addition to the above enumerated distinct advance steps on behalf of prairie cereal agriculture, two more almost equally progressive and evolutionary advances have been made in which general agriculture, including live stock, is also concerned. One of these is the organization, for the first time in the history of Canada, of a Federal Co-operative Marketing and Farm Economics Branch, to which has recently been appointed, as its Chief, a former Canadian, Dr. J. F. Booth and who for the past eight years or so has been occupying very successfully, a similar position at Washington. Dr. Booth took up his residence and new duties in O ttawa, October 15th.

The other organization referred to grew out of the discussions of the two last Imperial Conferences in L ondon in the years 1923 and 1926. Dr. Grisdale, my Deputy, was present on both occasions and participated in an advisory capacity therein. This organization consists of a chain of Six Central Research Bureaux at different points in the United Kingdom. These Bureaux constitute a sort of clearing houses for Agricultural Research work and workers scattered throughout the various Dominions and dependencies, and to the cost of which Canada contributed a vote of $20,000.00 last session. An appropriation passed last session provides about $20,000 for the establishment and upkeep of these for the present year. I had the opportunity of inspecting two of these Research centres in Edinburgh and Aberdeen last year. To these two all Canada's discoveries through researchsdata and deductions with respect to animal nutrition and genetics will be reported and similar and reciprocal information sent us therefrom and therethrough from all over the British Commonwealth. For instance, the research work and progress on Wheat Rust carried on at Winnipeg laboratory by the Federal Department of Agriculture, or similar data on Bovine T.B. will be reported to the particular research centres concerned in the Old Land. In turn these clearing house centres of concentrated and accumulated information will keep Canadian research workers similarly informed. The payment of this $20,000 for our pro rata share of the expense of establishing these Central Bureaux should secure for Canada a vast fund of the very latest information that will doubtless speed up the day when many of our agricultural problems will be solved and surmounted.

And yet our very good friend, the Hon. R. B. Bennett in a recent

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address last summer, when on a political tour in Ontario, is reported in his own press (The Montreal Star, and others) as saying that the only thing the present Federal Liberal Government has done for agriculture "is to quarantine mad dogs." But of course, R.B. when out on a political rampage says a lot more than his prayers.

The Railway construction programme of both great Systems, the National and C.P.R. for the next three years is the most outstanding one yet undertaken. The National provides for the construction of 556 miles of new branch lines, 444 miles of which will be in the West. On the other hand, the C.P.R. is preparing for the construction of 1,100 miles of new branch lines over a period of five years, scattered across Canada largely also in the West. In addition to this, both Railway Systems have taken over a number of branch lines already constructed and in operation, such as the Edmonton & Dunvegan in the Peace River country which was formerly owned by the Alberta Government and now operated jointly by both Systems.

But of more importance to the West than even this above recited programme of Branch line extension has been the vigorous expeditious and highly satisfactory completion of the Hudsons Bay Railway to Fort Churchill. This important project came within an ace of being diverted to, and ditched at Nelson, had not the Hon. C. A. Dunning, Minister of Railways appeared on the scene just in the nick of time to save the situation by appointing Sir Frederic Palmer as sole commissioner, and without previous bias on the question, to make a thorough investigation and final pronouncement thereon, which was in brief, that Churchill outlet could be built in half the time, and at half the price, and incidentally it might be pointed out we would then have a <u>real</u> harbour and not a sink hole in which to spend money. But why did the Conservative Government, without previous knowledge and proper investigation, borings etc, select Nelson as the terminal of the Bay Line and spend roundly, $6,000,000 thereon trying to dredge a new channel with a sand sucker dredge when it was bolder clay that was required to be moved? This is a proper question for the Canadian taxpayer to ask and one that has not yet been answered.

That age old and very controversial question - the return by the Federal Government of the remaining Natural Resources of the three Prairie Provinces would seem to be within measurable distance of consummation, judging by the terms recommended by the Turgeon Commission, which recently made a very full and apparently very satisfactory report on the Manitoba Resources problem.

Taking this report on the Manitoba case as a basis, so far as it is applicable to Saskatchewan and Alberta, it should, I think, look just as good to them as it looks to Manitoba, in which case by the time another year or so passes around, this Prairie Resources question should be numbered among the big solved problems that have been looming up for so long on the Canadian political horizon, provided, of course, no more unexpected hitches bob up.

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MEMORANDUM **C 40667**

Prime Minister's Office

Ottawa, October 25, 1929.

For the Prime Minister:

This is an extract of an address which Mr. Motherwell intends to deliver in the West. He thought you might like to see it.

V. L.

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FILE → (W.R. MOTHERWELL TO WLMIC)
Agriculture ✓ C 40668

MINISTER OF AGRICULTURE
CANADA

D.

Ottawa, October 12th, 1929.

MEMORANDUM FOR THE PRIME MINISTER:

A few of the outstanding activities that have been incepted during the past eight years of benefit to Agriculture:

The establishment of a Rust Research Laboratory at Winnipeg as a result of which much progress has been made in the development of new varieties of wheat with much less susceptibility to rust.

The production and distribution of Garnet and Reward Wheats so that enough seed of these two varieties is now available for seeding a wide area. These two wheats have added materially to the acreage and value of our wheat crop from the more northern portions of our three Prairie Provinces particularly where the precipitation is usually more abundant and such earlier varieties more required.

The work of bovine tuberculosis eradication through Restricted Areas has and is being of uncomparable advantage to Canada's stockmen.

The establishment of a Research Station in Hull for the study of bovine tuberculosis and other contagious diseases of animals.

The continuance of "B" Fair grants.

The extension of the Feeder Show Policy of the Government to include and establish, when desired, such an undertaking at Prince Albert.

The grading of all agricultural products intended for export and some products intended for home consumption as well.

The construction of an up to date Seed Cleaning and Storage Plant at Moose Jaw with pooled freight rates to and from all parts of Saskatchewan.

The establishment for the first time of a Co-Operative and Farm Economics Branch in the Federal Department of Agriculture with Dr. J. Booth as the first head and Commissioner thereof.

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C 40669 A-1000 (cont'd)

OFFICE OF THE PRIME MINISTER

MEMORANDUM

Confidential

For the Prime Minister

and the Minister of Agriculture

Mr. Cardin has telephoned from Montreal to say that the cattle inspectors from the Department of Agriculture are causing a great deal of trouble in the province of Quebec, particularly in the County of Laprairie.

Mr. Cardin asks that these inspectors be withdrawn for the time being.

I am discussing the matter confidentially with the Department of Agriculture.

HARRY BALDWIN
Secretary.

June 14, 1930

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C 40670

OFFICE OF THE LEADER OF THE OPPOSITION

MEMORANDUM

Thursday,
April 16,
1 9 3 1

MAJOR CHAS. G. POWER, M.P.:

Mr. King would like you to have the subject matter of the attached correspondence dealt with by the appropriate Committee of the Party.

Will you kindly return the correspondence when it has served your purpose.

Private Secretary.

(Letters, dated Jan. 25th and 28th, from Mr. Patrick Donnelly, 119 Wellesley Crescent, Toronto, 5, Ontario, and Mr. King's replies (copies) dated Jan. 27th and 30th, - Re: Agriculture)

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C 40671

GROWTH IN PRODUCTION AND EMPLOYMENT ~~in~~ THE AGRICULTURAL IMPLEMENT INDUSTRY IN CANADA SINCE 1924

Attached hereto please find:

1. A monthly statement of the number of employees in 37 identical leading concerns. This indicates that there has been substantial progress in the industries operating continuously since 1924, the peak being reached in the spring and early summer of 1927, though it is now on almost the same level. The gain since 1924 has been from 33 1/3 p.c. up to over 100 p.c.

2. A report of the Dominion Bureau of Statistics on the Agricultural Implement Industry for 1927 with comparative figures back to 1923. This report is comprehensive as to establishments included, and it covers not only production but capital, employees, wages, etc. etc. The more important paragraphs are marked; it will be seen that large gains are recorded since 1924.

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C 40672

EMPLOYMENT IN THE AGRICULTURAL IMPLEMENT INDUSTRY SINCE 1924

(Monthly Reports of Number of Employees from 37 Leading Concerns).

Months	1928	1927	1926	1925	1924
January	7,855	8,801	7,084	3,991	5,387
February	8,165	9,151	7,494	4,615	6,017
March	8,616	9,397	7,859	5,211	6,137
April	8,523	9,510	8,257	5,793	6,176
May	8,311	9,071	8,329	5,688	6,034
June	8,402	9,042	8,418	5,726	5,856
July	8,254	8,737	9,195	5,973	5,568
August	8,541	8,698	8,869	5,944	4,948
September	7,890	7,718	8,072	5,711	3,927
October	8,149	7,766	7,522	5,963	3,429
November	8,638	7,731	8,432	6,360	3,651
December	9,052	7,762	9,032	6,841	4,277

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C 40673

Re: Milk Subsidy

The Government had announced its intention to remove the milk subsidy on a certain date;

to allow the provinces thereafter to control the sale and distribution of milk;

The House requested a reconsideration by the Government of its decision.

The Government reconsidered its decision and decided to hold to its original intention.

The significant fact is that the Conservative party has been advocating getting rid of all controls.

In one case, when the vote came in the House, it voted in favour of Government reconsidering to abandon control.

C 40674

Delegations

Agricultural Instruction Act

January 3, 1924

2 → ministers of Agriculture of Provinces

Delegates: Hon. H. Greenfield, Premier of Alberta
Hon. C. M. Hamilton, Minister of Agriculture, Saskatchewan
Mr. W. B. Roadhouse, Deputy Min. of Agriculture, Ontario
Hon. D. W. Mersereau, Min. of Agriculture, New Brunswick
Mr. J. A. Grenier, Deputy Minister of Agriculture, Quebec
Professor Barton and Mr. F.H.Grindley, Macdonald College, Quebec.
(Hon. J.S. Martin, Min. of Agriculture, Ontario, saw Mr. Motherwell and Mr. Macdonald after the Conference).

omit

Received by: The Prime Minister, the Hons. W.R.Motherwell, Charles Murphy, Charles Stewart, Ernest Lapoints, E.J.McMurray, James Murdock, E.M.Macdonald, and Jacques Bureau.

Subject: Continuance of the Federal Government grant to the Provinces. Mr. Greenfield stated that in his opinion "now would be the worst time to curtail a grant of this nature."

Disposition: The Prime Minister stated that the Government would carefully consider their representations, but did not hold out much encouragement that their wishes would be met. Grant ~~for~~ was made for period of ten years, and the ten years had expired.

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A-1000-F

C 40675

Delegation re Western Canada Fairs
which interviewed the Government
on Monday, April 26,1926, in the
Prime Minister's Office, H. of C.

Members of the Government present:

The Right Honourable W. L. Mackenzie King,

The Honourable W. R. Motherwell,

The Honourable Charles Stewart,

also

Mr. Robert Forke, M.P.,

Mr. Geo. W. McPhee, M.P.,

Mr. W. J. Ward, M.P.,

Mr. E. J. Young, M.P.

Delegation consisted of:

Honourable T. A. Davis,

Mr. J. D. McDonald, of Dauphin, Man.

Mr. H. Huxley, of Lloydminster, Sask.,
Secretary, ~~Canada~~ Western Canada Fairs;

Mr. O. E. Heaslip, of Dauphin, Man.
Representing Manitoba Fair Association.

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MR. J. D. McDONALD: emphasized the importance to agricultural development in the West of granting Federal aid to "B" class agricultural societies. Such societies carried on a wide range of activities, e.g. seed grain fairs, sales of pure bred live stock, cattle and horse clubs, and boys and girls clubs judging competitions in horticultural shows.

The Fairs ~~played~~ x fill a gap between provincial and federal activities.

Last season the fifteen (15) "B" class Western Societies had earned in Federal grants towards live stock prizes $40,000.

Delegation suggested for the future standardizing class "B" Fairs on basis that society must pay out at least $3,500 in live stock prize money whereupon Federal grant would be 40% of amount so paid up to a maximum Federal grant of $3,500.

Mr. McDonald said there were twenty-four class "B" Societies in Canada, of which fifteen were in the Western Provinces, and unless Government cooperated much of their good work would cease.

HONOURABLE T. A. DAVIS: Presented the case for Prince Albert, suggesting that the Government contribute $1,500 of the total live stock price list up to $5,000 and that the Government grant be 50% of any excess of $5,000.

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The Prime Minister mentioned his personal interest in the claims of the Prince Albert Society.

MR. HEASLIP: warned the Government that some Society would cease to function if the Federal grant were cut down as proposed to a flat rate of $1,500.

HONOURABLE W. R. MOTHERWELL: outlined the history of Federal grants from prior 1914 ~~xx~~ when the total amount granted was $50,000, up to the present time where such total has reached $300,000. In its inception the thing has been a war measure and the time had come to taper off. As amatter of fact it had been at present intended to reduce the flat rate of class "B" fairs to $1,000 but this had been increased to $1,500 on reconsideration (for which the Prime Minister claims some credit).

The RIGHT HONOURABLE PRIME MINISTER: spoke of the necessity of eliminating ~~xxxxx~~ post war charges on the Federal treasury, particularly where the Dominion was given money and the provinces was spending it.

Mr. HEXLEY: urged that the grant for this year be raised to $2,000 and that thereafter the Federal Government contribute 40% of actual live stock prizes paid out up to a maximum grant of $3,500.

In conclusion Mr. Motherwell undertook to let the delegation have a written decision within a couple of days.

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C 40678

PRIME MINISTER'S OFFICE

MEMORANDUM

Tuesday,
August 19,
1924

MR. GIDDENS:

Mr. Ahearn tells me that in the "Financial Post" of last week on page 10 there is an article about himself. Mr. King might be interested in seeing it.

McG.

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C 40679

PRIME MINISTER'S OFFICE

B-1000-A

Subject

Date Aug 15/24 Publication Financial Post

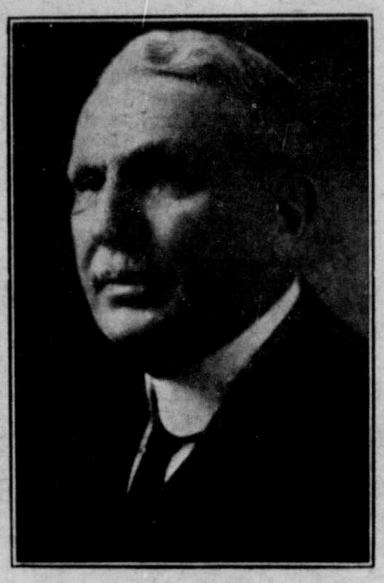
Thomas Ahearn is Ottawa's Biggest Captain of Industry

Pioneer in Field of Big Electrical Construction in Canada Got His Start by Offering to Run Messages "Gratis" for the Privilege of Learning Art of Tapping Key

By FLOYD S. CHALMERS

This story started out to be the story of Ahearn and Soper. It seemed when I started to write that one could not write of Thomas Ahearn or of Warren Y. Soper individually. Each story would have overlapped in nine-tenths of the incidents and reminiscences. But the power that no man can guide has intervened. Mr. Soper died a few weeks ago, leaving Mr. Ahearn to carry on the constructive work of the two. The story must be the story of Thomas Ahearn alone.

Ahearn is one of Canada's great men of the key. It is amazing how so many of Canada's big business leaders have been recruited from the ranks of the telegraph operators. Hosmer, Van Horne, McFarlane Ahearn, Soper, Gideon Robertson, E. R. Wood, Cox, Ormond Higman, H. B. Spence, and many others, are names that suggest themselves from the magnificent list. Ahearn started his business career in the Chaudiere office of the Montreal Telegraph Company. This was in the heart of the saw-mill district of Ottawa. His father ran a little blacksmith shop in the area. One morning, young Ahearn walked into the telegraph office, which was located in the office of J. R. Booth, the lumber king of the Ottawa, and told the manager that he would be willing to deliver their messages free of charge if they would let him try his hand at operating a telegraph key. Ahearn was willing to stake a few weeks' work on his faith in his ability to make good. He was not altogether an uninitiated person at telegraphing. His connection with the mysteries of the wire and the key went back further—to his boyhood friendships with young Warren Soper, who had come over with his family from Oldtown Maine. The two boys had played at telegraphy.



THOMAS AHEARN

Becomes a Full-time Operator

The manager of the telegraph instruments looked the lad over in surprise. He studied the serious, ambitious look on the boy's face and said: "There's a peg for your hat." In six months young Ahearn was a full-time operator, and, in another two years and a half, he went to New York to work for the Western Union. When he went he left behind him the reputation of being the cheeriest, most irrepressible operator in the Ottawa office.

One night the lady operator at a small rural station in Quebec wired to him:

"What do you call that little instrument where the green wire goes in?"

"The aurora borealis," wired back Ahearn.

A few minutes later the manager at the central station was receiving a pathetic complaint from the girl operator:

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C 40680

PRIME MINISTER'S OFFICE

Subject.....

Date.....*Publication*.....

"The little green wire which comes out of the aurora borealis is broken. What shall I do?"

In 1871, when young Ahearn had arrived in New York, he heard that a subscription was being taken up to erect a monument in Central Park to Professor Samuel F. B. Morse, the inventor of the telegraph. Out of his first week's pay he contributed five dollars towards the building of that memorial.

A Good Man at His Job

He was known as one of New York's best operators, and was entrusted with such important work as the receiving of messages from Washington. He received the rather high salary (high at that time) of $90 a month.

In a few years he returned to Ottawa and shortly afterward assumed the managership of the Ottawa office of the Bell Telephone Company. He was twenty-five when he obtained this important appointment. This work, as well as his telegraphic work, was but preliminary to his real life efforts. It was giving him a knowledge of the basic principles of electricity that was later to make of Ahearn and Soper leaders in electrical construction in Canada.

Ahearn was manager of the Ottawa office of the Bell Telephone Company. Soper was at the same time manager of the Ottawa office of the Dominion Telegraph Company. Both were drawing down fairly good salaries, and had excellent prospects for success. But they cut loose from their salaried jobs to go into business for themselves. They formed Ahearn and Soper, electrical contractors.

Getting Their First Orders

They lived, ate, slept, talked and dreamed electricity, for the next few difficult years. But most of all they read electricity. They kept in touch with every new development, and themselves invented a number of new contraptions for other people to keep in touch with.

They started to experiment first of all with electric call bells for offices and residences, and developed a system that worked. This attracted considerable attention. Then one day they landed a big contract.

The Commercial Cable Company wanted someone to build a number of lines along the bleak and rocky coast of the county of Guysborough in Nova Scotia. Ahearn and his partner took on the job, and finished it successfully. They got another big contract.

"Why not get the C. P. R.'s order for the telegraph instruments they need on their transcontinental line?" mused Ahearn one day. He broached the subject to his partner. No sooner was it suggested than essayed. Soper took the train to Montreal, saw Thomas Shaughnessy, purchasing agent for the C. P. R., and came home with the big contract. They were building up both their capital and a reputation for doing big jobs thoroughly.

Becoming Traction Magnates

Their master-stroke was the Ottawa street railway deal.

In the late 'eighties there was a good deal of speculation as to the feasibility of running street railway systems by electricity. There were many people in the United States ready to believe that electric street railways were a possibility. There were few in Canada to take this view. Canada was a country of severe winters. Snows were deep. The average man, and a large part of the engineering profession, could not see how the snow and ice problem could be surmounted in the construction and operation of an electric railway. Ahearn and his partner believed that it could be done. They saw that it would have to be done. They studied the problem, and finally worked out ways and means of handling winter operations. All they needed was a railway system on which to practice.

From 1870 to 1890 Ottawa had been served by horse-drawn cars on a few of the principal streets. In the twenty years of its existence the service had never showed any signs of improvement. Only the main streets were served. In winter, operation of the street cars was a problem. The cars were provided with straw to the depth of one foot littered on the floor in the hope that it would keep the cold out.

The Toronto Crowd Falls Down

In 1880, prominent Toronto people dickered with the city council of Ottawa for a franchise to operate an electric street railway. The deal fell through because the Toronto people failed to put up the necessary $5,000 to bind the bargain.

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PRIME MINISTER'S OFFICE

C 40681

Subject.....

Date.....*Publication*.....

Then stepped Ahearn upon the scene. He and Soper counted the cash in the till, found enough to go ahead, and rather startled their fellow citizens by offering to take over the franchise and build the railway. They sent their proposition to the council in a letter to which was pinned the $5,000 marked cheque. The $5,000 looked good to the council. They granted the franchise for twenty years and Ahearn and Soper gave Ottawa the first electric street railway in Canada.

The capital required for the undertaking was readily provided by Ottawa citizens. Including Messrs. Ahearn and Soper, who held the controlling interest, there were 56 original shareholders.

Some Other Enterprises

The lines were formally declared open for service and on June 30, 1891, five cars left the barns. The electric current supplying the motive force to operate the system was turned on at the company's Chaudiere plant by Franklyn Ahearn, son of Thomas Ahearn. He was then a boy of five. To-day he is a director of the system. Thomas Ahearn was at the controller of the first car, and Warren Y. Soper was motorman of the second car in the five-car procession.

A few years later the partners took over the perpetual franchise of the horse-drawn line, although it has subsequently been changed to a thirty-year franchise. The power for the railway came from a power plant at Chaudiere Falls.

This electric company had been organized in 1887 by Ahearn and Soper. The Chaudiere Electric Light and Power Company served the citizens of Ottawa with electric light and power in an excellent manner. It was the first incandescent electric light company in Canada. At that time only the larger cities in the United States—New York, Philadelphia, Chicago, and Boston, were being served, and only partially served with electricity. The electric railway followed shortly after the successful launching of this electric light and power venture.

The railway was successful from the start, and, to-day, is famed across the continent for its leadership in operation methods. Amongst electric railway men it is called the "Nickel Plate Road." The company solved snow problems and adopted the first type of electrical sweeper to be known on this continent. During the first winter the car service was kept on the move without cessation, and Ahearn, Soper, and their colleagues got a dinner out of this feat. The mayor of the city had wagered such a spread that they could not run the cars throughout the winter.

The street railway was the foundation on which has been built the Ottawa Electric Railway Company. The power plant was the foundation on which Ahearn and his partner built the Ottawa Light, Heat and Power group of companies that supply Ottawa with electric and gas service. Thomas Ahearn is still president of both companies. They are highly regarded by public utility operators.

Hardly had he seen these two companies started on their way when Ahearn was busy getting another into operation. The two partners took over an old carriage factory, and made of it the Ottawa Car Company to build street cars. This company achieved something of a reputation during the war by building ordnance equipment, something no other Canadian company ever attempted. In 1914 the Dominion government asked a number of big Canadian manufacturing concerns to undertake the manufacture of carriages and limbers for 18-pounder field guns, and 4.5 howitzers. A number of companies sent representatives to the plant of the Ottawa Car Company to see what kind of work they would have to turn out. When they saw the intricacies of detail, and estimated the expense of the plant that they would have to instal, they threw up the sponge and left the field to Ahearn's company.

Up to the time of Mr. Soper's death, a short while ago, the two men continued to utilize telegraphy for personal communication. Ahearn and Soper both had telegraph instruments upon their desks and in their homes.

Feats of Mystic Power

Their knowledge of Morse code has enabled them to mystify their friends on occasion. The classic story, oft recountered by their friends, tells how they convinced a party of out-of-town guests of their psychic abilities. Soper had always been a student of mind reading. He had so convinced one of the party of his powers in this art that this gentleman volunteered the guess that Mr. Soper was a psychic.

To convince them of this, Mr. Ahearn said he would try another experiment. He asked Mr. Soper to leave the room in order that some one might suggest a word and on Soper's return he would try to tell the word thought of.

Ahearn glanced at Soper, and, although neither spoke a word, both understood.

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PRIME MINISTER'S OFFICE C 40682

Subject.....

Date.....*Publication*.....

A moment later Mr. Soper returned.

"We have decided upon a very unusual word, and if you can guess it you are undoubtedly a mind reader," stated the firm believer in Mr. Soper's psychic powers.

The whole company placed their hands on the amateur medium's head and thought intently of the selected word. Mr. Ahearn's index finger gently and silently telegraphed the message to his partner.

"The word you have chosen is 'Pi,'" said Mr. Soper, and the supernatural manifestation was complete.

In this incident the Ahearn who joked with the girl operator on the telegraph line was bubbling over again.

"Spoofing" the Governor

There is a better story about Mr. Ahearn that is known to very few people. It concerns a governor-general of the Dominion.

When Lord Aberdeen occupied Rideau Hall he became interested in the occasional demonstrations of mentelepathy indulged in by Ahearn and Soper for the benefit of their friends. Ahearn and Soper agreed one night to show Lord Aberdeen how effective mind reading could be. Before their guests arrived the two jolly partners did a little carpentry and electrical work around the room. They fixed two little metal discs to the carpet, one at the back of the room and one at the front and connected them with a wire. Mr. Soper put a piece of metal on the sole of his shoe and connected it by a piece of copper wire running up his trouser leg to a small telegraph receiver in his pocket. One more detail was added. A telegraph operator was invited to the gathering and given a seat among the guests near the back of the room with a telegraph instrument also geared to his body.

The vice regal party arrived. Mr. Soper, blindfolded, was given a seat at the front of the room. Each of the guests was given an opportunity to ask questions which would be answered by Mr. Soper. The questions were quietly whispered to Mr. Ahearn who undertook to transmit them by thought transference to Mr. Soper.

How the Trick was Done

In going around the room, Mr. Ahearn took occasion to slip by the telegraph operator. Everybody took this individual for one of the guests. But when Mr. Ahearn leaned down towards him it was not to catch his whispered question, but to tell him what the other guests were asking. The operator put the message on the instrument in his pocket. The current ran down the wire in his trousers leg to the metal disc on his boot, which was in contact with the metal disc on the floor, underneath the rug carpet to Mr. Soper, and, in a moment, Mr. Soper was answering questions with miraculous ease.

The entire party was mystified. Lord Aberdeen talked of the wonderful demonstration for days afterward. But the telegraph operator talked and the news trickled around the town that Messrs. Ahearn and Soper, in their natural bent for playing tricks on folks, had put it over the governor-general. Perhaps the governor-general heard how the "miracle" had actually been performed.

When Mr. Ahearn met him in London a few years later, Lord Aberdeen remarked: "Oh, I knew all the time how you were doing it."

These incidents show that it is possible for a leader in business, a magnate in electricity, to be a warm-hearted individual with the heart of a boy. For that is what Thomas Ahearn is, even though he be Ottawa's biggest business man.

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C 40683

PRIME MINISTER'S OFFICE

Subject.....

Date June 24/27 Publication Ottawa Morning Citizen

CELEBRATES 72ND BIRTHDAY TODAY

Thomas Ahearn, Chairman of Federal District Commission, Born June 24, 1855.

Mr. Thomas Ahearn, who is as well-known throughout Canada as in Ottawa, his native city, is 72 years old today. He looks not a day older than a man of 45 and says that he feels as fit as a healthy young man of 25. Mr. Ahearn was born June 24, 1855. He began life in a humble position with a pioneer telegraph company in Ottawa and by his own energy and ability has become one of the outstanding men in the electrical world. For many years he has been president of the Ottawa Electric Railway, the Ottawa Electric and Gas Companies, the Ottawa Car Manufacturing Company, and is also a director of the Bank of Montreal, the Bell Telephone Company the Canadian Westinghouse Company and a number of other important concerns.

With the late Warren Y. Soper, he was associated in the electrification of the Ottawa Street Railway in the early nineties, and it was he who solved the problem of electric railway operation in the winter months. Few men have been more directly connected with the practical development of electric service in all its many ramifications than Mr. Ahearn.

Expert Telegrapher.

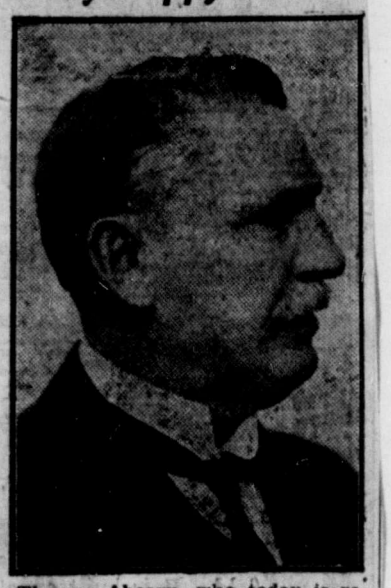
In his earlier years he was a telegraph operator, and is as expert today at the key as he was then. Only a few months ago he passed the exacting examination set by the Radio branch of the Canadian government department of marine in radio telegraphy and passed with 92 per cent. This examination required proficiency in the Morse Continental, Canadian and American codes.

Recently he was appointed chairman of the Federal District Commission, which is just now engaged in an ambitious program for the further beautification of Ottawa.

Though many well deserved honors have come to Mr. Ahearn through the years he has not lost any of those human qualities, which inspire the respect and affection of one's fellow men.

His fellow citizens and his many friends throughout Canada and elsewhere will wish him many happy returns of the day.

Many Happy Returns



Thomas Ahearn, who today is receiving congratulations on the 72nd anniversary of his birthday, June 24, 18[illegible].

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PRIME MINISTER'S OFFICE C 40684

Subject.....

Date July 21/31 Publication Ottawa Journal

MR. AHEARN'S ACHIEVEMENT.

"From this microphone went forth the first sound of the carillon in the Peace Tower, carrying to all the world Canada's message of 'peace and good will to men,'" is the inscription on the microphone presented to Mr. THOMAS AHEARN at the winding-up meeting of the Broadcasting Committee of the Diamond Jubilee of Confederation, in Montreal. Mr. AHEARN has long been the dean of electrical transportation and communication in this Dominion, and it is indeed fitting that, as one of the crowning exploits of his career, he should have directed the organization which, on July 1st, established another milestone in our electrical communication history.

It required vision to see the possibilities of a national tie-up and it is doubtful if any other man could have secured the co-operation of the many companies and provincial governments necessary to translate the vision into an actuality. He animated everyone concerned with a true national spirit, and, as a result, all the lines, radio stations and staffs were given free of charge, otherwise a very large proportion of the $250,000 appropriated for the Jubilee of Confederation would have been required to cover the cost. Nor did his contribution cease with this. The technical experts reported that with these facilities the tie-up was a possibility, but that there was not a single telephone repeater of the type required in this country. Mr. AHEARN, through his affiliations in the United States, secured the loan of $100.000 of apparatus, and under his direction in the short space of two weeks, this was all assembled shipped and set up, and men trained to operate it, and five days before July 1st the first through test, tying up radio stations from the Atlantic to the Pacific, was successfully carried out.

We have long thought of Mr. AHEARN as belonging to Ottawa, but as a result of his latest achievement, we must hereafter be content to share him with the rest of this Dominion.

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C 40685

MEMORANDUM FOR MR. KING:

Saturday,
December 3,
1927

Re: Complimentary Dinner to Mr. Thomas Ahearn,
Country Club, Ottawa, December 8.

I am sending you herewith some material relating to the career of Mr. Ahearn. The extract from "Who's Who" gives a summary of his life and public activities. The article from "The Financial Post" gives an excellent account of some of the picturesque incidents in his public career, and deals in particular with the successful enterprises with which he has been connected. I think it is worth noting that Mr. Ahearn has been identified throughout his life with transportation and communication - two fields of service which have contributed so remarkably to the development of national unity. In fact it can be said of both that they have tended to make the nation a community or neighbourhood. I suppose the climax of Mr. Ahearn's activity in this direction was reached during the present year when he presided over the Committee which arranged for the broadcasting of the Diamond Jubilee Celebrations on Parliament Hill.

Mr. Ahearn's connection with the Federal District Commission, over which he presides at the present time, reveals ~~another side~~ of his interests, and affords yet ~~another~~ further example of his public spirit. In speaking of his work for the beautification

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of Ottawa you might think it appropriate to make some reference to the following quotations in ~~Plutarch's~~ Plutarch's Lives. It is recorded that Themistocles, on being taunted for his want of musical and social accomplishments made the following reply:

> "I never learned how to tune a harp or play upon a lute, but I know how to raise a small and inconsiderable city to glory and greatness".

I think it might be fitting to say that when Mr. Ahearn's work is done as Chairman of the Federal District Commission, he, too, might be able to say that he had raised a small and inconsiderable city to glory and greatness. (This, of course, without any reflection upon his musical attainments).

The other quotation I had in mind was a remark made by Suetonius, that Augustus would have been justified in making the boast that he found Rome a City of bricks and left it a City of marble. This quotation is perhaps not quite so apposite as it stands, but it might be paraphrased in such a way as to suggest that Mr. Ahearn found Ottawa a city without distinction and left it a place of surpassing beauty. Doubtless some other variation of this phrase will suggest itself to you.

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C 4068?

THOMAS AHEARN

Electrical Engineer, Ottawa, Ontario.

President: Ottawa Investment Company;
President: Ottawa Land Association;
President: Ottawa Car Manufacturing Company;
President: Ottawa Gas Company;
President: Ottawa Electric Company;
President: Ottawa Light, Heat and Power Company;
President: Ottawa Traction Company;
Director: Canadian Westinghouse Company;
Director: Bell Telephone Company of Canada;
President: Ahearn & Soper, Limited;
Director: The Northern Electric Company;
Director: Bank of Montreal;
Chairman: Ottawa Improvement Commission, etc., etc.

Born: Ottawa, June 24, 1855.

Originally a telegraph operator, Ottawa and New York;
Manager: Bell Telephone Company, Ottawa, 1880;
Entered into partnership with Warren Y. Soper under firm name of Ahearn & Soper, electrical engineers and contractors, 1882, who have constructed and equipped some of the largest electric works in Canada.

One of the founders Chaudiere Electric Light and Power Company. 1886; merged in Ottawa Electric Company, 1893; and with the Ottawa Gas Company was absorbed by Ottawa Light, Heat and Power Company.

One of the founders and President, Ottawa Electric Railway Company, the pioneer venture of its kind in Canada, which solved the problem of operating in Canada an electric service on wheels throughout the winter.

Member: American Institute of Electrical Engineers; Old Time Telegraphers and Pioneer Telephone Associations.

Clubs: Rideau; Ottawa Golf; Ottawa Hunt; Ottawa Country; Laurentian; Rivermead Golf; Mount Royal (Montreal); Travelling.

Residence: "Buena Vista", Laurier Avenue, Ottawa, Ontario.

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C 40688 E-1306.

AIYER, SIR S.

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.
E.T.

Memorandum for Mr.King.

Submitted herewith is copy of a telegram received from Mr.Hudd,Canadian Government Trade Commissioner in New York, showing the Hon.Sir Sivaswamy Aiyer's intended programme. I have this moment received from Mr.Hudd a further telegram,dated today,amending the earlier itinerary in several respects. Having regard to the circumstances of this visit, to the fact that Sir Sivaswamy Aiyer is not so important a man as Mr. Sastri, and is not visiting Canada on any particular mission or in any representative capacity, it does not seem to me that the Government here is called upon to pay his hotel bills while in this country. I think that if we were to provide him with railway transportation from here to Vancouver, it would answer every purpose, unless Mr.King may think that Mr.Fielding's telegram (copy of which for convenience of reference I enclose), calls for more.

11 Oct.1922

13 Oct.1922

28 Sept.1922

Ottawa,13th October,1922

J. Pope

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C 40689

PRIVY COUNCIL
CANADA

Ottawa, 25th May, 1925.

M e m o r a n d u m

f o r

The Right Honourable the Prime Minister.

:-:-:-:-:-:-:-:-:-:-:-:-:

Mr. Lemaire was speaking over the telephone a few days ago with Mr. Oswald Mayrand, Managing Editor of La Presse, Montreal, on the subject of the benefit concert to Madame Albani, on Thursday, the 28th instant.

Mr. Mayrand and, evidently, those in charge of the concert, believe that if the Prime Minister would consent to say a few words in French and English ---at least in English--- great impetus would be given possible subscriptions to the fund, whilst if La Presse were allowed, in their editions of Tuesday, Wednesday and Thursday, to announce that the Prime Minister of Canada, in addition to being present, would also say a few words, it would have a wonderful effect upon the attandance.

Mr. Lemaire respectfully refers the matter to Mr. King.

E. J. Lemaire,
Clerk of the Privy Council.

I do not think I should attempt to speak in either language. I cannot very well do so in one instance doing so in the other. At the close of the performance I might thank those who have participated. & La Presse, and I do not think there

MAY 25 1925

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ought to be announced. - In any event I ought
before I am informed of the Cabinet would like done in any
official statement reference should be thereto
I might make - including reference to ~~Treaty~~ Order
Order conferred on Lady Allan & Mrs King.

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C 40691 E 1451-1

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SOUTH-EASTERN EUROPE. [March 19.]

CONFIDENTIAL. SECTION 4.

[C 5147/1380/90] No. 1.

Mr. Eyres to the Marquess Curzon of Kedleston.—(*Received March* 19.)

(No. 16.)

My Lord, *Durazzo, March* 2, 1923.

WHILE I consider it to be necessary to address your Lordship on the following subject, I should regret that too serious a view should be taken of, or too much emphasis laid on, the tendencies which I am about to review, for it is very difficult to estimate justly the strength of these sentiments or their value in the political arena, apart from the fact that in this country feelings change with remarkable rapidity in accordance with the exigencies of the moment.

2. I have several times previously had occasion to discuss the possibility of a rapprochement between the Mussulmans and Christians in Albania, and have expressed a somewhat hopeful view of the future in this respect, relying always rather on the younger generation than on the older men, of whom it is perhaps too much to expect that they should change the habits and outlook of a lifetime. I have heard much enthusiastic talk on the part of the younger Mussulmans in favour of sinking all differences and of equal treatment of all as Albanians without regard to religion. I had hoped that in the south such a change was actually on the way, and in the north I was told that a very great elimination of fanaticism was to be noted by those who had known the district ten years or more before.

3. Now, however, I regret to have to report that the pendulum appears to be swinging the other way. In the first place, in Government circles it is quite clear to me that a change of attitude has taken place. I do not know to what cause to ascribe this fact, but I incline to the belief that it has its origin in the Kemalist success and in the support which Italy is inclined to afford to the Moslem element. She took this line in the war, though it was at that time exceedingly impolitic, and thus earned the hatred of the Orthodox population of Epirus. Baron Aliotti was the exponent of this policy in 1914, and there are signs that Italy is returning to it. Her agents express themselves as favourable to the Kemalists and uphold the Turkish point of view. Herein may either be the destruction of the independence of Albania or the renewal of her influence in this country through the Mussulman element.

4. Up to lately the Albanian Government has been undoubtedly sincere in its repudiation of all connection with Kemalist aims and sympathies, and only a few weeks ago the official newspaper published articles ridiculing the ideas of the Mussulmans, who read the Turkish newspapers and held Turkish views. But lately there has been a good deal of propaganda, worked up no doubt by our Allies, to the effect that Great Britain has lost position and prestige in the Near East and is no longer to be feared as a Great Power; that France with Italy as her backer is the rising sun, and that those who relied on Great Britain had better revise their views while there is yet time. I know that Ahmed Bey has been impressed by this propaganda, and I fear that he may be induced to throw in his lot with the Islamic Party. The result of this would not be that Albania would turn to Turkey, but that she might become a Mussulman State, increasingly tending to dominate the Christian population. It is palpable that such a course would be fatal not only to her progress, but eventually to her existence.

5. As far as the country is concerned, I am informed that the Roman Catholic clergy who travel through the northern districts have observed with dismay that Mussulman fanaticism is on the increase in districts where it had nearly disappeared. I use the term "fanaticism" for want of a better word, but it is not meant to connote religious intolerance: it is rather a sentiment of self-interest. The same thing has been observed elsewhere, *e.g.*, in Crete. The truth is that when Mussulmans are brought face to face with the fact that more civilised methods of government are impending, they bethink themselves that their ascendancy is threatened, and they know in their hearts that their wares are not marketable in such a polity. Their education is entirely deficient, and their methods are only suited to an Oriental despotism. The exponents of the Ottoman law, whose knowledge is principally confined to the Sheriat, are totally unfitted to administer law based on Western principles, and they are afraid of being deprived of their livelihood. All this is natural enough, but there are in the Albanian

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character qualities which it was reasonable to suppose would keep these elements in abeyance. Their desire for progress and intense love of education are not compatible with the retrograde spirit now evinced: not that there is any reason for well-wishers of Albania to despair, for this may be only a passing phase.

6. Professor Sederholm, the League of Nations commissioner, has recently made a tour in the south, and he informs me that he was very disagreeably impressed with the attitude of the administration, in Argyrokastro particularly. He used the phrase "it resembles a little Turkey." Some Orthodox Albanians with whom he had a conversation were arrested and imprisoned by the authorities at Delvino for having dared to converse with him. They were released when he protested, but he has not so far obtained any satisfaction from the Central Government for this abuse of authority by the sub-prefect, who is himself of the Orthodox faith. The municipal doctor of Delvino, who held a conversation with him, was dismissed from his post.

7. At present there is sitting in Tirana a synod of Sunni Mussulmans. The objects of this assembly are described as being purely religious, education and the advancement of the faith being the subjects of discussion. It is also stated by some that there is an idea of establishing autocephalous Mussulman communities, and that this synod is similar in purpose to the Orthodox congress at Berat.

8. The origin of this assembly was a manifesto emanating from a similar synod in Asia Minor, which was endorsed by the mufti of Tirana and the kadi of Scutari. The Government has extended to it their favour and support, as the mayors were instructed to select delegates. I learn that the Mussulmans of Scutari have protested against this method of selection, and have demanded the return of their delegates at Scutari.

9. The Bektashis of the south are not in accord with the Sunnis and have sent a formal protest to the synod, stating that they will not accept any dictation from that assembly, and that they wish to be considered as a separate religious body. The Government is attempting to heal this breach. It is a matter of importance, for if the Bektashis break away there will be no religious majority in Albania.

10. I propose to report further to your Lordship when clearer knowledge shall have been obtained as to the objects and decisions of this synod.

I have, &c.
H. C. A. EYRES.

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C 40693 E 1451-1

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SOUTH-EASTERN EUROPE. [June 10, 1924.]

CONFIDENTIAL. SECTION 1.

[C 9139/4808/90] No. 1.

Mr. Eyres to Mr. MacDonald.—(*Received June* 10.)

(No. 53 Confidential.)

Sir, *Durazzo, May* 30, 1924.

IT is now about three and a half years since Albania was admitted as a member of the League of Nations, and two and a half years since the Government was recognised by Great Britain as a *de jure*, as well as a *de facto*, Government. It may be well, therefore, to take stock of the actual situation in this country, and to examine how far she has responded to the hopes of those who supported her claim to independence, and whether she has shown that impulse towards political and social progress which alone can justify and render permanent her existence as a separate State. For her geographical position is such that without a stable Government she would be in constant difficulties with her neighbours, and the peace of the Balkans would be continually endangered.

2. Three years, however, is a very short period in the evolution of a people, and it would not be reasonable to condemn as unsuccessful the Albanian experiment, or to accept it as a proved success, on so brief an experience.

3. With this proviso I will proceed to give my own impressions as to the actual facts of the case, and as to the possible future.

4. When I first renewed my acquaintance with this country early in 1921 I was astonished to find that the conflicting elements, the union of which it had been the policy of the Turkish Government to prevent, were superficially at any rate content to abandon their irreconcilable attitude to each other, and had settled down to form a national Government. If Albania had been enclosed at that time in a ring-fence and a strong ruler placed at the head of the State, I have little doubt but that a stable Government would have resulted. But foreign intriguers did not fail to seize the opportunity offered by the discontent of various chieftains, *e.g.*, Marko Gjoni, Bairam Tsuri and others, whose first principle was that they should be subventioned by the State. This idea had been fostered by the Turkish Government, which had always followed the policy of cajolery and bribes. The poverty of the Albanian Government and their rightful objections to such a course precluded the possibility of satisfying these persons. Hence risings engineered from outside caused constant internal trouble and threw the finances into confusion.

5. In addition to this the Albanian patriots at Lushnija were unfortunately infected with the virus of parliamentary government, that vice of the East. It is regrettable that the representative of a country famous as the champion of free institutions should be compelled to use such a term, but a prolonged acquaintance with Moslem countries has convinced me that, in spite of the experience of the West, with Orientals who have never passed through centuries of slow political evolution, and whose ideas of government are radically opposed to Western methods, such a system will always spell disaster. Albanians, although Aryans by race and Europeans geographically, have a purely Oriental outlook owing to their long subservience to the soul-destroying dominion of the Turks. The Moslems still despise the Christians, and the Christians still are "rayahs," *i.e.*, persons occupying an inferior position, and they cannot shake off the weakness and cowardice engendered by their long slavery, even though the Government has nominally put an end to any differentiation due to religion.

6. In these circumstances, and with these elements, that is to say, a totally uneducated people, from whom was gradually evolved an equally ignorant political class consisting of persons more gifted in the matter of intrigue than their fellows, the Chamber became the scene of wrangles between Deputies, who had only their personal ends in view.

7. Naturally there were some exceptions, very few and not very brilliant. Amongst these Ahmed Bey stands out prominently as a man of energy and a patriot. He has also one quality very rare in Albania—he is not afraid of work. When he came to power at the beginning of 1922 at the head of the Popular party, it unfortunately happened that the mainstay of the party was the so-called "Clique," a secret society

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formed for the purpose of working for Albanian independence, which, when its end was achieved, degenerated into a self-seeking body whose methods are intrigue and assassination. Ahmed Bey tried to use the Clique, and at first appeared to succeed. At any rate during the best part of two years he maintained order. He then found himself hampered at every turn by the too dominant Clique, and came to the conclusion that the country could only be run by foreign advisers. Consequently he applied for and secured advisers in several Departments. But he did not know how to give them effective support, and without his help they could not make head against the steady opposition of the rest of the Ministers and the civil servants. He then tried to rid himself of the Clique, and when they revolted he found himself not sufficiently powerful to quell the mutineers. He had disgusted a fair number of well-meaning Deputies by his inveterate habit of promising everything to everybody and his consequent inability to keep his word. Since that time there has been no Government to speak of, and there is anarchy throughout the country,

8. The present Government is weak and divided in counsel, and the subversive elements have taken advantage of this fact. It may be presumed that Luigi Gura Kuqi, Deputy of Scutari, who is the agent of the Franciscans, is the mainspring of this conspiracy. (While it would be unjust in the extreme to belittle the humanising work of the Franciscans in the northern mountains, it must be admitted—albeit reluctantly—that they have, for one reason or another, allowed themselves to be used as political propagandists, firstly by the Austrians and then by the Italians.) Gura Kuqi is always credited with the intention of rendering government impossible and bringing about an Italian protectorate. He formerly worked for an Austrian occupation. He has been the persistent opponent of all concessions to other than Italians. He was the prime mover in the attack on the Financial Adviser. He was lately Minister of Finance for a few weeks, and then deserted the Government and retired to Scutari with all the Scutari Deputies with a view to rendering the Constituent Assembly impotent.

9. A considerable proportion of the Deputies have not sufficient intelligence to see whither they are tending. They lack cohesion and are a prey to the cleverer intriguers. They hearken to the wildest propaganda and believe any rumour. At the present time Ahmed Bey is the object of a most unscrupulous campaign of calumny, and every crime that hate, jealousy and fear can invent is put to his account.

10. In their dealings with neighbouring States the Albanian Government is apt to display the vanity and touchiness which are a fundamental part of the Albanian character. Lek Dukagin laid it down in his famous canon that on the road men should walk a rifle-length apart and women a distaff-length, lest a blow might be accidentally given, for even an accidental blow meant blood. So to-day every minor matter is exaggerated in their minds, and they see insults and unfriendly attitudes in the most ordinary phases of political life. The foreign press is watched with jealous eyes, and if an irresponsible newspaper prints an article unfavourable to this country, they consider it a point of honour to return a Roland for their Oliver. It requires constant watchfulness to restrain this chauvinistic attitude, and it is only occasionally that a friendly observer like myself can intervene in time to save the situation.

11. It is to this point that the general political situation has been brought, and it must be confessed that there is not much to encourage hopes for the future. But it remains to consider whether the people have fundamental characteristics which might enable them to eliminate the froth and scum which have now come to the top, and evolve a sounder system of government.

12. The Albanian people are not homogeneous in character. The late General Phillips observed once that he did not recognise the South as Albanians at all; compared with the great virile North they were a despicable lot. And there is some truth in this. The mountaineer of the north, whether Moslem or Christian, is first and foremost a man. His virtues are the savage virtues and he is chivalrous, he keeps his word and he will never harm a woman. If foreign intrigue, as worked through the Franciscan Order, be excluded, these people would form an excellent nucleus for a stable Government. They are shrewd and reasonably intelligent, although largely illiterate. The population of the central towns, on the contrary, is most degenerate. They are utterly lazy, riddled with venereal disease and malaria, and effete in every sense. The agricultural population of the plains are harmless, simple people, but they have no incentive to raise themselves or to work more than is barely necessary for their daily bread. In the south the Moslems are, especially in Argyrocastro, most retrogade and imbued with all the vices of the Turk, but the Christian population is industrious and anxious to raise their status and to make progress on civilised lines. In Koritza the people are more of a

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commercial type and are willing to work and eager for education. The mountaineers of Kurvelesh are again a virile people, but they are very backward in development. They are few in number.

13. A point to be emphasised, both to explain and to excuse the considerations set forth above, is that Albania in reality is a country without a history. Her people had not progressed beyond the tribal stage, and had never combined as a nation against a foreign invader when their land was at last swamped by the Turkish tide. From that time every circumstance made for the perpetuation of their divisions; Orthodox Christians tended to be identified with Greek or Serb; the Catholics of the north learned to look for help abroad rather than amongst their countrymen; the nationality of the Moslems was obscured by the shadow of a Moslem conqueror. Their divisions of sentiment and their divisions of language were deliberately fostered in order to weaken resistance to the Turk. The strange fact to-day is not that national consciousness is weak, but that it exists. This fact is the most important and the most encouraging of those which I have to report.

14. It must always be kept in mind that these remarks are made about a Balkan people, and that everything is comparative. If Albanians were compared with their neighbours from the point of view of character they would certainly not come off second best, especially considering their opportunities. They are as a people infinitely superior to the Turks, and this was always notable in pre-war Turkey, when, speaking generally, every Turk who evinced any sterling qualities always proved on investigation to be an Albanian. The Albanians are susceptible of improvement, they have the spark of progress and are intensely desirous of obtaining facilities for education. Their ingrained lazy habits militate against these inclinations, but the eradication of this defect is only a question of time.

15. The head of the American Technical School in Tirana told me lately that, while the high hopes he had entertained at first had not been fulfilled, he was reasonably satisfied with the intelligence of his pupils and the progress made. But to produce the best results it would be necessary that a college with a higher standard should be instituted for the further training of the boys when they had finished their five years' course.

16. I make the following deductions from what I have stated above :—

The present political outlook is exceedingly gloomy. I cannot see any possibility at present of forming a Ministry of men of reasonable capacity, energy and intelligence. A dictatorship, with Ahmed Bey at its head, might save the situation, but it is not practical politics, and his life would always be in danger. Presumably, one faction will succeed another and the Government will always be weak and ineffective. The uneducated youth, who are filled up with chimerical ideas and frothy sentiment, fall under the influence of the wily politicians who have axes to grind.

17. But, if given time, the sound qualities of a considerable portion of the population, aided by the spread of education, may save the State.

18. On the other hand, there are certain alternatives to be considered. I do not propose now to discuss the policy of His Majesty's Government in these regions, as to how far it may be considered desirable to maintain an independent Albania as a barrier against the Slav and as a buffer between Jugoslavia, Greece and Italy; I will simply address myself to the visible possibilities.

19. The first of these is an Italian protectorate. (I dismiss with regret the possibility of a mandate being undertaken by the only Power which would be welcome to the Albanians.) It seems doubtful if Jugoslavia and Greece would agree to such a solution; in fact, I am informed that Greece would be strongly opposed to it. But supposing such obstacles to be overcome, would it be a success?

20. In my humble judgment it would not. The immense majority of the Albanians would fiercely resent it. They would not submit except under armed pressure. The Italians are not the people to make a success of such a venture in Albania. They abundantly proved this in the war, and many of them admit it. Whereas the Austrian occupation, with its very strict discipline, its stern but just administration, has left no bitter memory in this country, the Albanian spits at the mention of an Italian. I am of course not speaking of paid agents and gentry of that ilk. Presumably therefore it would be a very costly and dangerous experiment, unless very large forces were mobilised.

21. Secondly, there is the partition of Albania between the three States. This is a conceivable solution, but can only be discussed in connection with the high political

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situation. I have been frequently informed by the Greek Minister that the Greek Government would view with dismay any arrangement that made their frontier coterminous with that of Italy, and that they had made up their minds that the loss of Koritza and Argyrocastro was a blessing in disguise for that very reason. Purely from the humanitarian point of view it would be distressing to see any more Albanians handed over to the tender mercies of the Serbs.

22. Moreover, it is, I think, apparent that any scheme of partition would inevitably create a running sore in the Balkans analogous to that existing in Macedonia, but far more dangerous.

23. Thirdly, there is a plan which I have touched on in previous despatches, and which I now proceed to develop.

24. Eleven years ago it was freely recognised that Albania could not tide over the early years of her existence without a subsidy. To-day she is in a far poorer position than she was then, and yet she has been left without assistance. The conditions under which a loan was formerly promised have passed away, and of the six Great Powers only three remain for this purpose at least. But I submit that the concert of Europe which was responsible eleven years ago for the birth of this State is equally responsible to-day, and that the numberless changes that have occurred should not be allowed to free it of its trusteeship.

25. In 1913 Albania was supplied with a Prince, a Commission of Control and the promise of a loan, and with a most iniquitous frontier, which was so drawn as to deprive the North-Eastern tribes of their market towns and their means of livelihood, and has caused, as inevitably it must have caused, hundreds of deaths from starvation. In 1921 the frontiers were not rectified, and Albania was left to work out her salvation alone, lacking even those safeguards and aids which were considered essential in 1913 when conditions were easier.

26. A strong case therefore can be made out for the floating of a loan through the League of Nations. This would entail financial control by a neutral commission, whose members should be preferably of one nationality, say Danish, considering the experience that Denmark has had of intensive agricultural production in a small country. Incapable as Albania is of managing her own finances, it appears to be the only practical solution. It is not to be supposed that such a loan would be a charitable gift. Probably under such conditions no money would be available. There are visible assets in Albania according to the reports of engineers which would be amply sufficient to secure the interest for a period of eight to ten years. When it was suggested to the Albanian Government that they should themselves develop these resources (which are principally forests within easy reach of the sea), they declared that they were incapable of doing so, and I fear that they were speaking the truth. There are also other securities, *e.g.*, the customs, which, under proper control, would no doubt increase in value.

27. Part of the loan should no doubt be devoted to the advancement of agriculture, to the purchase of seed, stock and agricultural machinery to be purchased from the subscribing Powers in proportion to their subscriptions, and there should be at least one agricultural expert among the commissioners who would supervise the proper distribution of the material. The other portion should be used for public works, principally means of communication.

28. I could, if necessary, go into much greater detail, but I am now making a general proposition, and I have only sketched in these few details as evidence that I am not putting forward unconsidered ideas and because I wish to insist on the importance of agricultural reform as a staple of Albania's existence.

29. I am aware that great objections can and will be made both by Albanians and by the States called on to subscribe to the foregoing scheme, but I would remind the first that they are still children politically and economically, and I would ask the second, the fellow-members of Albania in the League, whether they think that, according to the principles for which the League stands, Albania should be helped or not. If her decline and eventual disruption can be viewed with equanimity, well and good. If not, palliatory measures are no good and heroic remedies must be employed to cure her of the economic troubles which are the chief causes of her political unrest.

30. I am sending copy of this despatch direct to His Majesty's Ambassador in Rome.

I have, &c.
H. C. A. EYRES.

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C 40697

PRIME MINISTER'S OFFICE

MEMORANDUM

Tuesday,
July 31, 1923

MR. KING:

I was under the impression that the telegram protesting against the Alberta Legislation referred to herein came from Mr. Evans. On reference to the fyle I find that this is not so, but that it came from persons interested in the Calgary and Edmonton Land Company.

WHM.

C 40698

DISALLOWANCE OF MINERAL TAXATION ACT OF ALBERTA.
Petition from Hudson's Bay Company and letter from Harry Evans, Esq.

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C 40699 L-1000-C

file C

Memorandum for Fyle:

Ottawa, August 14, 1923.

DISALLOWANCE of MINERAL TAXATION ACT of ALBERTA.

Application based upon petition of Hudson's Bay Company, containing the following representations:

1. The Company on November 19, 1869, executed a Deed of Surrender to the Crown, subject to the following condition:-

"The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity; and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by the said Company previously to such acceptance of the said surrender."

2. The Province of Alberta was established by the Alberta Act, being Chap.111 of the Statutes of 1905. Section 23 of the Alberta Act is as follows:

"Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that Company surrendered Rupert's Land to the Crown."

3. The Company, in pursuance of the said Deed of Surrender, Complementary Order-in-Council, and Dominion Lands Act of 1872, has acquired title to approximately two million acres of land including the minerals therein and thereunder. The Company has resold certain parcels of this land and, following Dominion Government precedent, has reserved therefrom the mines and minerals therein (such reservation being made without any actual knowledge of whether such lands contained minerals).

4. On April 21, 1923, the Alberta Legislature passed "An Act to impose a tax upon minerals" (Chap.45, Stat.of Alberta 1923). The Company contends that the said Act is:-

(a) Unconstitutional,
(b) Invalid,
(c) Confiscatory,

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(d) Discriminatory,
(e) Seriously prejudices interests of Dominion of Canada and Hudson's Bay Company.

(f) The tax is an exceptional tax within the meaning of Clause [illegible] of the Company's Deed of Surrender.

5. The Company prays for the disallowance of the Act of 1923.

L. Bell
14-viii-23.

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C 40701

PRIME MINISTER'S OFFICE

MEMORANDUM for fyle:

Friday,
August 24, 1923

This matter was discussed in Council today and referred to the Minister of Justice for such action as he may deem proper.

LCM.

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I -1000-C

PRIME MINISTER'S OFFICE C 40702

MEMORANDUM

Monday
February 18 [1924?]

MR. KING:

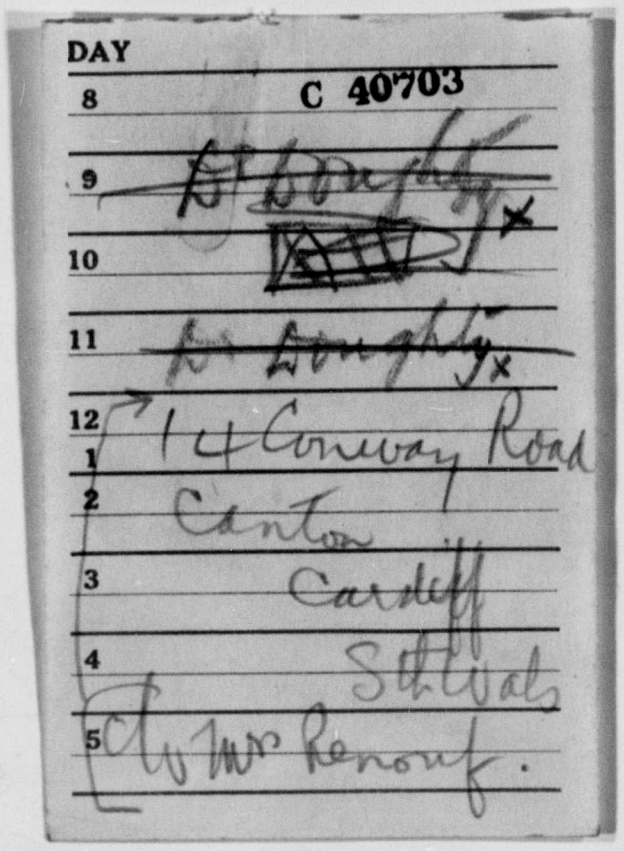
Mr. Edward Fitzgerald of the Hundson Bay Company, from Winnipeg, is in the city to-day and will be here tomorrow, staying at the Chateau, Room 449. He wishes to have between five and ten minutes with you with reference to the Alberta Mineral Tax Act. Mr. Fitzgerald says he knows you personally, and has come from Winnipeg specially to see you on this subject.

McG.

Arranged for 2.15 Tuesday
IK

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DAY

8 C 40703

9 ~~Mr Doughty~~ x

10

11 ~~Mr Doughty~~ x

12

1 14 Conway Road

2 Canton

3 Cardiff

4 S. Wales

5 Mrs Renouf.

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C 40704

Memorandum

Arrangements for C. Allen's journey

Mr. King:

In accordance with instructions, I have purchased a tourist ticket for Allen from Quebec to Southampton. I motored to Kingsmere yesterday, and while there asked Mrs. Patteson what date it would be best for Allen to sail. There are three dates: the "Mont Royal", September 15; the "Empress of France", September 19; - these two ships sail from Quebec to Southampton - the other date is the "Duchess of Atholl", from Montreal to Liverpool. Mrs. Patteson is having some things moved in from the country on the 15th, and it was thought that Allen might therefore sail on the 19th. Allen was aware of the dates of sailing, so I told him that Mr. McGill could not arrange the passage on the 15th, but could arrange it for the sailing on the 19th, which was a larger and quicker boat.

Allen is delighted at the prospect. I have told Allen that, when he arrives at his destination, you wish him to advise you, in care of the High Commissioner's Office, London, of his arrival and whereabouts. In the meantime, he has given me the following address as the one at which mail will reach him: c/o Mrs. Renouf, 14 Conway Road, Canton, Cardiff, South Wales.

Mr. McGill tells me that the amount paid for Allen's ticket is a minimum rate, but that he will see that Allen is given the best tourist accommodation on the boat.

The amounts I have spent on Allen's transportation are as follows: (Mr. Rogers has advanced the amounts to me for this purpose)

Steamship ticket.....	$87.50
War tax.....	5.00
Railway ticket from Ottawa to the ship.....	3.90
	$96.40

Mr. Rogers has given me $50 for Allen's expenses. I am giving Allen a small memorandum book, in which to enter his expenditures. I also have Allen's passport, which I shall give to him at the same time.

WHM

Ottawa, September 7, 1928.

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C 40705

Memorandum

Clifford Allen:

You paid for several items, including oil, glycerine, plug, etc., for Kingsmere. The total was $1.96. I had no change when you gave me the receipts. I enclose a $2 bill. You can get it changed at the Bank of Montreal, Waterloo Place, or at Cook's, when you go to London.

We have just had word that Mr. King is returning on the S. S. "Duchess of Bedford", leaving England on the 19th of October.

I hope you had a pleasant voyage over, and that the cabin eventually given to you was comfortable.

WLMK

Ottawa,
September 25, 1928.

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C 40706

Field-Marshal Viscount Allenby and Lady Allenby

VISIT TO OTTAWA

(The visit is under auspices of National Council of Education)

Mon. March 22.	11.00 pm	Leave Toronto	(C.P.R. have provided private car)
Tues. March 23.	7.50 am	Arr: Ottawa	
		On arrival Lord & Lady Allenby will proceed to Government House as guests of Their Excellencies.	
	1.00 pm lunch	Lord Allenby will address Canadian Club at Chateau Laurier on "Modern Egypt"	
		Lady Allenby will probably address the Women's Canadian Club at same time.	
	8.00 pm dinner	Government House. Mr. King has been invited.	
Wed. March 24	1.00 pm	Luncheon, Chateau Laurier as guest of officers of Department of National Defence; Hon. E. M. Macdonald will preside.	
	8.15 pm	Lecture on "The value to the British Empire of the campaign in Egypt and Palestine," under auspices of National Council of Education. Both Canadian Clubs are co-operating. At Assembly Hall of the Glebe Collegiate Institute, Carling Avenue.	
Thu. March 25	8.00 am	Leave Ottawa for Montreal.	

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C 40707

ALLENBY, Viscount

(Viscount, United Kingdom
created 1919)

Army rank: Field-Marshal

Edmund Henry Hynman Allenby G.C.B., G.C.M.G.

1st Viscount, son of Hynman Allenby of Felixstowe.

Born: April 23, 1861 (65 yrs.)

Married: 1896, Adelaide Mabel Chapman; a Lady of Grace of Order of St. John of Jerusalem in England, and has Grand Cordon of Order of El Kemal of Egypt.

Children: Had an only son, Horace, born 1898; Lieutenant in Royal Horse Artillery, killed in action 1917.

Heir: Title therefore goes to Lord Allenby's brother, F.C.HynmanAllenby

Educated: Haileybury, and at Royal Military College.

Career: Entered cavalry in 1882; Captain 1888, Major, 1897; Col. 1902, Maj.-Gen.1909, Lt.-Gen.1916, General 1917, Field-Marshal 1919;

Bechuanaland 1884-5; Zululand 1888; Sth.Africa 1899-1902.

European War: Commanded Cavalry Corps; Vth Army Corps; 3rd Army, and Egyptian Expeditionary Force.

Thanked by Parliament, granted £50,000 and created Viscount.

Appointed High Commissioner in Egypt, 1919.

Decorations:

British: C.B. 1902; K.C.B. 1915; G.C.M.G. 1917; G.C.B.1918; Knight of Grace of Order of St.John of Jerusalem in England.

Foreign: Grand Cordons of the Nile; While Eagle of Serbia; Redeemer of Greece; Crown of Roumania; Wen Hu of China; Rising Sun of Japan; El Nahda of the Hedjaz; Michael the Brave of

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Roumania; Grand Officer of Legion of Honour; Order of Leopold of Belgium; Order of Savoy of Italy; American Distinguished Service Medal; French and Belgian Croix de Guerre;

Armorial Bearings:

Three crescents and three horses'heads on the shield; The supporters of the shield are a horse and a camel.

The motto is: Fide et labore - With faith and labour.

Other Honours:

Captain of Deal Castle since 1925.

Gold Stick in Waiting.

Modes of Address (by Mr. King):

For Lord Allenby

Envelope:
Field-Marshal The Right Hon. the Viscount Allenby, G.C.B., G.C.M.G.
or less formally,
Field Marshal The Viscount Allenby, G.C.B., G.C.M.G.

Commence letter:
Dear Lord Allenby.

In Conversation:
Either "Lord Allenby", or "Viscount Allenby".

In Public Speech:
Initial reference: "Field-Marshal Viscount Allenby"
subsequent references, same as in Conversation.
"My Lord"

For Lady Allenby

Envelope:
The Right Hon. the Viscountess Allenby;
less formal - The Viscountess Allenby;
Other reference: Lady Allenby

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C 40709

Allenby's views

Speaking of the British Empire, Lord Allenby said, at Edmonton, March 12, 1926:

> "Children of an Empire which works for humanity" described the whole British race."
>
> "With all its countries united and true, the great British Empire must go forward, earnestly and magnificently. as members of one family, toward the wonderful future that lies in store."

At Victoria, B.C., March 7, 1926, he said:

> "We are all one great imperial family. We British are bound together by unbreakable ties. You say you are a Canadian first and a citizen of the Empire afterward, or a citizen of the Empire first and a Canadian afterward. It doesn't make any difference; it is the same thing whichever way you put it. We are one and will be forever."

For the Empire, Viscount Allenby pointed out, control of the seas was essential: "We must have the right of way on the avenues of communication". There was no desire to own the oceans, but their use must be unfettered.

> "As we stand now we are a menace to no one. We control our trade routes and we must continue to do so. We will maintain the rights that are ours and that always will be ours."

At Regina, Lord Allenby said:

> "If we stand together there will be no more war, for none dare stand against us."

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Lord Allenby's career

Lord Allenby is a cavalryman. In this he resembles Lord Byng. He distinguished himself in this arm of the service in the South African war and was "mentioned in despatches" twice for bravery during the campaign.

After the South African war Lord Allenby progressed steadily and was finally appointed, in 1910, Inspector General of Cavalry.

During the early days of the Great War, he commanded the cavalry, and demonstrated his ability during the retreat towards Paris, in which Byng's and Allenby's troopers were closely associated.

"His (Allenby's) cavalry division was the greatest asset in saving the British Army from annihilation during the strategic retreat".

Later on when, in 1915, mounts were discarded and action consisted of trench warfare, Allenby commanded the 5th Army Corps and then the Third Army, until June 1917, when he was sent to take over the Egyptian Command.

Egyptian and Palestine Campaign

After the evacuation of Gallipoli in 1916, the Turkish hopes revived and in 1917, stiffened by efficient German military assistance, the Turks took the offensive against the Suez canal and Egypt. Lloyd George informed Allenby that the British Government would like to see the Turk eliminated from the war before the end of 1917; Jerusalem was asked for as a Christmas present.

Viscount Allenby was accompanied to Egypt by Lady Allenby who directed the work of the Red Cross and Entertainments Committee.

In July 1917, a month after arrival in Egypt, Lord Allenby heard that his only son, Lieutenant Michael Allenby, had been killed in action in France.

There were three instruments which won the Palestine Campaign; the Camel Corps, the Egyptian Labor Corps, and the fleet of Ford motor cars. The vital difficulties were the water supply and

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the making of roads.

The Capture of Jerusalem

"Each move was strategically masterful, daring in conception and tactically perfect."

The following were points on the moving battle-front:

Beersheba;
Gaza, where one of Bonar Law's sons was killed;
Ascalon, where Richard Coeur de Lion reached victoriously for Jaffa;
Gath, the legendary home of Goliath;
Ashdod, the site of Dagon's temple where the captured Ark of the Covenant was held:
Jaffa, the seaport for Jerusalem;
The Plain of Sharon;
Beth Horon, Joshua's battlefield;
Mizpeh; Hebron; Bethlehem; Garden of Gethsemane; the Mount of Olives, and finally Jerusalem, which surrendered on December 9, 1917.

Allenby entered Jerusalem on foot and left the city on foot; throughout the ceremony of surrender, no Allied flag was flown.

After the capture of Jerusalem, Allenby continued pursuit of the Turkish Army, which included important German contingents, and finally encompassed its defeat.

Lord Allenby was appointed High Commissioner in Egypt in 1919. The murder, on November 19, 1924, of Sir Lee Stack caused a dangerous crisis.

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During the stress of the War, there are many incidents related of Allenby's love of children and birds; it is interesting to note, however, that Allenby had the nickname of "The Bull", and that he refused to suffer fools gladly.

Colonel Repington relates the following of Allenby during the peace-time training before the Great War:

> "Those who rode and worked with Allenby had to be well mounted, and untiring, for the General rode fast and far. I know of no other British Commander who more nearly approached the Wellington type, except that Allenby has attained everything by hard work alone."

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C 40713

COPY

COMMONWEALTH OF AUSTRALIA

DEBATES, HOUSE OF REPRESENTATIVES

November 2nd, 1927.

ADJOURNMENT

View of Secretary of State for the Dominions.

Mr. BRUCE (Flinders - Prime Minister and Minister for External Affairs). (10.11).- I move -

That the House do now adjourn.

For the information of honorable members, I desire to intimate that the Secretary of State for Dominion Affairs, Mr. Amery, will arrive in Canberra to-morrow morning. It is proposed that a parliamentary dinner shall be tendered to him to-morrow night, and the Government suggests that the House should adjourn at 5.45 p.m., so as to give honorable members sufficient time to attend that dinner. Subsequently a meeting of the members of both Houses will be held in private, in this chamber, to enable Mr. Amery to deliver to honorable members and honorable senators an address dealing with matters that are of interest to this Parliament, and also to provide an opportunity, for which a desire has been expressed by some honorable members, to address questions to the Dominions Secretary.

Question resolved in the affirmative.

House adjourned at 10.13 p.m.

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C 40714

COPY

COMMONWEALTH OF AUSTRALIA

DEBATES, HOUSE OF REPRESENTATIVES.

November 4, 1927.

MR. AMERY'S VISIT.

Address to Members of Parliament.

Mr. BRENNAN.- Referring to the address delivered to this Parliament last evening by the Dominions Secretary - with whose welcome I am sure we all wish to associate ourselves - when apparently, the press and the public were excluded from this building, is it the desire of the Prime Minister and the Government that the elaborate and able statement of Conservative policy made by the Dominions Secretary shall be the subject of criticism by honorable members here or elsewhere, or is it expected that the speech of the distinguished visitor shall pass without comment, as if accepted by every member of this House?

Mr. BRUCE.- I think that all honorable members understand the position to be that it was felt desirable that an opportunity should be given for the Secretary of State for the Dominions to address the members of this Parliament, and for honorable members to ask him any questions they might desire upon matters of general imperial interest. It was not assumed that every honorable member would agree with everything that was said, or that in the absence of debate it might be considered that the Opposition or the Government acquiesced in every statement that Mr. Amery had made. The desire was merely to have made available to honorable member as much information as possible. Many of the matters referred to last evening will be debated in this House, and upon the public platform, and varying and opposite views

will ...

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will be expressed upon them; but in such discussions some of the statements made last evening could not be repeated, as they were confidential, and it would be undesirable to give publicity to them. The discretion of honorable members individually as to what reference they make to Mr. Amery's speech is, Iam sure, to be relied on.

Mr. FENTON.- A verbatim report of the speech was taken last night, and I desire to know what kind of censorship will be exercised in regard to it. Is the report to be printed and distributed among honorable members for their further information?

Mr. BRUCE.- A typewritten copy of the report has been made, and it will be carefully revised, consideration being given to the advisability of making it public, either in a censored or uncensored form. Of course Mr. Amery himself must have an opportunity of seeing the report before any decision is made regarding its publication.

Mr. WATKINS.- Seeing that the official reporters were employed last evening, I ask you, Mr. Speaker, for what purpose was the report taken, if not to benefit the honorable members?

Mr. SPEAKER (Hon. Sir Littleton Groom).- The gathering last night was not a sitting of the House, and as Speaker I have no control over the publication of its proceedings. Mr. Amery's speech was reported so that it could be published, should that be thought advisable, and with my permission, the Hansard staff was employed. A similar procedure was followed when the Empire Parliamentary Delegation visited Australia last year. During the visit several meetings of the Association were held. In some cases the report of the speeches were

treated...

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treated as absolutely confidential, and were not circulated, while others were circulated after revision.

Mr. WATKINS.- Will the members of the Empire Parliamentary Association have the benefit of the report?

Mr. SPEAKER.- I think that is a matter for the Prime Minister in consultation with the Secretary of State for the Dominions to determine.

Mr. BRENNAN.- Does the Prime Minister consider it to be in accordance with the democratic outlook of the Australian people that we should be expected to listen here for two hours to an exposition of Conservative party policy without having an opportunity to reply?

Mr. BRUCE.- I think that the honorable member must be nearly alone in his objection to the procedure of last evening.

Honorable Members of the Opposition.- No.

Mr. FENTON.- We on this side are no believers in secret diplomacy.

Mr. BRUCE.- The meeting last night was held to give an opportunity to honorable members of getting the fullest possible information on Empire affairs. The suggestion has been made that there was something undemocratic in the proceedings, and that they were in accordance with the methods of secret diplomacy. May I inform honorable members that when in Great Britain last year I, as a Dominion Prime Minister, was entertained by, and addressed, the British Parliamentary Labour party. The statement I made at the gathering was of a private and confidential character, and no publicity of any sort was given to it.

Mr. MANNING.- Is it not a fact that when the Prime Minister was in England the parent branch of the Empire

Parliamentary..

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Parliamentary Association invited him to address members; that at the gathering, which was representative of all parties in the Imperial Parliament, a member of the British Parliamentary Labour party presided; and that, although all present may not have agreed with what the right honorable gentleman said, they received the statement of his views appreciatively and courteously?

Mr. BRUCE.- At the meeting of the Empire Parliamentary Association my views were received without dissent, which may have been the expression of the innate courtesy of British Parliamtarians to a visitor. The gathering was presided over by Mr. Thomas, a Labor member, and a former Secretary of State for the Dominions. In addition, I attended the other gathering to which I have referred, which was composed solely of members of the Labour Party.

Mr. BRENNAN.- I desire to make a personal explanation. The Prime Minister did me an injustice when he said that I was alone in the attitude I adopted towards the speech delivered in this chamber last evening by the Secretary of State for the Dominions. The interjections of honorable members were a sufficient refutation of the assertion. I yield to none in the cordiality of my personal welcome to our distinguished visitor.

Mr. E.RILEY.- We are all agreed as to his being welcome.

Mr. BRENNAN.- I did not, however, attend to hear our visitor on the understanding that any communication he might make to us would be of a confidential character. If I had been invited upon such a condition, I should have promptly and respectfully declined to take any part in a secret meeting of such a description. In order that there

may...

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may be no misunderstanding in future, I say now that, having heard the representative of the Conservative Government now in power in Great Britain speak on a great variety of questions of foreign and Empire policy, I feel it my duty and responsibility to exercise my own discretion as to what reference I shall make to those subjects, and the views on them expressed by him. My present intention is to make Mr. Amery's remarks the subject of further communication to my constituents in the freest possible way, believing that this and every other country has suffered a great deal too much in the past from secret, hole-and-corner methods, in connexion with foreign policy.

Mr. GULLETT.- In reference to the personal explanation made by the honorable member for Batman (Mr. Brennan), I ask you, Mr. Speaker, whether it is not a fact that, although, when we were invited to this chamber last night to listen to Mr. Amery, we were not definitely told that his communications were to be treated as confidential, the right honorable gentleman did, several times during his address, make it clear that his remarks were to be confined within the four walls of the chamber? If that was so, was it not open to any honorable member who did not wish to listen upon those terms to retire from the meeting?

Mr. SPEAKER.- Honorable members know the nature of last night's proceedings. I cannot disclose what tooke place. It must be left to the judgment of those who heard what Mr. Amery said as to what they will say. I persume they will be influenced by those standards which usually guide members of a House with the high traditions which we possess.

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C 40719

SLOANE 1543.

112, EATON SQUARE,
S.W.1.

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THE DEAN & CHAPTER ASK YOU TO JOIN IN THE THANKSGIVING FOR THE PRESERVATION OF ST. PAUL'S CATHEDRAL ◆ JUNE 25TH 1930, 12 NOON

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THE DEAN & CHAPTER ASK YOU TO JOIN IN THE
THANKSGIVING FOR THE PRESERVATION OF
ST. PAUL'S CATHEDRAL ◇ JUNE 25TH 1930, 12 NOON

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C 40721

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1922.

NORTH AMERICA. [October 12.]

CONFIDENTIAL. SECTION 1.

[A 6327/6327/45] No. 1.

The Marquess Curzon of Kedleston to Sir A. Geddes (Washington).

(No. 1531.)

Sir, *Foreign Office, October 12, 1922.*

THE American Ambassador, at the end of a conversation on other subjects this afternoon, somewhat startled me by saying that the feeling between our two countries on both sides of the ocean, that is, both in Great Britain and in the United States, was "very bad"; that, in his experience, it had rarely been worse; and that he was alarmed at the consequences that might ensue unless some palliatives were applied.

When I remarked that I had seen no special signs of this feeling, at least on this side, he replied that he was speaking exclusively of the effect produced by Lord Balfour's note. This note had, in the Ambassador's opinion, not only been almost universally condemned, but had produced the deplorable results to which he referred.

Upon my asking him why this should be the case, he said that public opinion in his country was particularly incensed at what it regarded as more than one obvious misstatement in the communication in question, containing allegations which it was impossible to sustain.

I replied that I was not fully acquainted with the circumstances in which the note had been issued, inasmuch as I had been abroad when it was written and despatched; but I thought, from such information as I possessed, that the Ambassador was disposed greatly to exaggerate its effect.

He asked me to look into the case, with a view of resuming a discussion upon it with him at an early date, in which event he said that he would be prepared to submit to me certain proposals for finding a way out of a situation which otherwise he appeared to regard as fraught with no small danger to the good understanding between our two countries.

He had previously mentioned to me two smaller causes of divergence between the American Government and ourselves arising out of (*a*) the American cable at the Azores and (*b*) the Newcastle consulate, and he indicated that a satisfactory settlement of these two questions would expedite the return of the good understanding which he desired to recreate.

I am, &c.
CURZON OF KEDLESTON.

[133 m—1]

Received by Archives
28-XI-22

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NORTH AMERICA. [November 6.]

CONFIDENTIAL. SECTION 1.

[A 6733/6327/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(*Received November 6.*)

(No. 1173.)

My Lord, *Washington, October 25, 1922.*

IN continuation of my telegram No. 423 of the 24th October, I have the honour to inform you I have read your Lordship's despatch No. 1531 with some astonishment. When I was in England in July I failed to discover the existence of much bad feeling against the United States. About developments in Britain since that time I have no first-hand knowledge.

I can say, however, with certainty that never in my experience of the United States has popular sentiment, over the whole country, been so friendly towards Britain as it is to-day. I can also say with absolute certainty that the administration as a whole is most friendly to Britain. I can also say with certainty that the general tone of the press, east, west and centre, is remarkable for its friendliness.

Congress, even, is less anti-British than usual, and what I now fear from that assembly is legislation, not based on deliberate malice, but irresponsibly, even frivolously, adopted in complete ignorance of its international implications, in support of some real or fancied interest of the United States and inspired by the popular slogan "America first."

With reference to the effect of Lord Balfour's note addressed to the representatives of France, Italy, Serb-Croat-Slovene State, Roumania, Portugal and Greece in London, I have already reported (see my despatch No. 957 of the 14th August, 1922, also my telegram No. 405 of the 6th October, 1922). I have nothing to add to what I said in those communications except this, that the press criticism of that note emanates almost entirely from British sources. I have watched the press very carefully on this point, and I have observed that it is the American correspondents in London who practically alone refer to it. I must also add that I am aware that the Secretary of the Treasury (Mr. Mellon) has said that he did not think that the language used had expressed what was really in the mind of the author. This remark had reference to those passages in the note concerning the relationship between the British debt to the United States and the debts of Continental nations to Britain and the part which Britain had played as a "conduit" for passing on credit.

It is necessary also to add that there is in some quarters a vague belief, a by-product of German war-time propaganda, I believe, that Britain used a part at least of the money borrowed in America to develop her trade at the expense of the United States, more particularly in South American countries.

Mr. Harvey's motive in saying what he did was doubtless mixed. First I have little doubt from what I hear unofficially from England that he has derived some part of his dislike of Lord Balfour's note from some of his friends on the British press who disliked the Government of Mr. Lloyd George and all its works. Next it may be that Mr. Harvey really dislikes the main thesis of the note that those who are our debtors should pay a sum to us equal to that which we have to pay to our creditors. There is no doubt that some Americans have thought that they could make us pay in full and then say to the continental nations, "America will cancel what you owe her if Britain will cancel your debts to her." In my judgment one of the effects of Lord Balfour's note has been to make that particular gesture seem less profitable in American eyes because the debtor nations are now in a position to point to the note and say: "Thank you. You already know what Britain's position is. Your proposal means less than you would wish us to believe." Some Americans used to believe that by taking a proposal for cancellation in that form they would win the gratitude of the debtor nations, lose nothing and throw the odium for refusal on to us, for they believed that His Majesty's Government would not agree to complete cancellation.

Again it may be that Mr. Harvey is simply using what I believe to be an incorrect representation of the facts as a lever to persuade your Lordship to reinstate the American officials in the consulate at Newcastle. There is no doubt that the withdrawal of their exequaturs came as a great shock to a certain section of the State

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Department, who had led themselves to believe that His Majesty's Government would not do anything drastic anywhere for fear of offending the United States Government. There is also no doubt that the usual anti-British *claque* made great play with the Newcastle incident for a few days, though the matter is now quite out of the public mind and is only of continuing interest to some members of the State Department staff. My telegram No. 342 of the 11th September gives an account of my interview with Mr. Phillips, who was then Acting Secretary of State. It is of renewed interest in connection with Mr. Harvey's remarks to you.

What other things might have been in Mr. Harvey's mind it is impossible for me to guess, but of one thing I am absolutely certain, and that is that in telling your Lordship that feeling towards Britain in the United States is very bad he did not represent the mind of Mr. Hughes, who, on the very last occasion on which I saw him, referred with satisfaction to the wonderful change for the better in the feelings and sentiments of the American people towards the British peoples. I perhaps should add that the election campaign now in full swing in this country is remarkable, I believe unique, in that the political orators have so far refrained from any twisting of the lion's tail. If anyone were to believe that that would or could happen in the United States at a time when the feeling against Britain was "very bad," as Mr. Harvey alleges it to be to-day, he would necessarily be a person ignorant of the political life and social structure of the United States.

I have, &c.
A. C. GEDDES.

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NORTH AMERICA. [November 6.]

CONFIDENTIAL. SECTION 3.

[A 6736/6327/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(Received November 6.)

(No. 1178. Confidential.)

My Lord, *Washington, October 27, 1922.*

I HAD the honour in my despatch No. 1173 of the 25th instant to convey to your Lordship my estimate of the value to be attached to the remarks of the American Ambassador in his interview with you on the 12th October, 1922. While, as I there said, I entirely disagree with his estimate of existing American popular sentiment with regard to Britain, I am not without some anxiety for the future.

The Republican Party is not achieving the results which its supporters expected and its leaders anticipated. Congress is inclined to seek some striking success, and, into whatever direction its search may ultimately turn, it is safe to predict that it will find some of its inspiration in the popular slogan of "America first."

Not in any real anti-British spirit, but assuredly with some irresponsibility, possibly with a frivolous disregard of the rights of others, Congress is likely sooner or later to adopt legislation which in its results will be as unfortunate as if it were inspired by a desire to harm British interests.

Though I am by no means certain that the Ship Subsidy Bill will be enacted in anything like its present form, I venture most earnestly to inform your Lordship that all indications point to the adoption and application of some measure designed artificially to stimulate the development of the American mercantile marine.

I desire also to inform your Lordship that it is my expectation that the measures which America, as I expect, will adopt are almost certain to be violently repugnant to many British and other European shipowners and ship operators. It also seems to me probable to the verge of certainty that the measures adopted, whatever they may be, will receive indiscriminating and sensational support from the party press which, for purely partisan reasons, is likely to attempt to inflame the national feeling. In such event it seems to me certain that the American electorate will be urged to support the party that is defending American "rights."

I regret that for many years past it has been an almost unbroken convention on the part of British speakers and newspapers to flatter America. As a result of this long course of rather less than honest discussion of Anglo-American relations by Britons, America has come to regard us as prepared to yield on any point rather than incur her slightest displeasure. Therein lies a real danger. The people of the United States are unusually addicted to the use of the art of "bluffing," and the lengths to which they carry "bluff," if they feel reasonably confident it will not be called, are almost unbelievable.

There is, for the reason I have indicated, a belief that Britain will never demand a show-down. This makes me anxious. Unless we are prepared to accept, with what grace we may, whatever disabilities they care to impose upon our mercantile marine, we must expect a very ugly temper to be shown in America when we reach our standing-point. Most of that temper at its beginning will be bluff, but this people is excitable, and in twenty-four hours a real fever of noisy patriotism might develop and carry the Administration off its feet.

This, I feel confident, is already realised by your Lordship. How to avoid such a development is less easy to decide. In my judgment, and I reached this conclusion only after much thought, to avoid greater evils in the not very distant future, we should show America that we are not going to bluff against her, but intend courteously to stand firm on what we believe to be right, regardless of her frowns and the clamour of her newspapers. I have welcomed the withdrawal of the exequaturs of the American consular officers at Newcastle and of our stand on the subject of the cables at the Azores, not because I thought either particularly happy in itself, but because each has possessed profound educational value, and yet neither in itself was of a nature greatly to excite American public opinion.

There is no doubt that we have a volume of American sympathy and support at the present moment that is greater and more vocal than has, in my experience, ever

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existed in the past. Many causes have contributed to this, not least the later handling of the Irish problem and Britain's stand with regard to the Dardanelles.

We can say things to-day that could not with wisdom have been said two years ago, always provided, and the importance of this proviso I cannot exaggerate, that what we say is scrupulously polite in form and fair in substance, even though it should involve the demonstration of a wide divergence from the American view of the moment.

To summarise, although American public opinion is at present unprecedentedly friendly to Britain, I am not free from anxiety with regard to a not very distant future. Congress is in the mood, for pure party reasons, to do something spectacular. This, though not inspired by anti-British sentiment, may be wholly careless of, if not directly inimical to, British interests. Because of the common conventional practice of Britons, when publicly discussing, even in anonymous print, Anglo-American relations, to say nothing that is not pleasant, even when honesty would demand less smooth things, Americans have come to believe that we are afraid to cross their slightest wish. They are quite likely, in any controversy, at first to pretend to a depth of feeling, even to anger, that does not exist. If they are allowed to continue to believe that we are sure to give way and then suddenly find us refusing to yield on some point—perhaps interesting to them, but vital to us—they may be swept by a wave of noisy patriotic excitement which would make amicable negotiation for a time impossible.

To avoid being forced to face such a situation, with issues of the first magnitude at stake, I recommend polite—again I emphasise polite—firmness, even on relatively minor points.

The adoption of such a course might appear for the moment to cloud Anglo-American relations. It would be an appearance only; Americans respect quiet, polite strength. But it might—I believe would—save the real growing, strengthening Anglo-American friendship from eclipse.

Our press, which is here supposed to be truly the voice of Britain, has thought it expedient to flatter America. I would not have it be rude to America; that, in addition to being bad manners, would be folly. But it should be sincere and should express a true British view-point, not, as it often does at present, a view-point which it believes to be either American or pleasing to America.

Carefully guarded courtesy and real sincerity are necessary on the British side if Anglo-American friendship is to develop the strength that it must, if in the future it is to be a sure foundation for international co-operation through some all-embracing league or society of nations.

I have, &c.
A. C. GEDDES.

25-XI-22.

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NORTH AMERICA. [November 22.]

CONFIDENTIAL. SECTION 1.

[A 7153/236/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(*Received November* 22.)

(No. 1256.)

My Lord, *Washington, November* 17, 1922.

WITH reference to your Lordship's telegram No. 330 of the 6th instant, I have the honour to transmit herewith a copy of a note which I addressed to the United States Government, together with a copy of the reply received thereto relative to the payment of 50,000,000 dollars on account of the British debt to the United States.

Your Lordship will observe that the arrangements contained in the second paragraph of your Lordship's telegram under reference have proved entirely satisfactory to the United States Government.

I have, &c.
(For the Ambassador),
H. G. CHILTON.

Enclosure 1 in No. 1.

Sir A. Geddes to Mr. Hughes.

Sir, *Washington, November* 8, 1922.

WITH reference to the *note verbale* which you were good enough to address to me on the 28th October last, I have the honour to inform you that it is the intention of His Majesty's Government to make a further payment of 50,000,000 dollars on the 15th instant on account of the British debt to the United States, on the understanding that it will be left to the British Debt Mission, when it arrives in Washington, to arrange with the American Commission as to the head or heads of the debt to which this payment and the payment of the 15th October last should be allocated, *i.e.*, whether, and to what extent these payments are on account of current interest, accumulated interest or principal, respectively.

With this object in view, Messrs. J. P. Morgan and Co. have been instructed to pay, on the 15th instant, the sum of 50,000,000 dollars to the Federal Reserve Bank, New York, for the credit of the general account of the United States Treasury.

I trust that the above arrangement, which is identical with that made in respect of the October payment, will be agreeable to the Government of the United States.

I have, &c.
A. C. GEDDES.

Enclosure 2 in No. 1.

United States Government to Sir A. Geddes.

Department of State,
Excellency, *Washington, November* 15, 1922.

WITH reference to your note of the 8th November, 1922, regarding the intention of His Majesty's Government to make a further payment of 50,000,000 dollars on the 15th instant on account of the British debt to the United States, I have the honour to inform you that the Secretary of the Treasury has advised this Department that the desires of His Majesty's Government, as expressed in your note, are entirely satisfactory to the Treasury, and that the payment of 50,000,000 dollars which the British Government has instructed Messrs. J. P. Morgan and Co. to make on the 15th instant to the Federal Reserve Bank, New York, for the credit of the general account of the United States Treasury, will be accepted with the understanding specified in your note of the 8th November, 1922.

Accept, &c.
(For the Secretary of State),
WILLIAM PHILLIPS.

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[A 7369/236/45] No. 1.

*Memorandum respecting inter-Allied Indebtedness and Attitude of the United States.**

THE debts due to the United States of America from various Governments and under various headings, are set forth below as at the 31st March, 1922, the latest date for which complete figures are available. The figures for Great Britain are brought up to the 30th November, 1922, in accordance with a reply given by the Chancellor of the Exchequer in the House of Commons on that day.

In connection with the attached figures, it may be of use to trace broadly the fluctuation of the £ sterling in American exchange during the last four years:—

	$
November 30, 1918	4·76
November 28, 1919	4·03
November 30, 1920	3·49
November 30, 1921	4·00
November 30, 1922	4·51

Loans abroad as at March 31, 1922 (from figures published by United States Treasury).

(i.) *Liberty Bond Acts.*

	Capital. $ 000's	Interest Accrued and Unpaid to Oct. 15 and Nov. 15, 1921. $ 000's	Total. $ 000's
Belgium	347,692	42,700	390,392
Cuba	8,147	...	8,147
Czechoslovakia ...	61,256	7,060	68,316
France	2,950,762	357,918	3,308,680
Great Britain (as at November 30, 1922)	4,135,818	611,019	4,746,837
Greece	15,000	...	15,000
Italy	1,648,034	202,280	1,850,314
Liberia	26	2	28
Roumania ...	23,206	2,765	25,971
Russia	187,730	30,297	218,027
Serbia	26,175	3,307	29,482
	9,403,846	1,257,348	10,661,194

(ii.) *Foreign Debt to the United States of America for Sales of Surplus War Materials, March 31, 1922.*

	Principal. $ 000's	Interest Accrued and Unpaid to last Interest Payment Date. $ 000's	Total. $ 000's
Belgium	29,873	...	29,873
Czechoslovakia ...	20,612	1,929	22,541
Esthonia	12,213	1,221	13,434
France	407,341	493	407,834
Latvia	2,522	126	2,648
Lithuania ...	4,159	416	4,575
Poland	59,679	4,086	63,765
Roumania ...	12,923	1,292	14,215
Russia	406	30	436
Serbs, Croats and Slovenes ...	24,978	2,133	27,111
	574,706	11,726	586,432

* This memorandum embodies and cancels those under the same heading of the 3rd April and the 4th August, 1922.

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(iii.) *American Relief Administration, March* 31, 1922.

	Principal.	Interest Accrued and Unpaid to last Interest Payment Date.	Total.
	$ 000's	$ 000's	$ 000's
Armenia	8,028	803	8,831
Czechoslovakia ...	6,428	643	7,071
Esthonia	1,786	168	1,954
Finland	8,282	598	8,880
Latvia	2,610	261	2,871
Lithuania ...	822	82	904
Poland	51,672	5,167	56,839
Russia	4,465	446	4,911
	84,093	8,168	92,261

(iv.) *United States Grain Corporation, November* 15, 1921.

	Principal.	Interest Accrued and Unpaid to last Interest Payment Date.	Total.
	$ 000's	$ 000's	$ 000's
Armenia	3,932	276	4,208
Austria	24,056	1,443	25,499
Czechoslovakia ...	2,873	172	3,045
Hungary	1,686	101	1,787
Poland	24,313	1,488	25,801
	56,860	3,480	60,340

The advances made by the United States Government were, of course, all made after the entry of the United States into the war, the British debt to the United States being incurred from that date onwards. The position was, according to a statement made by the Chancellor of the Exchequer on the 20th October, 1921, that, after the United States entered the war Great Britain borrowed from the United States Government a sum of 876,000,000*l.* (at par), and, during the period in which the country was borrowing from the United States Government, the British Government advanced to its Allies a sum of 897,000,000*l.* Sir R. Horne continued: "If we had not had to meet any calls for assistance from our Allies it would have been unnecessary for us to ask assistance from the United States Government."

The debts due to Great Britain as on the 31st March, 1922, are as follows (excluding loans to Dominions):—

War Loans (excluding Russia and Belgium)—

	£ millions.	£ millions.
France	584	
Italy	503	
Other States	87	
Total		1,174
Russia		655
Belgium (taken over by Germany)		99
Relief Loans—		
Austria	12	
Belgium	9	
Others	9	
Total		30
Miscellaneous Loans		3
Grand Total		1,961

The difficulties arising from the existence of this load of inter-Governmental indebtedness have aroused a good deal of discussion in the United States as elsewhere, during the last two or three years, but there appears to be very little support

in Congress or among the public for the theory that the interests of the various countries would best be served by a general remission of such debts. It also seems clear that no United States Administration would venture to propose any such remission unless a complete change of public opinion on the question should occur.

During the year 1920 negotiations took place between the British and American Treasuries with the object of placing the British debt on a more satisfactory footing, but without definite result.

The following summary of these negotiations is taken from a report by Sir A. Geddes:—

"Shortly after the conclusion of the armistice an interchange of views commenced between the British and American Treasuries in regard to the general question of the repayment or funding of the loans borrowed by the various Allied Powers in America and in the United Kingdom. The position as regards these loans was obviously unsatisfactory, seeing that they were on the basis of demand obligations and that no arrangement had been made for their eventual settlement.

"The American Government were desirous to keep the negotiations in the hands of the United States Treasury, as the Secretary of the Treasury alone had legal power to arrange for the funding of these loans without making application to Congress. An alternative to a settlement between the Treasuries would be a settlement requiring the sanction of Congress, which would open the way to a most unprofitable political dispute on the whole question, and, in its present temper, Congress would make it very difficult to reach a fair settlement.

"At the suggestion of the British authorities, the United States Treasury instructed their representative, Mr. Rathbone, to proceed to London early in 1920 to discuss with the British Treasury the question of American loans. After long discussions, in which Mr. Blackett represented the British Treasury, a substantial agreement was reached on the main question involved. Mr. Rathbone then left for the continent on the understanding that he was to return in a short time and complete his arrangement with the British Treasury.

"In the meantime the British Government had come to the conclusion that it would be necessary to continue these conversations by direct correspondence between Mr. Lloyd George and President Wilson. This decision was come to largely as a result of the conversations with the French at Lympne, which made it clear that the terms of the Rathbone-Blackett agreement could not be considered without reference to wider proposals made by the French Government. It was therefore decided that Mr. Lloyd George would write to President Wilson explaining the whole situation and making certain proposals.

"It transpired shortly afterwards that the United States Treasury and Mr. Rathbone had taken offence at what they considered a sudden change in the venue of the negotiations, and, on hearing this, the Chancellor of the Exchequer sent to the Secretary of the Treasury on the 26th June, through His Majesty's Embassy, a full statement showing the reasons which had obliged His Majesty's Government to suspend for the time being the negotiations with Mr. Rathbone.

"In the meantime the question of the repayment of the debts due to America by the Associated Governments was receiving close attention in Congress and throughout the country. Rumours became prevalent that the British Government, far from having any intention to repay the British debt, intended to borrow further sums, and to meet this His Majesty's Embassy categorically denied to the Secretary of the Treasury, in a letter dated the 13th January, 1920, that His Majesty's Government had any such intention. It was pointed out that since June 1919 the whole expenditure of the British Government in the United States was financed without fresh borrowing. This denial was later communicated textually to the press by the Secretary of the Treasury. Shortly afterwards it was pointed out to the United States Treasury, in order to correct any possible misapprehension, that what was under discussion was not the *funding* of interest of British Government obligations held by the United States Treasury, but the *postponement* for a period by both the United States and the British Treasuries of the interest accruing on obligations of the Associated Governments held by them. The British Treasury had always been averse from any proposal for the funding of interest on their obligations. In reply to this communication the United States Treasury observed that they could not fund or postpone interest due from His Majesty's Government unless this measure was categorically asked for by His Majesty's Government. The Secretary of the Treasury added that he would feel nothing but pleasure if His Majesty's

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Government found themselves able to meet their accrued and accruing interest and that he was not unduly alarmed at the possible consequence to the exchange. If requested, the United States Treasury would assent to a postponement for an agreed period. In their reply His Majesty's Government pointed out that they would be prepared to postpone interest on the Allied debt to Great Britain as part of the general arrangement for the postponement of interest on debts to the United States.

"In February His Majesty's Government had under consideration the question of the possible cancellation of all debts due to Great Britain from her Allies (except Russia) and from the Dominions, independently of any action in this sense that might be taken by the United States Government. The idea, however, fell through and no communication in this sense was addressed to the United States Government.

"On the 7th February, 1920, the Chancellor of the Exchequer sent through His Majesty's Embassy a message to the Secretary of the Treasury containing a general statement of the policy which he was following in regard to the question of Allied indebtedness. In the course of this statement Mr. Chamberlain observed that he had kept steadily in view the policy of gradual but not violent deflation of credit, and that he was confident of being able to have a surplus revenue over expenditure in 1920–21, after providing for a minimum sinking fund of ½ per cent. on the gross British national debt. During 1920 he looked for a favourable balance of possibly 200,000,000*l*. The position of the United Kingdom could not, however, be treated in isolation from the rest of the world, and it would be necessary during the year to advance more than the full amount of its estimated balance to its customers, mainly in continental Europe, in order to maintain its export trade. The British Government had set its face against advances by one Government to another except for relief purposes to such countries as Austria and Poland. In the view of the Chancellor, the fall in the British exchange was almost entirely due to the credits, both public and private, which His Majesty's Government had been obliged to give to continental Europe, just as the British debt to the United States was almost all due to the loans made by His Majesty's Government to the Allies during the war. Thus any improvement of the credit of continental countries would *pro tanto* relieve the strain on the British exchange. With the continent a prey to bankruptcy and possibly to anarchy, and with the United States unable to provide credits of any sort owing to the internal crisis, the world's position would be serious, and the Chancellor proceeded to observe that it was largely because of these dangers that the British Government would welcome a general cancellation of international war debts. The existence of these debts deterred former neutral nations from giving assistance and checked enterprise, and would, the Chancellor feared, prove a disturbing factor in future international relations.

"Referring to this message, His Majesty's Chargé d'Affaires at Washington observed in a telegram despatched to His Majesty's Government on the 26th February that the Secretary of the Treasury was evidently finding difficulty in replying to the Chancellor's message owing to a difficulty in dealing with its concluding sentences. Mr. Lindsay was strongly impressed by the absolute conviction of the Secretary of the Treasury that for the present and for some time to come the question of cancelling the Allied debts was not one of practical politics in America, and he pointed to the difficulty which the Administration were still experiencing in Congress over the mere postponement of interest. To this general difficulty was added the very critical complication of an approaching Presidential election. Mr. Lindsay proceeded to argue against the adoption of the proposal, to which reference was made above, that the Allied debts to Great Britain should be cancelled independently of any action by America.

"On the 6th March the Secretary of the Treasury submitted his reply to the message from the Chancellor of the Exchequer. After concurring in the view that the financial and economic problems of the whole world were closely connected, the Secretary observed that the Treasury had viewed with pleasure and satisfaction the progress made by the British Government towards a return to a peace basis; while America was at present confronted with difficult problems, her financial situation was not at all critical. On the contrary, it was possible that credits from private sources might be made available to continental Europe on sound and adequate security. There should be no difficulty in dealing with the funding of short-time obligations into long-time obligations in the manner outlined by Mr. Rathbone.

"On the question of the general cancellation of inter-Governmental war debts, the Secretary observed that no proposal of this character would serve any useful purpose. Such a plan could but mislead the people of the debtor countries as to its

efficacy, and arouse hopes the disappointment of which could only have a harmful effect. Neither the American people nor Congress was prepared to look with favour upon such a proposal. The Secretary recognised the advantage of such a scheme to Great Britain, as it would probably involve no losses on her part and would involve a contribution mainly by the United States. The foreign obligations held by the United States Government did not, in the view of the Secretary, constitute a practical obstacle to obtaining credits in America. The relief from present ills, in so far as it could be obtained, was primarily within the control of the debtor Governments and people themselves, which had taken no energetic or adequate measures to reduce their expenditures. It was possible that one or more of the debtor Governments might ultimately consider it necessary to make some general settlement of their indebtedness, but it was very clear to the Secretary that any general cancellation of inter-Governmental war debts, irrespective of the position of the separate debtor Governments, was of no present advantage or necessity. The American nation had neither sought nor received substantial benefits from the war, yet a general cancellation would throw upon the American people the exclusive burden of meeting the interest and of ultimately extinguishing the principal of the American loans to Allied Governments. On the other hand, the Allies, although they had suffered greatly in loss of lives and property, had acquired very considerable accession of territories, populations, economic advantages, &c. If full account were taken of these circumstances there would be no desire or reason to call upon the United States Government for further contributions.

"In his reply to this message, despatched on the 12th March, the Chancellor of the Exchequer observed that he fully appreciated the attitude of the United States to any proposal for a mutual cancellation of international war indebtedness. The Chancellor had had no intention of renewing this proposal, to which he had referred only in order to respond fully to a request made by the Secretary of the Treasury for his appreciation of the general situation in Europe as well as in the United Kingdom.

"On the 18th June, at the request of the Secretary of State, I called on the Secretary of the Treasury. It transpired in my conversations that both the Secretary of State, Mr. Colby, and the Secretary of the Treasury, Mr. Houston, were much puzzled by the decision to suspend the negotiations between Mr. Rathbone and the British Treasury officials, and they had since that date been expecting the promised letter from the Prime Minister which was to explain the reasons for this decision. The Secretary of the Treasury emphasised the fact that he alone had any power to deal with any matters affecting the funding of the debt, and that his only power to arrange for the postponement of the payment of interest was conferred upon him by his authority to arrange for the suspension of interest payments in connection with the funding of the debt. I was invited by the Secretary of the Treasury, speaking on behalf of the President, to inform His Majesty's Government clearly that in their judgment it was idle to hope that Congress would be prepared to cancel or to modify debts owed by Great Britain to the United States. In this opinion the Secretary of State concurred. The Secretary of the Treasury at the same time handed to me a long document setting forth the views of the Administration regarding the question of funding the indebtedness of the British Government to the United States Government. The main points of this statement were:—

"1. The funding of such indebtedness had no relation either to questions concerning the war loans of the United States and of the United Kingdom to other Governments or to questions regarding the reparation payments of the Central Empires.

"2. The Blackett-Rathbone conversations had proceeded on this basis, although in the early stages there had been some question of a British-American arrangement being applied subsequently to similar arrangements with other debtor Governments. The Secretary of the Treasury, to whom alone Congress delegated authority to deal with these matters, had been surprised at the interruption of the Rathbone-Blackett negotiations, and expressed the hope that an expert would be sent to Washington from the United Kingdom to continue negotiations.

"On the 1st July I was informed that the letter from the Prime Minister to the President, to which I have referred above, and which was to explain the decision

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to discontinue the Blackett-Rathbone negotiations in London, would shortly be despatched. The Prime Minister was anxious to inform the President of the whole situation in Europe; while His Majesty's Government did not desire to repeat the proposal for the cancellation of all debts owing by Government to Government, they found it impossible to formulate a policy in respect of debts owed to Great Britain by her continental Allies without more knowledge of the President's views. It was hoped that the Prime Minister's letter would elicit those views. Later in July the Acting Secretary of State enquired when the Prime Minister's letter was likely to arrive, and he then proceeded to say that the President had felt very deeply that during the period of his illness the British Government had not stood by him, and that he had suspected that His Majesty's Government believed that the Republicans would come into power in the next election, and that accordingly they were playing up to that party. I assured him that this idea was entirely wrong.

"On the 18th August the letter from the Prime Minister (see Annex A) was received and forwarded at once to the President. The delay had been due to the great burden of work on the Prime Minister, and also to his desire to inform the President very fully of the general situation after the conclusion of the Spa Conference.

"There were no further delevopments during the summer, and towards the end of October I felt constrained to draw the earnest and immediate attention of the Secretary of State to the importance of the earliest possible settlement of the question of funding the British debt to America. I pointed out that we were allowing a most favourable opportunity to slip by, and that the most hopeful method of settlement lay in negotiation between the two Treasuries on the basis of the Rathbone-Blackett agreement. If the settlement of the question were postponed until after the election, we should meet with considerable difficulty in coming to an agreement with a new Administration—were the Republicans to come in—and at all events during their first period of office. In December, after the election, I informed His Majesty's Government that the more I studied the mental state of the incoming Republicans, the more convinced I was that it was hopeless to expect better terms from them in respect of this financial difficulty. The Acting Secretary of State had on more than one occasion drawn my attention to the difficulties of the position in which the continued inaction of His Majesty's Government placed the United States Government—and more especially the Secretary of the Treasury—in their relations with Congress. To this Lord Curzon replied that His Majesty's Government had decided to send Lord Chalmers to America in the middle of January as British Commissioner to negotiate the funding of the debt due to the United States Government."

The proposed visit of Lord Chalmers to the United States was, however, postponed.

A Bill was introduced into Congress in June 1921 (Annex B) to give the Secretary of the Treasury powers to refund or convert, and to extend the time of payment of the principal or interest of any obligations of foreign Governments held by the United States Government. The Secretary of the United States Treasury, in a letter recommending the passing of this Bill, stated the reasons for which he desired it as follows:—

"I am advised that, except as to the advances made out of the proceeds of Liberty Loan bonds, this Department is without authority to consent to any extension of the time for payment of the principal or of the interest of these obligations or to proceed with the funding thereof. As to the advances made out of the proceeds of Liberty Loan bonds, the existing authority contains such diverse provisions as to interest rates, the maturity, and other terms of the refunding bonds that may be accepted by the Department as makes it difficult to formulate a plan whereby the interests of this Government may be as well protected and the bonds to be received be in as desirable form as would be the case if the entire debt of each country could be dealt with as a whole and free from such restrictions.

"In some cases the debtor nations owe large amounts to other countries as well as to the United States, and it may be advisable, and in some cases, indeed, necessary, to consider comprehensively the entire debt of such countries, their financial condition and resources so as to work out a refunding plan reasonably within the ability of such countries to carry out.

"In the case of some of the debtor countries it is impossible for them to make payment of their obligations as they now mature. It is impossible for some of them to make payment of the maturing interest. To insist on payment might be disastrous

to the peoples of such countries; and besides, there may have to be given consideration to the bearing of the adverse foreign exchange rates existing at the time against these debtor countries and which may make it desirable to defer payment of interest.

"Under the circumstances I have briefly referred to it is, I think, clear that, by reason of the lack of any authority as to a part of these foreign obligations and the restrictions upon the existing authority as to the others, it is impossible in any refunding under the varying conditions that exist to deal fairly with the debtor countries and at the same time protect the interests of this country. To do this it is essential that the Department have full authority as to all such foreign indebtedness to determine the form and terms of the settlements and of the refunding obligations, the rate or rates of interest, the maturity dates, and the right to extend the time for the payment of interest on the indebtedness to be refunded. It is also of importance that the Department should have adequate authority to adjust and settle claims against foreign Governments which are not in the form of bonds or obligations, as, for example, the claim for costs of our military forces of occupation."

The discussions on the Bill revealed the existence of a good deal of opposition, largely directed against the grant to the Administration of such wide powers as were asked for. There were also signs of a suspicion that the United States might be committed, without the approval of Congress, to accepting German instead of Allied obligations.

No final action was taken on the Bill before the adjournment of Congress in the summer, and when the Bill was taken up again in October the Secretary of the Treasury agreed to an amendment by which the powers it had been proposed to confer on him should be placed in the hands of a commission of five members, all of whom, with the exception of members of the Cabinet, would require confirmation by the Senate on their appointment.

The Bill, with an amendment in this sense, passed the House of Representatives on the 25th October, 1921, by a vote of 199 to 47, and went before the Senate.

Amendments providing that the rate of interest to be paid to the United States by the Allies should average 5 per cent., and requiring the review by Congress of all acts of the commission in converting part of the foreign debt into long term securities, were defeated, and the Bill, on which action was deferred during the sittings of the Disarmament Conference at Washington, received the President's assent on the 9th February, 1922.

The text of the United States Funding Act, as amended, is given in Annex C. It provides for the appointment of a commission of five, of whom one is the Secretary of the Treasury, to carry on the funding operations.

The commission are not empowered to extend the maturity of any bonds beyond the 15th June, 1947. The interest rate may not be less than $4\frac{1}{4}$ per cent. The bonds of one foreign Government may not be accepted in exchange for those of another, nor may any part of the foreign indebtedness be cancelled.

Mr. Hughes (Secretary of State), Mr. Mellon (Secretary of the Treasury), Mr. Hoover (Secretary of Commerce) and two prominent politicians, Senator Smoot and Congressman Burton, have been appointed to form the commission.

On the day after the President's signature of the Act, Mr. Hughes informed Sir A. Geddes that the United States Government would probably be ready to open discussions with His Majesty's Government in April, possibly just after Easter. In reporting this statement, Sir A. Geddes enquired what arrangements were proposed by His Majesty's Government for carrying on the negotiations. The Treasury were consulted, and expressed the opinion that a special delegate or delegation, with wide powers, should be appointed for this purpose. As a preliminary, the United States Government were asked what kind of discussion they had in mind, whether they intended—

(*a.*) To invite His Majesty's Government alone, as being a large fellow-creditor, to discuss the general problem of debts due to the British and United States Governments; or

(*b.*) To invite His Majesty's Government alone to discuss simply the British debt to the United States of America;

(*c.*) To invite the major debtors, *e.g.*, Great Britain, France, Italy and Belgium together.

The Treasury preferred either (*a*) or (*c*) as compared with (*b*).

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The United States Government were further asked whether they proposed to deal with each debtor separately according to willingness or capacity to pay, and without reference to debts owed to, *e.g.*, Great Britain and France by other Allied debtors of the United States of America, or to Germany's reparation liability.

Towards the end of April 1922 the composition of the United States Funding Commission being definitely settled, Sir A. Geddes was able to report that the United States Government would, under the terms of the commission, have no other alternative but to invite His Majesty's Government alone to discuss the British debt. On the 25th April the United States Ambassador communicated the text of a resolution adopted by the commission, inviting each of the Allied countries owing money to the United States Government to make proposals or to send representatives with a view to the settlement and refunding of their obligations, together with the final text of the law of the 9th February, 1922, which created the commission (Annex C). The note contained an official invitation to His Majesty's Government in the sense of the above-mentioned resolution, and was accompanied by a private communication from the United States Embassy enquiring the names of the British delegates, and intimating that the United States Government would like to begin negotiations as soon as possible.

From a subsequent private conversation on the 5th July between Mr. Harvey and Lord Balfour it transpired that the fact that the first invitation had been addressed to His Majesty's Government was not accidental, and that the United States Government wanted to make common action possible on the part of the United States and Great Britain by clearing the debt out of the way and thus enabling the two countries to stand together as the only creditor Powers in the world in dealing with the rest. This Mr. Harvey considered was the essential basis of Anglo-American co-operation in dealing with the problem of Europe.

On the 26th April Sir A. Geddes reported as follows:—

> "The Secretary of State is of opinion that the commission must deal with each debt or country separately, and that it would be wise for His Majesty's Government to act first of Governments concerned. While the commission will be pleased to listen to anything germane that may be said, its powers are so limited by the Act constituting it that it can merely undertake a funding operation, and has no discretion to consider wider economic issues. The Secretary of State is, however, inclined to believe that, parallel with such an operation, the United States Government would be prepared to enter into a convention or treaty with His Majesty's Government to the general effect that they would not give to any war debt or nation better terms than they give us without our consent. If this were done the negotiations that may be necessary about the treatment to be accorded to other nations would, in reality though not in form, be postponed, and we should have, after the first round of negotiations, what would in effect be a partnership with United States Government in our dealings with our debt or nations when special consideration comes to be given to their circumstances. This is best suggestion I have been able to think of in face of circumstances existing here.
>
> "I also suggest, for the consideration of His Majesty's Government, idea that we might try to make terms of refunding instrument contingent upon United States not imposing a tariff or taxation upon shipping in excess of that existing at the time of the agreement. There are difficulties in the way of such an arrangement peculiar to this time, when very stringent tariff Bill is before Congress, but some such arrangement seems desirable and not unreasonable if it can be made.
>
> "I now consider it very desirable that the special delegate or delegation should sail at the earliest possible date."

On the 8th May the Treasury proposed an *ad interim* reply to Mr. Harvey's note, saying that His Majesty's Government were not yet able to give a complete reply at the moment, but that, as an earnest of their good intentions, payment of interest on the debt at the rate of 50,000,000*l.* per annum would, as already announced in Parliament, begin in October and November of this year by a half-yearly payment of 25,000,000*l.* The Treasury added, for Lord Curzon's own information, that they were unwilling to put forward any proposals themselves for refunding, and that it would be better not to take any active steps until after November (when the new United States elections would have taken place).

Meanwhile, Sir A. Geddes continued to press for the immediate sending out of the delegation. He stated that public opinion was further than ever from treating the debt question on any but business lines.

In spite of Sir A. Geddes's telegrams, the Treasury, in a letter of the 22nd May, adhered to their view that the sending of the delegates should be postponed.

Finally, on the 7th July, the Cabinet decided that the British delegates (Sir R. Horne and Mr. Montagu Norman) should go to Washington in the first week of September. Their departure was subsequently deferred, in the first instance to allow of the return of the United States Secretary of State from the Centenary celebrations at Rio de Janeiro and thereafter in consequence of the political situation in Great Britain.

A French Financial Mission, headed by M. Parmentier, an official of the French Treasury, arrived in Washington in July for the purpose of initiating preliminary conversations with the American Debt Funding Commission. Little or no progress seems to have been made, and the mission returned to France in August, ostensibly for the purpose of collecting fresh information and statistics.

Meanwhile, on the 1st August Lord Balfour despatched a note to the French Ambassador and to the representatives in this country of Italy, Serbia, Roumania, Portugal and Greece on the subject of the debts due to His Majesty's Government.

It was pointed out that the war debts, exclusive of interest, due to Great Britain amounted at the present time to an aggregate of about 3,400,000,000*l.*, of which Germany owed 1,450,000,000*l.*, Russia 650,000,000*l.*, and our Allies 1,300,000,000*l.* On the other hand, Great Britain owed the United States about a quarter of this sum—say, 850,000,000*l.* at par of exchange, together with interest accrued since 1919. The Allied Governments were reminded that His Majesty's Government had hitherto made no demand for payment of capital or interest. His Majesty's Government had indeed been willing to remit all these debts, including the sum due from Germany in respect of reparations. The United States had, however, demanded the repayment of her debt. The policy of His Majesty's Government would have to be amended in consequence. This inevitable change of policy was adopted with the greatest reluctance, but it was obviously impossible for Great Britain on the one hand to remit all the debts due to her, and on the other to pay in full all she owed. Consequently the French Government and the other Governments to whom the note was addressed were requested to make arrangements for dealing to the best of their ability with the loans made to them by this country. It was not, however, proposed to ask a total repayment of a sum larger than that which His Majesty's Government was required to make to the United States. While His Majesty's Government did not ask more, they could not ask less. Stress was laid on the fact that our liabilities were incurred on behalf of our Allies. Half the 2,000,000,000*l.* advanced to our Allies had been raised by internal loans and taxation. Other nations had not been able to do the same, and so appeal was made to the United States. Thus His Majesty's Government gave the necessary security while our Allies had the spending of the sums so obtained.

Finally, the note repeated that His Majesty's Government was prepared (subject to the just claims of other parts of the Empire) to cancel the debts due to her and forgo the reparation sums due from Germany, provided this renunciation formed part of a general plan by which a satisfactory solution of the problem might be found.

The immediate effect of the Balfour note in the United States was to provoke (the 24th August) an official statement from the United States Treasury deprecating any suggestion that the British debt to the United States represented the covering by His Majesty's Government of credits afforded by the United States to other Allied and Associated Governments and claiming that the United States Government had consistently taken the view that the British indebtedness had no relation to the indebtedness of other Governments, either towards the United States or towards Great Britain, nor to any question of reparations on the part of the Central Powers.

The public reception given the note was, as had been anticipated, very unfavourable, but interest in, and discussion of, the whole question was undoubtedly stimulated throughout the United States.

Since the note, the principal political events in the United States having a possible bearing on the question, have been:—

(*a.*) The passing of the Tariff Act (approved the 21st September, 1922), involving a general and very considerable increase in the scale of duties on imports into the United States.

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(*b*.) The passing of the Soldiers' Bonus Bill; the vetoing of the measure by the President (the 20th September, 1922); and the sustaining of his veto by a narrow margin in the Senate, after the Bill had been repassed by the House of Representatives. Unsuccessful attempts had previously been made in the Senate to make the huge expenditure contemplated under this measure a first charge on the sums to be recovered from foreign debtors.

(*c*.) The elections of the 7th November, which have reduced the Republican majority in both branches of Congress to the narrowest margin, and the result of which is to be regarded as due largely to the feeling in the constituencies against the tariff and in favour of the Soldiers' Bonus Bill. The new Congress will not meet until March 1923.

(*d*.) The calling of a special session of the present Congress on the 20th November to discuss the Ship Subsidy Bill, representing, as it does an attempt to develop the American mercantile marine by artificial means. At the time of writing, the measure has passed the House with important modifications, but its prospects in the Senate are very doubtful.

In the early days of October, the annual convention of the American Bankers' Association was held in New York, and great interest was aroused by an address given by Mr. Reginald McKenna, urging the necessity for reconsideration of the whole problem of inter-Allied indebtedness with the one exception of Great Britain's debt to the United States. Mr. Thomas Lamont, of J. P. Morgan and Co., spoke in the same sense, and even made a guarded advocacy of the policy of general cancellation. This speech gave great offence to Mr. Herbert Hoover, who cancelled an engagement to address the meeting on the plea of illness.

Two payments of 50,000,000 dollars each were made to the United States Government on the 15th October and the 15th November respectively, their precise allocation, under the headings of repayment of principal or of interest, to be determined between the two Debt Funding Commissions when they meet in Washington.

American Department, Foreign Office,
December 7, 1922.

ANNEX A.

Extract from a Letter from the Prime Minister to President Wilson (Washington).

I come now to the other question I wish to write to you about, and that is the knotty problem of inter-Allied indebtedness. Indeed, I promised Mr. Rathbone long ago that I would write to you about it, but I have had to put it off for one reason and another till now. The British and French Governments have been discussing during the last four months the question of giving fixity and definiteness to Germany's reparation obligations. The British Government has stood steadily by the view that it was vital that Germany's liabilities should be fixed at a figure which it was within the reasonable capacity of Germany to pay, and that this figure should be fixed without delay, because the reconstruction of Central Europe could not begin nor could the Allies themselves raise money on the strength of Germany's obligation to pay them reparation until her liabilities had been exactly defined. After great difficulties with his own people, M. Millerand found himself able to accept this view; but he pointed out that it was impossible for France to agree to accept anything less than it was entitled to under the treaty unless its debts to its Allies and associates in the war were treated in the same way.

This declaration appeared to the British Government eminently fair. But, after careful consideration, they came to the conclusion that it was impossible to remit any part of what was owed them by France except as part and parcel of all-round settlement of inter-Allied indebtedness. I need not go into the reasons which led to this conclusion, which must be clear to you. But the principal reason was that British public opinion would never support a one-sided arrangement at its sole expense, and that, if such a one-sided arrangement were made, it could not fail to estrange and eventually embitter the relations between the American and the British people with calamitous results to the future of the world. You will remember that Great Britain borrowed from the United States about half as much as its total loans to the Allies,

and that, after America's entry into the war, it lent to the Allies almost exactly the same amount as it borrowed from the United States of America. Accordingly, the British Government has informed the French Government that it will agree to any equitable arrangement for the reduction or cancellation of inter-Allied indebtedness, but that such an arrangement must be one which applies all round. As you know, the representatives of the Allies and of Germany are meeting at Geneva in a week or two to commence discussion on the subject of reparation.

I recognise that in the midst of a Presidential election and with Congress not in session it is impossible for the United States to deal with this question in a practical manner, but the question is one of such importance to the future of Europe, and, indeed, to the relations between the Allied and Associated Powers, that I should very much welcome any advice which you might feel yourself able to give me as to the best method of securing that the whole problem could be considered and settled by the United States Government in concert with its associates at the earliest possible moment that the political situation in America makes it possible.

There is one other point which I should like to add. When the British Government decided that it could not deal with the question of the debts owed to it by its Allies except as part and parcel of an all-round arrangement of inter-Allied debts, the Chancellor of the Exchequer told Mr. Rathbone that he could not proceed any further with the negotiations which they had been conducting together with regard to the postponement of the payment of interest on the funding of Great Britain's debts to America. I should like to make it plain that this is due to no reluctance on the part of Great Britain to fund its debt, but solely to the fact that it cannot bind itself by any arrangement which would prejudice the working of any inter-Allied arrangement which may be reached in the future. If some method can be found for funding the British debt which does not prejudice the larger question, the British Government would be glad to fall in with it.

August 5, 1920.

ANNEX B.

[H. R. 7359, Sixty-Seventh Congress, First Session.]

A Bill to enable the Refunding of Obligations of Foreign Governments owing to the United States of America, and for Other Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, with the approval of the President, is hereby authorised from time to time to refund or convert, and to extend the time of payment of the principal or the interest, or both, or any obligation of any foreign Government now owing to the United States of America, or any obligation of any foreign Government hereafter received by the United States of America (including obligations held by the United States Grain Corporation), arising out of the European war, into bonds or other obligations of such, or of any other, foreign Government and from time to time to receive bonds and obligations of any foreign Government in substitution for those now or hereafter held by the United States of America, in such form and of such terms, conditions, date or dates of maturity, and rate or rates of interest, and with such security, if any, as shall be deemed for the best interests of the United States of America, and to adjust and settle any and all claims, not now represented by bonds or obligations, which the United States of America now has or hereafter may have against any foreign Government and to accept securities therefor.

ANNEX C.

Text of Law of February 9, 1922.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,—That a World War Foreign Debt Commission is hereby created consising of five members, one of whom shall be the Secretary of the

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Treasury, who shall serve as chairman, and four of whom shall be appointed by the President, by and with the advice and consent of the Senate.

Sec. 2. That, subject to the approval of the President, the commission created by section 1 is hereby authorised to refund or convert and to extend the time of payment of the principal or the interest, or both, of any obligation of any foreign Government now held by the United States of America, or any obligation of any foreign Government hereafter received by the United States of America (including obligations held by the United States Grain Corporation, the War Department, the Navy Department or the American Relief Administration), arising out of the world war, into bonds or other obligations of such foreign Government in substitution for the bonds or other obligations of such Government now or hereafter held by the United States of America, in such form and on such terms, conditions, date or dates of maturity, and rate or rates of interest, and with such security, if any, as shall be deemed for the best interests of the United States of America: Provided that nothing contained in this Act shall be construed to authorise or empower the commission to extend the time of maturity of any such bonds or other obligations due to the United States of America by any foreign Government beyond the 15th June, 1947, or to fix the rate of interest at less than 4¼ per centum per annum: Provided, further, that when the bond or other obligation of any such Government has been refunded or converted as herein provided, the authority of the commission over such refunded or converted bond or other obligation shall cease.

Sec. 3. That this Act shall not be construed to authorise the exchange of bonds or other obligations of any foreign Government for those of any other foreign Government or cancellation of any part of such indebtedness except through payment thereof.

Sec. 4. That the authority granted by this Act shall cease and determine at the end of three years from the date of the passage of this Act.

Sec. 5. That the annual report of this commission shall be included in the annual report of the Secretary of the Treasury on the state of the finances, but said commission shall immediately transmit to the Congress copies of any refunding agreements entered into, with the approval of the President, by each foreign Government upon the completion of the authority granted under this Act.

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NORTH AMERICA. [March 28.]

CONFIDENTIAL. SECTION 4.

[A 1895/1895/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(*Received March* 28.)

(No. 333.)

My Lord, *Washington, March* 19, 1923.

I HAVE the honour to inform you that public opinion in the United States is at present passing through an interesting phase. There is no doubt that, since the terms of the debt settlement were announced, there has been a distinct growth of feeling, among the common, unthinking mass of Americans, less friendly to Great Britain. So far as I am able to ascertain this is due to three main streams of thought running in their minds.

First, that somehow we out-negotiated the American Debt Funding Commission and secured for ourselves terms so favourable as to be less than just to the American taxpayer. "Too clever to be fair" is a phrase which perhaps expresses the common, ignorant American's view of us, so far as the debt terms are concerned.

Second, the ordinary American believes that Great Britain defeated the Ship Subsidy Bill in the Senate. The assumption seems to be that we crudely bought a sufficient number of senators to make a successful filibuster possible. The artisans of Washington say that the British Embassy "double crossed" the American people.

Third, much anti-German war feeling persists. We are supposed, chiefly on the basis of Mr. Lloyd George's articles, published in the Hearst press and other newspapers, to be anti-French, and therefore pro-German. In other words we are supposed to have changed sides. "Turncoats" is a name which comes easily to the tongue of a man, probably a "veteran" (*i.e*, a man who wore uniform sometime during the war), who views us as throwing away the fruits of an American (his) victory.

These three thoughts are almost strictly confined to really ignorant, common people, not of German descent, who have been taught that France is the eternal friend of the United States, and that Lafayette lives for ever in the minds and hearts of all true Americans. Better educated people of course are not so silly. As investigation of opinion comes up the social ladder, there is less and less hostility to Great Britain to be found, except among those who have been admitted to the Legion of Honour, and who, as a result, are in the great majority of cases unreasoningly pro-French, and among a certain number of tiresome society women who always talk about "dear Paris" and "the delightful French." Finally the Secretary of State and the President have little sympathy with France and none for M. Poincaré.

Among the newspapers of the Eastern seaboard, the New York "Tribune's" motto appears to be "France, right or wrong!" The others are recovering their American mental status, and reflect the various shades of public opinion.

In spite of what I have said, as discussion goes on, it seems to me that the French attitude is being, and will be, seen more clearly, and I am of opinion that the feeling for France is now at its height. Forecasts of movements of American public opinion are usually unreliable. Still, I venture to say that I anticipate that the swing of ignorant opinion in this country to an anti-British position will tend to reverse itself at an early date, that the opinion of the educated classes will spread, and that, if it becomes clear that France intends to dismember or disrupt Germany, American opinion will swing definitely against her.

I have, &c.
A. C. GEDDES.

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NORTH AMERICA. [March 23.]

CONFIDENTIAL. SECTION 1.

[A 1798/79/45] No. 1.

The Marquess Curzon of Kedleston to Sir A. Geddes (Washington).

(No. 468.)

Sir, *Foreign Office, March 23, 1923.*

THE American Ambassador asked to see me this afternoon, but apparently the main object of the interview was to find out what had been going on at headquarters during ten days' absence, on his own part, at Torquay.

The first subject that excited his curiosity was that of the negotiations at present being conducted between the various Allied experts in London in connection with the Lausanne Treaty. He pointed out that he had in the American Embassy a gentleman very familiar with business matters, personally acquainted with the East, and thoroughly competent to form an opinion on all the subjects under discussion. He would be very glad if this person could be put in touch with the Foreign Office in order to be informed from stage to stage as to what was going on.

I replied at once that I could not encourage any such idea. The matter which I was about to mention was one which I would not have raised independently, but inasmuch as it had been mooted by the Ambassador himself, I felt bound to tell him that, although my relations with the American delegates at Lausanne had been of the most friendly description, and although I had treated them with the utmost frankness throughout, I had the very best of reasons for knowing that their attitude had not altogether been loyal, and that in the case of Admiral Bristol in particular, and secondly, though in a lesser degree, of Mr. Child, the American observers had not lent to our negotiations the help which they affected to be doing, and had, indeed, in some respects, been acting directly behind our backs.

I did not want to make any formal complaint, neither did I wish the Ambassador to take advantage of the information which I had given him, but while this feeling remained in my mind I could not encourage any resumption of an intervention on the part of the United States, which had so far been the reverse of helpful or fortunate. I should be better pleased to tell the Ambassador from time to time myself what was going on, but any direct participation I could not welcome.

The Ambassador accepted the position without demur and said he would be grateful for any information I might be willing, at any time, to give him.

The second point on which he interrogated me was the position in the Ruhr. Here, he had the impression that matters between the Germans and the French were simmering, and were likely to simmer for another six weeks.

I told him that I thought the metaphor was a little too mild, that he might think things were merely *in statu quo*, and that neither side was disposed to make any advance. That might be a just description, but what I feared was that the broth, instead of simmering, might, at any moment, boil over, and there was no guarantee that something might not happen in the six weeks or two months which might make the situation much worse. Moreover, whatever occurred in Germany itself, I was still more apprehensive of the reaction that might be produced upon public opinion in other countries, notably in our own. Criticism in the press and in Parliament was daily increasing against the attitude of friendly inactivity that hitherto had been pursued by His Majesty's Government; a large section of opinion was calling upon us to take more definite action in one direction or another, and it might very well be that while the pot continued to simmer on the Rhine a very different sort of ebullition might take place here, which would have even wider consequences. This was the aspect of the situation that caused me the greatest disquietude.

The third case of enquiry put forward by Mr. Harvey related to the question of the landing of the American cables in the Azores. Here the American Government pressed for a definite reply from us, whether it was favourable or the reverse. I undertook to procure it.

Finally, I took advantage of his Excellency's presence to inform him, for he knew nothing about it, of the petty but rather disagreeable dispute that had recently arisen with the American Government, who had inserted in a report issued under their name and authority certain documents relating to the British regulation of the oil industry

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in Burmah which were well known to be forgeries, which had already been admitted by the American Government to be forgeries, and the circulation of which had been the subject of violent and altogether unjust attacks upon the British Government in the American press.

I read to the Ambassador a statement which, in default of any repudiation of their own action by the American Government, I had proposed to issue to the press to-morrow. I told Mr. Harvey that I had only withdrawn it in deference to a telegram which I had just received from your Excellency, who reported that the American Secretary of State had undertaken, though without fixing any date, to issue a denial himself.

I said that this was not sufficient. I must have some assurance that the American statement would not be indefinitely postponed, or the matter allowed to slip into oblivion. It was impossible for the British Government to sit still under the circulation of such gross and unfounded charges, and I urged him to telegraph to his chief and ask that the American publication should not be delayed, otherwise I should be compelled to take action on my own account. This his Excellency undertook to do.

I am, &c.

CURZON OF KEDLESTON.

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NORTH AMERICA. [April 3.]

CONFIDENTIAL. SECTION 1.

[A 1979/79/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(*Received April* 3.)

(No. 371.)

My Lord, *Washington, March* 23, 1923.

UNDER cover of my despatch No. 317 of the 16th instant, I had the honour to transmit to your Lordship copies of the official summary of the United States Federal Trade Commission "Report on Foreign Ownership in the Petroleum Industry" for the purpose of calling your attention to certain paragraphs indicating that forged and fraudulent documents had been, for the second time, relied upon by an agency of the United States Administration in support of a charge of discrimination by His Majesty's Government against American nationals. That feature of the report is being dealt with in separate telegrams and despatches, and I now forward additional copies of the summary in order to comment upon the general character of the report and its significance from the point of view of Anglo-American relations.

It is not necessary for me to go over again in detail, in this despatch, ground which has been fully covered in the communications and statistical studies I have had occasion to address to the Foreign Office during the last three years on the subject of the petroleum situation in the United States. Your Lordship is already aware that a fundamental change has been taking place in recent times in the problems presented to the American oil industry. Until a recent date the most difficult task confronting that industry consisted in discovering markets which could absorb the surplus output of the refineries. The petroleum laws of other countries were of no interest whatever to the American public. It mattered little to the ordinary American citizen whether the Standard Oil or any other American concern was admitted to or excluded from foreign petroleum fields, and the interest taken by the oil companies themselves in such fields during the earlier period was apt to be bounded by their desire and ability to immobilise foreign petroleum resources —to keep world production of crude oil at such a low level as would enable them to charge the most profitable prices for their own refined products. In this last-mentioned factor, apparently, is to be found the origin of some, at least, of the foreign restrictive regulations of which the United States Government now complain. Meanwhile, however, expansion in demand for oil and oil products has become so great as to transform the main difficulty, definitely and permanently, into one of finding an adequate supply of crude material to keep the refineries in full operation. The American public, affected in their daily expenditure by heavily enhanced prices for gasoline and other petroleum products, alarmed by official forecasts of the early exhaustion of their domestic oil deposits and persistently misinformed by an aggressively nationalistic press, regarding the oil policies of foreign Governments, have come to manifest an increasing interest in the general question of petroleum supplies. At times of high prices public interest has been so keen and insistent that both the Congress and the Administration have responded to it, the former by enactments such as the Oil Lands Leasing Law of 1920 or by investigations such as that recently made at their instance by the Federal Trade Commission, and the latter by an evident determination to use the powers of the Secretary of the Interior as an indirect means of compelling foreign nations to abandon restrictions excluding citizens of the United States from direct access to deposits of petroleum in the territories under their control. Up to the present time, the most serious practical result, from the British point of view, of the working of the retaliatory policy of the United States Government has been the refusal to grant leases on Indian lands to the Roxana Petroleum Corporation, one of the subsidiaries of the Royal Dutch Shell group. It is true that the new Secretary of the Interior has granted a rehearing of the case, but there is little doubt in my mind that he will eventually confirm his predecessor's decision, and that the report now brought out by the Federal Trade Commission, laying stress on the exclusion of American oil prospectors from various parts of the British Empire, will result in similar future decisions to the

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disadvantage of British interests seeking leases on the American public domain or Indian lands. If the effects of the American policy were to stop there, the final results might not be too serious, but, as your Lordship has learned from previous correspondence, efforts are apparently being made to induce the legislatures in the various petroleum-producing States in this country to model their leasing requirements on those of the Federal Government and to refuse henceforth to grant leases on ordinary private lands to nationals of countries discriminating against American nationals in favour of their own. The so-called Ferrall Bill recently introduced into the Oklahoma legislature is an instance in point, and, although it failed of passage at the last session, it may again be revived at a later date, or another measure, with like provisions, may be introduced when the interests behind the movement have marshalled their forces sufficiently well to secure its enactment. The enclosed memorandum just received from Mr. H. J. Carr, of the Amerada Petroleum Company,* a majority of whose shares are British-owned, shows that a similar legislation has actually been passed in Montana and Wyoming, while a statute in force in Texas makes it impossible for British controlled corporations to own lands in that State. With these developments, and the policy of the United States Government before their eyes, it is scarcely surprising that the Royal Dutch Shell group and the Cowdray interests should begin to feel alarmed, and in view of the heavy investments these concerns have already made in this country, a full and careful consideration of the future oil policies of the British dominions and Crown colonies becomes, in my opinion, a matter of some urgency. The enclosed summary report of the Federal Trade Commission appears to contain more than one inaccuracy regarding the present state of the law, and regulations in the various parts of the British Empire, but the existence of exclusive restrictions in India, in Trinidad and in other British possessions is not denied. If such restrictions do, in fact, confer definite benefits it might be found necessary or desirable to maintain them in spite of the trend of American retaliatory legislation. Without much fuller information than I have ever hitherto received respecting their history and present uses, I can make no recommendation to your Lordship in that regard, but I do feel that our defence of them has hitherto been somewhat weak and academic and I have the distinct impression that some of them are archaic. I welcome, therefore, the intimation sent me, under cover of your despatch No. 278 of the 22nd ultimo, that His Majesty's Petroleum Department propose to review the whole question of the exclusion of foreigners from oil-fields in British territory, and I hope that every proper step will be taken to expedite the necessary investigation.

In raising this broad question at the present time I am not insensible of the difficulties which would have to be met in bringing all colonial oil legislation, and especially the legisation of the self-governing dominions, into harmony with a settled policy of the Imperial Government. Neither can I pretend to have reached any conclusion as to what that policy should be. The information at my disposal regarding the world oil situation and the importance, from the point of view of imperial defence, of maintaining British petroleum resources under the control of British capital is not sufficiently extensive to enable me to hold a confident opinion on that point. On general principles, I believe, of course, in removing every possible cause of friction in the relations between the two countries, but it is possible that American satisfaction with our oil policy might be too dearly bought by opening the door completely to foreign interests in the development of our oil resources, particularly in view of the fact that American faith in the open door is apt to stop short at American frontiers and that even where their laws appear to afford equal opportunity to all, there is frequently room for suspicion that the administrators of the law do not hold the balance evenly as between American citizens and foreigners. What I do desire to point out is that the worst course we can take is to allow the matter to drift. If it be the intention of His Majesty's Government to accept and apply an open door policy so far as British oil resources are concerned, the necessary steps to that end should be taken with the least possible delay, while if, on the other hand, it be considered safer or wiser to maintain certain restrictions and administer them in accordance with the varying conditions of the industry, that decision should be made known as soon as possible to His Majesty's representatives abroad.

I have, &c.
A. C. GEDDES.

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* Not printed.

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NORTH AMERICA. [April 18.]

CONFIDENTIAL. SECTION 2.

[A 2255/239/45] No. 1.

Sir A. Geddes to the Marquess Curzon of Kedleston.—(Received April 18.)

(No. 426.)

My Lord, *Washington, April 6, 1923.*

I HAVE the honour to report that Lord Robert Cecil's visit to the United States has been the subject of keen interest and of extensive comment in the press throughout the country. Without exception, the moderate journals of good standing offer him a welcome which, while guarded and restrained, is, at any rate, personally friendly. He is praised for his frankness and his obvious sincerity, and is described as a good example of a single-minded and disinterested public man. This is true even of republican papers in the Eastern States. The Chicago "Tribune" warns Lord Robert in a leading article that it will be natural for him to receive a false impression of his reception in the United States, since those with whom he comes into contact while in this country will be the "snobs" and those already prejudiced in favour of American participation in European affairs, but the article joins in the personal eulogy and urges that his message is one which deserves the close attention of the American people.

The Hearst press, as was to be expected, has from the outset condemned the circumstances of Lord Robert Cecil's visit and has taken the opportunity to utter in various forms the usual warning against foreign attempts to dictate American policy. It is pointed out that if Lord Robert had come to the United States as a private individual he would have deserved, and would have received, all that befits "a distinguished and delightful visitor." The Hearst press considers, however, that he has come "as an unofficial representative of the ruling class of Great Britain"; his visit is called a "political impertinence" and its readers are urged not to tolerate any interference with the domestic policy of the United States, but to "send back empty-handed" the foreigners who come to this country in the hope of enlisting American support for their "tottering fortunes." The visit is also referred to significantly as the curtain-raiser for the series of "stump" speeches which are likely to be undertaken by the President in preparation for the 1924 elections and in which it is apparently anticipated by Mr. Hearst that Mr. Harding will introduce the question of closer international co-operation on the part of this country.

Senator James A. Reed, of Missouri, in a bitter attack on Lord Robert in the Washington "Herald," a Hearst production, used the following words: "When the statesmen or publicists of any foreign country presume to interfere with the policies of another Government it is an occasion for just resentment as a piece of sheer imprudence." The "Herald" takes care to alter the last word to "impudence."

Notwithstanding the protests and admonitions of the irreconcilable minority, it is apparent that Lord Robert's speeches are serving to stimulate the discussion of foreign affairs. This is to the good, for in the long run anything that leads Americans to think about nations other than their own helps on the work of educating the ignorant masses of this country, and education of the American mind is an essential prerequisite to the United States taking its fair share of world burdens.

At shorter range it seems probable that the most direct effect of Lord Robert's visit will be to make participation by the United States in the work of the World Court more difficult. I hear from irreconcilable Senate circles that no Bill or motion providing for support by the United States of the Court will be permitted to pass unless it includes a provision to the effect that all connection between the Court and the League is first destroyed. It is quite possible, though not certain, that the Irreconcilables will be able to hold up indefinitely any proposal which does not conform with this requirement. As to the idea that Lord Robert's visit is helping to bring the United States nearer to the point of entering the existing League of Nations, it is absurd. The fact that the League has undertaken administrative and supervisory duties in Europe is the last nail in the coffin of the thought that America should become a member. Serious and responsible men who formerly favoured their country joining, now say that obviously some change is required because it would be impossible for the United States to take part in the supervision, for example, of a demilitarised Rhineland.

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The vague aspiration for co-operation with other States still exists in many, I think in an increasing number of minds. But clearly, if we wish to get America to co-operate with all other nations within any measurable time, we shall have to start afresh to devise a plan for an "Association of Nations." This may sound, and indeed is, absurd, but the word "League" is now contaminated beyond hope of purification in the mind of Mr. Babbit, of Main Street.

In conclusion, I should perhaps add that I have discussed Lord Robert's visit to this country with Mr. John Davis, formerly United States Ambassador, and I find that he regards it as even more to be regretted than I.

I have, &c.
A. C. GEDDES.

SECRET & CONFIDENTIAL.

PRESENTATIONS AT COURT AND KING's LEVEES.

Through the courtesy of the Private Secretary to His Excellency the United States Ambassador, I have the undermentioned general lines of policy, followed by the United States Embassy in London.

1. Public notice in this country and in the U.S.A.is given on the 1st January in each year to the effect that a list will be opened at the United States Embassy in London for the names of persons who desire to be presented in the Season following.

2. Each applicant must support the application by at least one letter of recommendation from a person, or persons, in an acknowledged position in the United States or, in exceptional circumstances, the supporter may be resident in Great Britain.

3. The list is closed, absolutely, on the 1st of March each year.

4. The Secretary of the Embassy then takes the list going through it carefully as a preliminary to discussing all applications with the Ambassador.

5. Such sifting of applications is carried out two or three times and a first selection is made by the Ambassador of those persons of whom he has personal knowledge, or personal acquaintance with the recommender.

6. A secondary list is made out of those about whom more information may be required. In these cases the Embassy communicate with the recommender in effect, to enquire under what circumstances the applicant for presentation has received a letter of recommendation, for example, was it on political grounds, commercial interest, or intimate personal acquaintance. The replies to such an enquiry are taken into consideration in making up the number which the Ambassador proposes to put forward.

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7. It has been customary to limit presentations to one in a family each Season; exception would be allowed in the cases of wives and daughters, or daughters only, of Cabinet Ministers or persons in corresponding official positions.

8. There has been no definite allotment of numbers to the Embassy, but experience has indicated that there is a limit (I have not been informed what this is) beyond which it is not advisable to put forward names. It has been necessary in the past to cut down the list by, sometimes, 75%.

9. It will be observed that the list is closed on the 1st of March. Between this date and the 1st of May the Ambassador has usually ample time to enquire into all cases and, consequently, on or about the 1st of May, he communicates the list of selected names to the Marshall of the Diplomatic Corps, Foreign Office, through whom it passes to the Lord Chamberlain's office.

10. As soon as this list has been put forward a letter is addressed to all applicants, in effect -

(a) That their name has been selected by the Ambassador and has been put forward but, until they hear further from him, they are not to assume that presentation will be made.
(b) To others a letter intimating that accommodation has not been provided this Season and, in consequence, their names could not be put forward.

11. At an appropriate date in advance of the Levee or Court the official summons is issued, through the Embassy to those whose names have been recommended by the Ambassador.

(Signed) J. REID HYDE

LONDON.S.W.
2nd June.1927

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CONFIDENTIAL.

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MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.

United States Draft of an Arbitration Treaty to replace the Anglo-American Arbitration Treaty of 1908.

MR. HOUGHTON, in the course of an interview with me on the 5th July last, drew attention to the fact that the Anglo-American Arbitration Treaty would expire next June, and enquired informally what was likely to be the attitude of His Majesty's Government in the matter. Would they be prepared to renew this treaty? I replied that I could say confidently, even without consulting my colleagues, that we should be most willing to renew the treaty. In the ensuing conversation he made it clear that he merely wished to know, for the information of his Secretary of State, whether the treaty could be renewed in its present form. We have therefore been proceeding on the assumption that the United States Government desired to renew the Root–Bryce Treaty in its existing form, and His Majesty's Government in Great Britain have been in touch with the various Dominion Governments with a view to its renewal.

This was the position when, on the 29th December last, Mr. Kellogg addressed to Sir E. Howard a note, in which he transmitted, for our consideration and as a basis for negotiation, the draft of a new Treaty of Arbitration to take the place of the treaty which expires next June (Appendix I). Mr. Kellogg stated that the language of his draft was *mutatis mutandis* identical with that of the draft treaty which he had transmitted on the previous day to the French Ambassador for the consideration of his Government.

In order to permit a convenient comparison between the new United States text and the text of the Root–Bryce Treaty of 1908, the two texts have been placed side by side:—

Draft Treaty of Arbitration submitted by the United States Government.	*Arbitration Convention of* 1908 *between the United Kingdom and the United States of America.*
Preamble.	
The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, determined to prevent so far as in their power lies any interruption in the peaceful relations that have happily existed between the two nations for more than a century, desirous of re-affirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them, and eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the specific settlement of international disputes shall have eliminated for ever the possibility of war among any of the Powers of the world, have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on the	His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the United States of America, desiring in pursuance of the principles set forth in articles 15–19 of the Convention for the Pacific Settlement of International Disputes, signed at The Hague, the 29th July, 1899, to enter into negotiations for the conclusion of an arbitration convention, have named as their plenipotentiaries, to wit: His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: the Right Honourable James Bryce, O.M., and The President of the United States of America: Elihu Root, Secretary of State of the United States; Who, after having communicated to one another their full powers, found in

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4th April, 1908, which expires by limitation on the 4th June, 1928, and for that purpose they have appointed as their respective plenipotentiaries :

The President of the United States of America :

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India :

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles :

Preamble.—There is nothing in the preamble to which serious objection need be taken. It may perhaps appear a rather sweeping declaration that Great Britain and the United States should state that they are "desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies," but there can be no great objection to such a statement appearing in a preamble.

The wording would, however, require modification to provide for the event of signature by the Dominions and India under separate full powers in the form recommended by the Imperial Conference of 1926. The words "between the two nations" in line 8 of the preamble should perhaps be altered so as to read "between their respective countries." The words "to one another" at the end of the preamble are superfluous.

ARTICLE 1.

Any disputes arising between the high contracting parties, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, the 15th September, 1914, to the Permanent International Commission constituted pursuant thereto.

Article 1.—There was no corresponding article in the Root–Bryce Treaty. The article does not appear to have any effect other than that of linking up the new draft treaty with the treaty concluded in 1914 for the establishment of a Peace Commission, commonly known as the Bryan Peace Treaty (see Appendix III). This treaty provides that all disputes between the contracting parties of any nature whatsoever (other than those, the settlement of which is already provided for in existing agreements) shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission. Hostilities are not to be commenced during such investigation. The commission is composed of five members, one member to be chosen from each country by the Government of that country; one member to be chosen by each Government from some third country; the fifth member to be chosen by common agreement between the two Governments. Since its signature in 1914 no dispute has been referred to this Peace Commission.

Under the new United States draft a reference to the Bryan Treaty is definitely to be regarded as the first step to be taken by the contracting parties whenever they have failed to reach agreement through the diplomatic channel or whenever there has been no prior agreement to refer the dispute to some other tribunal. This article, if it serves to bring the principle of conciliation into greater prominence, is all to the good.

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Article 2.	Article 1.
All differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other, under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the above-mentioned Permanent International Commission, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of the 18th October, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organisation of such tribunal, if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.	Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honour of the two contracting States, and do not concern the interests of third parties. Article 2. In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure.

Article 2, *paragraph* 1, of the new draft takes the place of article 1 and the first sentence of article 2 of the 1908 treaty.

The drafting of this paragraph is defective by reason of the presence of a double attempt to define the word "justiciable." If the dispute relates to a matter in which one party is concerned by virtue of a claim of right against the other, the dispute must necessarily be justiciable. Furthermore, if a justiciable case is in question, it is confusing to define it as "susceptible of decision by the application of a rule of . . . . equity." "Equity" is an elusive term, and, in international relations it means something more than strict law. The word "equity" should preferably be omitted.

Continuation of Article 2.	*Continuation of Article* 2.
The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America, by and with the advice and consent of the Senate thereof, and on the part of the British Empire in accordance with the constitutional laws of the British Empire, His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion.	It is understood that such special agreements on the part of the United States will be made by the President of the United States, by and with the advice and consent of the Senate thereof; His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion. Such agreements shall be binding only when confirmed by the two Governments by an exchange of notes.

Article 2, *paragraph* 2.—This paragraph takes the place of the remainder of article 2 of the 1908 treaty. As in the case of the earlier treaty we are faced with the difficulty that the special agreement, the conclusion of which is a necessary preliminary to the reference of any dispute to arbitration, remains subject to ratification by the Senate. This body, therefore, has the power, by refusing to sanction the conclusion of the special agreement, to prevent arbitration upon a matter which admittedly falls within the terms of the draft treaty. In this respect the treaty (like its predecessors) is one-sided, because the Senate exercises constitutionally on the treaty-making powers of the Executive a restrictive influence, which, differing in degree from that exercised by the Legislature under British

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parliamentary institutions, is in practice used remorselessly and with little regard for the wishes of the Administration of the day. This is a difficulty inherent in any treaty with the United States.

At first sight, the following formula, in which the new wording is in italics, would seem preferable to the present United States draft of article 2, paragraph 2:—

> "The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America, by and with the advice and consent of the Senate thereof, *and on the part of His Majesty's dominions by His Majesty the King in accordance with constitutional practice.*"

The expression "His Majesty's dominions," used in this sense means the whole of the British Empire, and not the self-governing Dominions.

The words "in accordance with constitutional practice" would, I am advised, cover the case where the Government of the day (either in Great Britain or the Dominions) considered the subject matter of any "special agreement" to be of such vital importance that they desired to submit the instrument, before ratification, to the British Parliament or Parliaments concerned. In such a case Parliament would have the same opportunity as the United States Senate to reject the agreement if it thought fit. The proposed wording should enable us to meet a possible objection raised by the United States Government that other important treaties have not been submitted to Parliament with the answer that His Majesty's Government or Governments concerned must be the judges of what is or is not of sufficient importance to merit submission to Parliament, and that the advice they tender to the Crown is based upon such a consideration.

In a draft treaty which had been prepared originally with a view to the renewal of the 1908 Arbitration treaty with the United States the last part of article 2, from the words "His Majesty's Government reserving," were deleted and replaced by the words: "All special agreements concluded in accordance with the provisions of this article shall not be binding until they have been confirmed by an exchange of notes."

Article 3.

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which—

(*a.*) Is within the domestic jurisdiction of either of the high contracting parties.

(*b.*) Involves the interests of third parties.

(*c.*) Depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine.

Article 1 of the draft treaty admits of no exception from the category of disputes to be submitted, after the failure of diplomatic methods of settlement, to the conciliation proceedings laid down in the Bryan–Spring-Rice Treaty of 1914. Article 3 of the draft treaty declares, on the other hand, that its provisions shall not be invoked in respect of certain classes of dispute. The two stipulations are clearly in conflict. The intention probably is that article 3 should apply to arbitration proceedings only, and this is confirmed by recent press messages from Washington respecting the recently concluded Franco-American Treaty. However, in order to remove any element of doubt, it is proposed that the first sentence of article 3 should be amended so as to read: "The provisions of *article 2* of this treaty shall not be invoked," &c., thus removing any possible restriction on the operation of article 1 of the draft treaty.

This article contains the revised formula for the reservations, to be substituted for the old phrase about vital interests, honour, &c., in article 1 of the old treaty.

The first heading relates to questions within the domestic jurisdiction of either party.

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At the forthcoming meeting of the Security Commission at Geneva the general question of the reservations to be made in arbitration treaties will come up for discussion. If as a result of these discussions it is agreed that some reservation as to matters exclusively within the jurisdiction of one of the parties should be formulated, its text should be studied in detail by a competent committee of lawyers. "Domestic jurisdiction" is not altogether satisfactory as a phrase to express the underlying idea. By international law the principle is admitted that every sovereign State is supreme over certain questions; that is to say that, except in so far as it may voluntarily limit its freedom of action by treaty, it may act as it thinks best in these matters. Within this field no foreign State has a right to complain of any action which may affect one of its nationals. But the extent of this field is vague and indefinite, and I should feel less uneasiness about using the phrase as a reservation in an arbitration treaty if agreement were a little more general as to what it covered.

It may be mentioned as an example that the United States Government have always held that matters relating to immigration are exclusively of American concern, and there can be no doubt that, under this reservation, they expect to remove from the field of arbitration any dispute with Japan in regard to the immigration question—a matter which has in the past led to much ill-feeling between the two countries.

The second reservation excludes disputes which involve the interests of third parties. It is at this point that some form of words might be added so as to exclude from arbitration any question affecting our belligerent rights at sea. Quite possibly one of the objects of the United States Government is to bring this question within the scope of the treaty; they would claim that the question is "justiciable" because there is a body of international law which is supposed to govern the exercise of such rights, and they might further maintain that it cannot be held to be excluded under article 3, paragraph (*b*), because it is clearly not an "interest" of a third party to be blockaded. In the present political situation it would be advisable to find some better means than an explicit reservation of such rights, because the latter course would immediately raise a storm in the United States and be used by the Big Navy party as a useful weapon in their campaign for naval expansion. Perhaps the difficulty could be overcome by some elaboration of paragraph (*b*) which, while not specifically referring to the question of belligerent rights, would nevertheless be sufficiently comprehensive to prevent its compulsory reference to an arbitral tribunal. Whether, however, it is done implicitly or explicitly, I think there can be no doubt that any dispute which might prevent the exercise of naval pressure by the British fleet in time of war must be excluded from the operation of the new treaty.

The third reservation is that of the Monroe doctrine. I confess I do not understand how this reservation is intended to work in practice. The Monroe doctrine is a policy of the United States relating to American countries other than the United States itself. It constitutes a notification to all the world that certain interferences on the part of European States with the republics of the Western Hemisphere will be regarded by the United States as a *casus belli*. If, therefore, a dispute between this country and the United States involves the application of the Monroe doctrine, it will be because some action taken by this country towards a Latin-American republic will be regarded by the United States as such an interference with that republic as to necessitate objection, and, in the last resort, belligerent action by the United States. The United States would not base such intervention on a claim of "right"; it is merely a policy; consequently the intervention would not constitute a justiciable dispute within the meaning of the treaty, *i.e.*, would not constitute a dispute in which the parties to the treaty would be in conflict as to their respective rights. The United States have no "right" in the technical sense of that term to intervene; such a right must be based on law or treaty.

If a claim by the United States to intervene is to be elevated into a right, the Monroe doctrine must itself be elevated into something of the nature of a law or a treaty. For that purpose it must be defined. Hitherto it has been of the essence of the Monroe doctrine that, being an American *policy*, it was for the United States to interpret the doctrine and apply it as they pleased. In fact, the Monroe doctrine has grown with the growing strength of the United States and is to-day in the American popular mind a different thing from the doctrine originally proclaimed a century ago.

It seems, on the whole, probable that the United States Government, were they asked to define what is the precise intention of paragraph (*c*) of article 3, would reply, if they were frank, that what they desire to avoid is to arbitrate any dispute which might ultimately call into question the validity of the Monroe doctrine, as

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expounded by President Monroe, and as further interpreted since that time by various American statesmen. I attach in Appendix IV an extract from President Monroe's Message of December 1823, together with quotations from authoritative American pronouncements in regard to the doctrine.

There are objections to inviting the United States Government to define more precisely the intention of this reservation, chief amongst which is the possibility that it might lead to a dispute between the two countries if some new and wider claim were now to be put forward in response to our invitation. If enquiry is held to be necessary on this point, it could best be made by inviting confirmation by the United States Government, for the sake of clarity and to avoid future misunderstanding, that the doctrine is correctly defined by the various declarations quoted in Appendix IV.

It may here be mentioned that all the Powers, including His Majesty, accepted in 1907 a reservation made in almost identical terms by the United States when they signed and ratified the Convention for the Pacific Settlement of International Disputes of that year. A reservation of the Monroe doctrine appears also in article 21 of the League Covenant. Apart, therefore, from the undesirability of becoming involved in a discussion with the United States as to what the doctrine means, the hands of the Powers are tied by their own action in 1907.

ARTICLE 4.

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in accordance with the constitutional laws of the British Empire. The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either high contracting party to the other.

In faith whereof the respective plenipotentiaries have signed this treaty in duplicate and hereunto affix their seals.

Done at Washington the day of , in the year of our Lord one thousand nine hundred and twenty-

ARTICLE 3.

The present convention shall be ratified by His Britannic Majesty, and by the President of the United States of America by and with the advice and consent of the Senate thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

ARTICLE 4.

The present convention is concluded for a period of five years, dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, this fourth day of April, in the year 1908.

(Signed) JAMES BRYCE.
(Signed) ELIHU ROOT.

Article 4 of the new draft corresponds to articles 3 and 4 of the Root–Bryce Treaty. The new draft provides that the treaty shall remain in force continuously unless and until terminated by one year's written notice, given by either high contracting party to the other. The old treaty was concluded for a period of five years only, but has hitherto been renewed without modification at the end of each five-yearly period. It would appear preferable to substitute "in accordance with constitutional practice" for "in accordance with the constitutional laws of the British Empire."

Franco-American Treaty.

On the 6th February last a Franco-American Arbitration Treaty was signed at Washington to take the place of the Root Treaty with France which expired on the 27th February last. The terms of the new treaty (printed in Appendix II) are practically identical with those of the draft Arbitration Treaty submitted to us, the only change of consequence being the addition to article 3 of a fourth reservation which removes from the scope of arbitration under the treaty any dispute the subject-

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matter of which "depends upon or involves the observance of the obligations of France in accordance with the Covenant of the League of Nations."

At first sight France's engagements under the Covenant of the League of Nations would appear to be covered by the reservation in article 3, paragraph (*b*), which excludes from arbitration, questions involving the interests of third parties. But the French have wished to make assurance doubly sure on this point and it will probably be wise that a similar reservation should be added to our Draft Treaty.

General Observations.

From the British point of view the worst feature of the Draft Arbitration Treaty is that we may find ourselves obliged to submit to arbitration, under its present terms, a question involving the future exercise of our belligerent rights at sea; subject to an amendment being introduced which would exclude this possibility, and subject to the other amendments discussed above, which are mainly designed to prevent possible divergencies of interpretation. the draft treaty does not appear to be open to serious objection. It is, however, impossible to say with certainty that, even if its terms are amended so as to exclude disputes affecting the exercise of belligerent rights, some question of vital importance to this country may not arise which we should be reluctantly compelled to arbitrate. If we are to have complete certainty on this point, it would be necessary once again to make some reservation designed to cover questions involving our vital interests. An explicit reservation of vital interests would, however, defeat one of the main purposes of the new draft (which has even been emphasised by the French), that is, the elimination of the clause relating to the vital interests, the independence or the honour of the contracting parties. We should, moreover, by reverting simply to the old text, lay ourselves open to the criticism that we had made no advance during the last twenty years.

No final opinion can be expressed on the draft treaty until we are in possession of the report of the Geneva Security Commission, which is conducting an enquiry into the reservations appropriate to treaties of arbitration. This report may be expected in the course of March.

At the time of signature of the Arbitration Convention of 1908 an exchange of notes took place with the United States Government, the terms of which are set forth in Appendix V.

It would seem desirable to renew these notes subject to such modifications as are rendered necessary by the altered form of the treaty and by developments which have occurred since 1908.

A. C.

Foreign Office, March 3, 1928.

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APPENDIX I.

Mr. Kellogg to Sir E. Howard.

Excellency, *December* 29, 1927.

I HAVE the honour to refer to our conversation of this morning and to transmit herewith, for the consideration of your Government and as a basis for negotiation, a draft of a proposed Treaty of Arbitration. The provisions of this draft operate to extend the policy of arbitration enunciated in the convention signed at Washington, the 4th April, 1908 (which expires by limitation on the 4th June, 1928), and explicitly record the desire of the two Governments to condemn war as an instrument of national policy in their mutual relations. The language of the draft is *mutatis mutandis* identical with that of the draft treaty which I yesterday trans-

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mitted to the French Ambassador for the consideration of his Government, except for the reservation at the end of article 11 covering questions involving the interests of a self-governing Dominion of the British Empire. This clause was taken from article 1 of the Knox Treaty, concluded in 1911, but never coming into force.

I feel that by adopting a treaty such as that suggested herein, we shall not only promote the friendly relations between the peoples of our two countries, but also advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in my views and is prepared to negotiate a treaty along the lines of that transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept, &c.

FRANK B. KELLOGG.

Enclosure.

Draft Treaty of Arbitration.

THE President of the United States of America and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, determined to prevent so far as in their power lies any interruption in the peaceful relations that have happily existed between the two nations for more than a century, desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them, and eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world, have decided to conclude a new Treaty of Arbitration enlarging the scope and obligations of the Arbitration Convention, signed at Washington on the 4th April, 1908, which expires by limitation on the 4th June, 1928, and for that purpose they have appointed as their respective plenipotentiaries;

The President of the United States of America,

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

who, having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:—

ARTICLE 1.

Any disputes arising between the high contracting parties of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, the 15th September, 1914, to the Permanent International Commission constituted pursuant thereto.

ARTICLE 2.

All differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the above-mentioned Permanent International Commission, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of the 18th October, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organisation of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of the British Empire

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in accordance with the constitutional laws of the British Empire, His Majesty's Government reserving the right before concluding a special agreement in any matter affecting the interests of a self-governing Dominion of the British Empire to obtain the concurrence therein of the Government of that Dominion.

ARTICLE 3.

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which—

(*a.*) Is within the domestic jurisdiction of either of the high contracting parties.
(*b.*) Involves the interests of third parties.
(*c.*) Depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine.

ARTICLE 4.

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in accordance with the constitutional laws of the British Empire. The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either high contracting party to the other.

In faith thereof the respective plenipotentiaries have signed this treaty in duplicate and hereunto affix their seals.

Done at Washington, the day of in the year of our Lord one thousand nine hundred and twenty

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APPENDIX II.

Franco-American Treaty of Arbitration, signed at Washington on February 6, 1928.

THE President of the United States of America and the President of the French Republic,

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have happily existed between the two nations for more than a century;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them;

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated for ever the possibility of war among any of the Powers of the world;

Having in mind the treaty signed at Washington on the 15th September, 1914, to facilitate the settlement of disputes between the United States of America and France,

Have decided to conclude a new treaty of arbitration enlarging the scope of the arbitration convention signed at Washington on the 10th February, 1908, which expires by limitation on the 27th February, 1928, and promoting the cause of arbitration, and for that purpose they have appointed as their respective plenipotentiaries:

The President of the United States of America:
Mr. Robert E. Olds, Acting Secretary of State, and

The President of the French Republic:
His Excellency M. Paul Claudel, Ambassador Extraordinary and Plenipotentiary of the French Republic to the United States,

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who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:—

ARTICLE 1.

Any disputes arising between the Government of the United States of America and the Government of the French Republic, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the high contracting parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report, as prescribed in the treaty signed at Washington, the 15th September, 1914, to the Permanent International Commission constituted pursuant thereto.

ARTICLE 2.

All differences relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the above-mentioned Permanent International Commission, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of the 18th October, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organisation of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of France in accordance with the constitutional laws of France.

ARTICLE 3.

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which—

(*a.*) Is within the domestic jurisdiction of either of the high contracting parties.
(*b.*) Involves the interests of third parties.
(*c.*) Depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine.
(*d.*) Depends upon or involves the observance of the obligations of France in accordance with the Covenant of the League of Nations.

ARTICLE 4.

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the French Republic, in accordance with the constitutional laws of the French Republic.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously, unless and until terminated by one year's written notice given by either high contracting party to the other.

In faith thereof, the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the sixth day of February in the year of our Lord one thousand nine hundred and twenty-eight.

ROBERT E. OLDS. [Seal.]
CLAUDEL. [Seal.]

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APPENDIX III.

Treaty between the United Kingdom and the United States of America with regard to the Establishment of a Peace Commission.—(Signed at Washington, September 15, 1914.)

[Ratifications exchanged at Washington, November 10, 1914.]

HIS Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the United States of America, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:—

His Britannic Majesty: The Right Honourable Sir Cecil Arthur Spring-Rice, G.C.V.O., K.C.M.G., &c., His Ambassador Extraordinary and Plenipotentiary at Washington; and

The President of the United States: The Honourable William Jennings Bryan, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:—

Article 1.

The high contracting parties agree that all disputes between them, of every nature whatsoever, other than disputes the settlement of which is provided for and, in fact, achieved under existing agreements between the high contracting parties, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a Permanent International Commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

Article 2.

The International Commission shall be composed of five members, to be appointed as follows:—

One member shall be chosen from each country by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country.

The expenses of the commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of the ratifications of this treaty, and vacancies shall be filled according to the manner of the original appointment.

Article 3.

In case the high contracting parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously, by unanimous agreement, offer its services to that effect, and in such case it shall notify both Governments and request their co-operation in the investigation.

In the event of its appearing to His Majesty's Government that the British interests affected by the dispute to be investigated are not mainly those of the United Kingdom, but are mainly those of some one or more of the self-governing Dominions, namely, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland, His Majesty's Government shall be at liberty to substitute as the member chosen by them to serve on the International Commission for such investigation and report another person selected from a list of persons to be named, one for each of the self-governing Dominions, but only one shall act—namely, that one who represents the Dominion immediately interested.

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The high contracting parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the International Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the high contracting parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government and the third retained by the commission for its files.

The high contracting parties reserve the right to act independently on the subject-matter of the dispute after the report of the commission shall have been submitted.

ARTICLE 4.

This treaty shall not affect in any way the provisions of the treaty of the 11th January, 1909, relating to questions arising between the United States and the Dominion of Canada.

ARTICLE 5.

The present treaty shall be ratified by His Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years, and it shall thereafter remain in force until twelve months after one of the high contracting parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in duplicate at Washington on the fifteenth day of September, in the year of Our Lord nineteen hundred and fourteen.

(L.S.) CECIL SPRING-RICE.
(L.S.) WILLIAM JENNINGS BRYAN.

APPENDIX IV.

Extract from Message of President Monroe, dated December 2, 1823.

IT was stated at the commencement of the last Session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been, so far, very different from what was then anticipated. Of events in that quarter of the globe with which we have so much intercourse and from which we derive our origin we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in favour of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of the European Powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defence. With the movements in this hemisphere we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the Allied Powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments. And to the defence of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candour and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of

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any European Power we have not interfered, and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of oppressing them or controlling in any other manner their destiny by any European Power, in any other light than as the manifestation of an unfriendly disposition towards the United States. In the war between those new Governments and Spain, we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur, which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security.

The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact, no stronger proof can be adduced than that the Allied Powers should have thought it proper, on any principles satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried on the same principle is a question in which all independent Powers, whose Governments differ from theirs, are interested; even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is not to interfere in the internal concerns of any of its Powers; to consider the Government *de facto* as the legitimate Government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm and manly policy, meeting, in all instances, the just claims of every Power, submitting to injuries from none. But in regard to these continents, circumstances are eminently and conspicuously different. It is impossible that the Allied Powers should extend their political system to any portion of either Continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other Powers will pursue the same course.

Pronouncements by American Statesmen with regard to the Monroe Doctrine.

Mr. Hay in 1903 said in connection with the naval blockade of Venezuela by Great Britain, Germany and Italy, that "the United States could not object to foreign Powers taking steps against American countries to obtain redress for injuries suffered by their subjects, provided that no acquisition of territory was contemplated."

In 1914 Mr. J. W. Foster (ex-Secretary of State) said: "The primary object of the doctrine was, and is, to prevent the permanent occupation by European nations of any of the territory of the American States or the overthrow of their political institutions. Succeeding Administrations have repeatedly stated that European Governments are free to make war on the American States or to resort to force to support their complaints, provided that they observe the two conditions above stated as to territory and political institutions."

Mr. Root said in 1914: "As the Monroe doctrine neither asserts nor involves any right of control by the United States over any American nation, it imposes upon the United States no duty towards European Powers to exercise such a control."

Mr. Hughes in 1923 declared that the Monroe doctrine was "opposed (1) to any non-American action encroaching upon the political independence of American States under any guise, and (2) to the acquisition in any manner of the control of additional territory in this hemisphere by any non-American Power."

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APPENDIX V.

Notes Exchanged at the time of signature of the Arbitration Convention of April 4, 1908.

(1.)

Washington, April 4, 1908.

Sir,

I HAVE the honour to inform you that I have been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place on record, on behalf of His Majesty's Government, with reference to the General Arbitration Treaty just signed by you and myself, that the final sentence of article 2 has been inserted in order to reserve to both Governments the freedom of action secured to the United States Government under their Constitution until any agreement which may have been arrived at shall have been notified to be finally binding and operative by an exchange of notes. It is understood that this treaty will not apply to existing pecuniary claims nor to the negotiation and conclusion of the special treaty recently recommended by the International Waterways Commission or any other such treaty for the settlement of questions connected with boundary waters.

I shall be obliged if you will inform me of the concurrence of the United States Government in the terms of this note.

I have, &c.
(Signed) JAMES BRYCE.

The Honourable Elihu Root,
Secretary of State.

(2.)

Department of State, Washington, April 4, 1908.

Excellency,

IN signing with you to-day a General Arbitration Treaty which has been negotiated between our respective Governments, I have the honour to acknowledge and take due cognisance of your note of this day's date, whereby you inform me that you are instructed by His Majesty's Principal Secretary of State for Foreign Affairs to place on record, on behalf of His Majesty's Government, with reference to said treaty, that the final sentence of article 2 has been inserted in order to reserve to both Governments the freedom of action secured to the United States Government under their Constitution until any agreement which may have been arrived at shall have been notified to be finally binding and operative by an exchange of notes. The Government of the United States, in turn, declares that its understanding of the final sentence of article 2 aforesaid is that which you set forth on behalf of His Majesty's Government.

I also take note of and concur in the understanding expressed in your note that the treaty we have just signed will not apply to existing pecuniary claims nor to the negotiation and conclusion of the special treaty recently recommended by the International Waterways Commission or any other such treaty for the settlement of questions connected with boundary waters.

I have, &c.
(Signed) ELIHU ROOT.

His Excellency the Right
Honourable J. Bryce, O.M.,
&c. &c. &c.

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Arbitration

EXTRACT FROM HOUSE OF COMMONS PARLIAMENTARY DEBATES

Vol. 223. No. 15. Monday, 26th November, 1928.

GREAT BRITAIN AND UNITED STATES
(Arbitration Treaty.)

Mr. RENNIE SMITH asked the Under-Secretary of State for Foreign Affairs the dates when the last communications were sent to the Dominions on the subject of the new Anglo-American Arbitration Treaty; and which Dominions have sent in their replies?

Mr. LOCKER-LAMPSON: I do not think that there can be any advantage in giving dates or details in regard to a correspondence which is still proceeding.

Mr. SMITH: As these discussions have been going on now for eight or nine months, cannot the right hon. Gentleman give us some information as to when the negotiations are likely to fructify?

Mr. LOCKER-LAMPSON: I cannot give any answer as to the date. As I said the other day, we are doing our best to expedite the matter, and quite a short time ago we sent a telegram asking the Dominions to expedite their replies.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

C 40763 International Relations. U. States; External affairs Collateral — Anglo-American Relations

OFFICE OF THE HIGH COMMISSIONER FOR CANADA.

LONDON, Eng.

SUBJECT— Great Britain And The Peace Pact..Pilgrims' Dinner.

Name and Date of Newspaper:—

The Manchester Guardian, 6th December, 1928.

Learned something from your speech at Geneva. P.C.L.

FRONTIER WITHOUT FORTIFICATIONS.

Canada's Safety.

U.S. AMBASSADOR ON A GREAT EXAMPLE.

What Would Happen if it Were Defended.

The American Ambassador (Mr. A. B. Houghton), speaking at the Pilgrims Dinner in celebration of the Peace Pact, held in London last night, dealt with the conclusions to be drawn from the great unfortified frontier between the United States and Canada. He said the multilateral treaty will soon be laid before the American Senate, which will either raitfy it or refuse to ratify it. That is its constitutional right and power. He could not therefore, he said, discuss the treaty as directly as he would otherwise wish to do.

I am thinking (continued the Ambassador) of that long frontier line between Canada and the United States. For 3,000 miles—or if the Alaskan frontier, he added, in for more than 5,000 miles—that line stretches away without a fortification on either side of it or a ship of war. There are no military problems or naval problems involved in its maintenance. No one is scheming to change that frontier, no one is suspected of scheming. The fact is accepted by us both with much the same definiteness of mind as if a few thousand miles of sea water divided us.

If Fortifications Existed.

He would ask them to consider what would have been the result if that frontier had been protected. There were now great cities along that border which might conceivably be subject to attack. They would now be protected—they might be sure of that. There were physical resources, and they might be sure they would not have gone unprotected.

On the contrary (he continued) in addition to fortifications and ships I suspect we should now have general staffs working out in secret plans of defence and offence. There would exist among both peoples a deep-lying unrest of mind, and a certain suspicion and distrust of the other's good faith and good intentions. In other words there would be along that frontier to-day, in greater or less degree, much the same conditions that exist, or are thought to exist, along frontiers in other parts of the world.

Did they think that military experts and naval experts and political experts on either side would now agree that armed protection was unnecessary. He doubted it.

I think they would be far more likely to approach the matter in good spirit and with a sincere desire that so desirable a result were practicable, but in view of human experience would feel compelled to decide that while peaceful settlements should, of course, be sought and every facility given to make them successful. Nevertheless armed protection was prudent, and to be really effective ought to be at least doubled. Yet we know that such a conclusion is false. Those elements of force, whether naval or military, are not necessary for the mutual safety of the Canadian and American peoples. We have demonstrated the fact.

Resistance to War.

Democratic peoples, self-governing peoples, as you know by your own experience, do not easily go to war. There is among them a wholly natural inertia against such violent and dangerous and costly changes as war inevitably brings, and year by year (and almost day by day, I believe, that inertia, that resistance, grows and is more difficult to move, and with that process the danger of war lessens.

There is nothing inherently impossible in the task of bringing the differences between the nations to peaceful settlements. Two peoples can live side by side unarmed against the other in mutual goodwill and in mutual safety (concluded Mr. Houghton). That, it seems to me, is an assurance which the peoples of the new world, out of their experience, may properly offer to the peoples of the old.

Lord Desborough presided, and the guests included Sir Austen Chamberlain, who sat between the chairman and the German Ambassador.

The American Ambassador read the following message which he had received from Mr. Kellogg:—

> Please extend my greetings to the Pilgrims and express the gratification I feel that they are celebrating the signing of the anti-war pact. The treaty expresses the sentiments of all peoples of the world, and sixty nations have either signed the treaty or expressed their intention to adhere to it. Thus it becomes the declaration of the hopes and aspirations of mankind.

Sir Austen said the Aemrican Ambassador had spoken of restrictions which were imposed by the circumstances of the moment. "I am, too, conscious," said Sir Austen, "that at this moment the existence of that pact depends upon the decision of the Senate. If it should approve no Government will more readily and more easily give its ratification to this instrument than the Government which I have the honour to represent."

Have you considered (he went on) what is implied in this solemn declaration? Being parties to a document in which others, as well as ourselves, renounce the right to pursue their individual policies by war, it behoves us with a care, with an exactitude, with a scrupulousness that has never rested on us to the same extent before, not to give them cause of offence. They have promised not to seek any solution of differences with us by act of war, then it is our duty never to put them in the position by any act of ours in which but for the act of promise they would have gone to war with us.

Sir Austen pointed out that the unfortified Canadian frontier was not only the frontier between Canada and the United States, but the frontier of the British Empire with the United States.

A Work to Publicists.

Yes, and there is something more—Governments must conduct such controversial discussions as may be inevitable in the light of this new document. They must seek first and foremost—as, indeed, they always should have done—to put themselves in the position of the other party, to understand his view, and if they cannot exactly accept the proposal which he has made to them at least to go to the utmost of their power to meet the difficulty with which he is concerned. Was that duty ever confined to Governments? Is not that duty to-day in the light of this new document as incumbent on the press and the people of the country as it is on the Government which conducts their affairs.

When I was in America I read an article by an American in an American magazine of which the title was "International Window Smashing." The author drew his title from the fact that every country would sooner or later have to pay for the windows which its press broke. And whilst the press are free—and should continue free,—it is important they should continue to urge upon their Governments the peaceful solution of international questions. The pact places a new obligation on the publicists of our different countries to work for peace.

I go a step farther. When I talk in any country to the directors of the press and suggest to them that sometimes they make the work of peace-loving and peaceful-minded tsatesmen more difficult, they are apt to say that they give the public (and can only give the public) what the public requires and calls for. The implications of this pact of peace are not, therefore, alone for Ministers nor for the press. They are for every individual citizen in every country which is a party to the pact. They should demand information, good news, fair news, sympathetic news, from other countries; they should insist on being given the material to form their judgment on this great international question.

W.L. Mackenzie King Papers
Memoranda & Notes

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Learned something from your speech at Geneva. P.C.L.

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Memoranda & Notes

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CANADA

C 40764

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CONFIDENTIAL.

No. 228.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, October 19, 1921.

Following telegram has been received from His Majesty's Ambassador at Washington: "Secretary of State has addressed note to me proposing meeting of Anglo-American Claims Arbitration Tribunal should be held Washington during forthcoming Conference, in order to render awards in cases at present awaiting decision and to arrange for resumption at an appropriate time of regular work of Tribunal. Secretary of State understands that Monsieur Fromageot will probably be in Washington in connection with Conference and that 'other members of Tribunal can arrange' to be there during that time. Please inform me as soon as possible what reply I should return."

Secretary of State for Foreign Affairs proposes to reply that no progress can be made until awards in cases already argued have been delivered, that we are anxious that meeting of Tribunal should be held during forthcoming Conference for that purpose, and that when all these awards have been delivered we shall be ready to discuss arrangements for resumption of Tribunal's work.

Should be glad to know whether your Government concur and if so if they will communicate with a view to arranging for presence of Sir C. Fitzpatrick at sittings for delivery of awards.

SECRETARY OF STATE FOR THE COLONIES.

No. 229.

Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, October 19, 1921.

Referring to my telegram of the 19th October[1] with regard to Pecuniary Claims Arbitration Conference, it is also proposed to confidentially instruct His Majesty's Ambassador at Washington as follows: "In schedule annexed to Pecuniary Claims Agreement 1910 there are many cases listed which have not yet been dealt with and before we could agree to negotiate a second schedule they must be disposed of. Any attempt to bring in claims arising out of the blockade measures during the war must be guarded against.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 228.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
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CANADA

No. 230.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, November 4, 1921.

Should be glad to receive an early reply to my telegram October 19[1] Pecuniary Claims as His Majesty's Ambassador at Washington pressing for answer.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 228.

No. 231.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, November 4, 1921.

Your telegrams October 19 and November 4,[1] Pecuniary Claims Arbitration Tribunal. Canadian Government considers it desirable that arbitrators should meet in Washington on occasion of Monsieur Fromageot's visit and dispose of cases now standing for judgment, and further, if possible, that arrangements should be made for early hearing of remaining cases now listed, and also for negotiation of second schedule.

It is desired to point out that claims originating during war cannot be brought into present agreement inasmuch as it provides only for consideration of claims notified within four months after confirmation of agreement. Time for payment of awards is fixed with relation to date of final award, and as claimants are pressing it seems desirable that all proceedings under present agreement should be concluded without avoidable delay.

BYNG.

[1] Nos. 228, 229 and 230.

No. 232.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, November 29, 1921.

Fm. H.M. Amb., Wash., October 4.
Fm. H.M. Amb., Wash., October 26.
Fm. H.M. Amb., Wash., November 9
To H.M. Amb., Wash., November 17.
To H.M. Amb., Wash., November 17.

MY LORD,—With reference to my telegrams of the 19th October[1] and subsequent correspondence, I have the honour to transmit to Your Excellency for the information of your Ministers, a copy of telegraphic correspondence with His Majesty's Ambassador at Washington, as noted in the margin, regarding the proposed meeting of the Pecuniary Claims Arbitration Tribunal.

I have, etc.,

WINSTON S. CHURCHILL.

Governor General
His Excellency
General
The Right Honourable
LORD BYNG OF VIMY,
etc., etc., etc.

[1] Nos. 228 and 229.

ENCLOSURE 1 IN No. 232

From His Majesty's Ambassador at Washington to the Secretary of State for Foreign Affairs

Telegram.

No. 639.

WASHINGTON, October 4, 1921.

Secretary of State has addressed a note to me proposing that a meeting of Anglo-American Claims Arbitration Tribunal should be held in Washington during forthcoming Conference in order to render awards in cases at present awaiting decision and to arrange for resumption at an appropriate time of regular work of Tribunal.

Secretary of State understands that Monsieur Fromageot will probably be in Washington in connection with the Conference and that "other members of the Tribunal can arrange" to be here during that time.

Please inform me as soon as possible what reply I should return.

ENCLOSURE 2 IN No. 232

From His Majesty's Ambassador at Wasington to the Secretary of State for Foreign Affairs

Telegram.

No. 709.

WASHINGTON, October 26, 1921.

When may reply be expected to my telegram No. 639.

ENCLOSURE 3 IN No. 232

From His Majesty's Ambassador at Washington to the Secretary of State for Foreign Affairs

Telegram.

No. 746.

WASHINGTON, November 9, 1921.

My telegram No. 639, French and American representatives are pressing for early meeting of Tribunal. I should be glad to know what reply I should make.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

C 40767

C48768

ENCLOSURE 4 IN No. 232

From the Secretary of State for Foreign Affairs to His Majesty's Ambassador at Washington

Telegram.
No. 699.

FOREIGN OFFICE, November 17, 1921.

Your telegram No. 639 of October 4, Pecuniary Claims Arbitration. No progress can be made until awards in cases already argued have been delivered; we are anxious that a meeting of the Tribunal should be held during forthcoming Conference for this purpose. When all these awards have been delivered we shall be ready to discuss arrangements for resumption of Tribunal's work.

I am asking Canadian Government to communicate with you with a view to arranging for Sir C. Fitzpatrick's presence at sitting for delivery of awards.

ENCLOSURE 5 IN No. 232

From the Secretary of State for Foreign Affairs to His Majesty's Ambassador at Washington

Telegram.
No. 700.

FOREIGN OFFICE, November 17, 1921.

Prior to negotiating a fresh schedule we must ensure that all those unsettled cases which appear in the Schedule to the 1910 Pecuniary Claims Agreement are disposed of. We should like if possible to avoid being led into any discussions having for their object the modification of the agreement inasmuch as this might result in the submission of claims in connection with wartime blockade operations, a proceeding which we must do our best to prevent.

No. 233.

From His Majesty's Ambassador at Washington to the Governor General

Secret
Telegram.

WASHINGTON, January 31, 1922.

With reference to the Deputy Governor General's despatch No. 113 of 22nd October[1] and letter from the Department of Indian Affairs dated 2nd December, 1919, regarding the claim of Pottawatamie Indians, I am informed by Messrs. Keppler and Merillat, Attorneys at Washington, that they had introduced a Bill into Congress for (this?) claim and that under a contract by which they are to receive fifteen per cent award, they are authorized to represent claimants.

A despatch follows with copy of Bill.

Please inform me whether you desire me to make representations to United States Government and whether Mr. Chisholm is still recognized as sole agent.

GEDDES.

[1] No. 206.

No. 234.

From His Majesty's Ambassador at Washington to the Governor General
No. 23.

BRITISH EMBASSY,
WASHINGTON, D.C., February 1, 1922.

MY LORD,—With reference to my telegram No. 1 of January 31[1] in regard to the claim of the Pottawatomie Indians, I have the honour to inform you that I have received a communication from Messrs. Kappler and Merillat, a firm of attorneys in Washington, to the effect that they have been authorized by contract to represent the claimants in this case. For your information I transmit herewith a copy of their letter of January 24, together with its enclosures.

It will be observed that according to this contract Messrs. Kappler and Merillat are to receive fifteen per cent of any award made to the Pottawatomie Indians, and that it is provided in the Bill S. 2916 that there "shall be paid to the attorneys for the said Indians the amount provided for in the contract between said Indians and said attorneys executed at Cape Croker on the 26th day of October, 1921."

I have in addition received a letter from Mr. A. G. Chisholm in which he refers to the Order in Council of the 18th October, 1919, and requests that the petition referred to therein should be presented to the State Department. Mr. Chisholm further points out that it is most desirable that any Bill before Congress should provide that any award made to the Pottawatomie Indians should be handed to the Canadian Government for administration or distribution.

As the Department of Indian Affairs' letter of December 2, 1919, addressed to this Embassy, stated definitely that although a firm of Washington lawyers had been making efforts to obtain authority to represent the Indians in this matter, Mr. Chisholm was the sole agent in the claim, and as the percentage of the award to go to Messrs. Kappler and Merillat under the contract referred to is, in my opinion, exorbitant, I shall be grateful if you will be good enough to inform me whether Mr. Chisholm is still the sole agent recognized and whether you desire me to make representations to the State Department with a view to the withdrawal of the Bill S. 2916.

I have, etc.,

A. C. GEDDES.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Ottawa, Canada.

[1] No. 233.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

C 40769

ENCLOSURE 1 IN No. 234

From Charles J. Kappler, Attorney-at-Law, Washington, to His Majesty's Ambassador at Washington

Law Offices of Charles J. Kappler, Attorney and Counsellor-at-Law,
Continental Trust Bldg.

WASHINGTON, D.C., January 24, 1922.

The Right Hon. Sir AUCKLAND GEDDES, K.C.B.,
Ambassador Extraordinary and Plenipotentiary, Great Britain,
1301 Nineteenth Street, N.W.,
Washington, D.C.

SIR,—The Wisconsin band of Pottawatomie Indians residing in the Dominion of Canada, at a council meeting held at Cape Croker on the 26th day of October, 1921, authorized a committee appointed by said council to enter into a contract with ourselves for the purpose of representing them as their attorneys in the matter of their claim against the United States for their proportionate shares of tribal funds under treaties between the Pottawatomie nation of Indians and the United States. This contract was executed by said committee on October 26, 1921, and by ourselves on January 11, 1922.

The contract was made and executed in quadruplicate. We therefore enclose one of the original copies to you, with the request that you kindly transmit it to the Superintendent of Indian Affairs of the Dominion of Canada for proper record in his department. We have mailed an original copy thereof to the Indians. A true copy of said contract will be filed by us with the Commissioner of Indian Affairs of the United States for his records.

We may add that we heretofore have been the attorneys for the Wisconsin band of Pottawatomie Indians residing in the United States, and recovered for them from the United States the sum of $447,339. We are, therefore, thoroughly familiar with the claim of the Pottawatomie Indians residing in Canada in consequence of our work in behalf of those who continued to live on this side of the Canadian border.

On January 4, 1922, we had introduced in Congress a Bill prepared by us, providing for the payment to the Pottawatomie Indians of Canada of the amount claimed to be due them. We hope to have this bill referred to the United States Court of Claims for a finding of fact and conclusion of law. We take pleasure in transmitting herewith copies of said Bill—S. 2916.

Thanking you for your courtesy in this matter, and with expressions of esteem, we are,

Sincerely yours,

MESSRS. KAPPLER & MERILLAT,
by Charles J. Kappler.

C 40770

ENCLOSURE 2 IN No. 234

67TH CONGRESS, 2ND SESSION

S. 2916

IN THE SENATE OF THE UNITED STATES

January 4, 1922

Mr. OWEN (by request) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

For the payment to certain members of the Wisconsin Band of Pottawatomie Indians of their share of proceeds of sale of tribal lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $1,517,226.87, and the Secretary of the Treasury be, and he hereby is, authorized and directed to pay said sum to the Wisconsin Band of Pottawatomie Indians residing in the Dominion of Canada according to the official roll of said Indians made by the Secretary of the Interior in pursuance of the Act of Congress approved June 21, 1906 (Thirty-fourth Statutes, page 380), accompanying House Document Number 830, Sixtieth Congress, first session, in full and final settlement for their proportionate shares of tribal funds under treaties between the Pottawatomie Nation of Indians and the United States, and which shares were directed to be retained in the Treasury of the United States to the credit of the Wisconsin Band of Pottawatomie Indians by the Act of Congress approved July 25, 1864 (Thirteenth Statutes, page 172), as found to be justly due and owing by the United States to said Indians by the Secretary of the Interior under date of April 1, 1908 (House Document Numbered 830, Sixtieth Congress, first session), with interest thereon from April 1, 1908, to date of payment at the rate of 5 per centum per annum: *Provided,* That out of said sum there shall be paid to the attorneys for said Indians the amount provided for in the contract between said Indians and said attorneys executed at Cape Croker on the 26th day of October, 1921.

No. 235.

Governor General to His Majesty's Ambassador at Washington

Telegram.
No. 6A.

February 9, 1922.

Your cypher telegram January 31,[1] Pottawatomie Indians, Department of Indian Affairs reports that Mr. A. G. Chisholm is sole representative of Canadian Indians interested in this claim and is so recognized by Canadian Government and Canadian Pottawatomie Indians.

BYNG.

[1] No. 233.

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PUBLIC ARCHIVES
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No. 236.

From the Governor General to His Majesty's Ambassador at Washington

No. 20.

GOVERNMENT HOUSE,
OTTAWA, February 23, 1922.

SIR,—With reference to Your Excellency's despatch No. 23 of the 1st instant[1] in regard to a contract entered into by certain Pottawatomie Indians with Messrs. Kappler and Merillat, a firm of attorneys in Washington, to empower that firm to represent them in respect of their claim against the United States Government, I have the honour to inform you that the Department of Indian Affairs does not recognize any attorneys or solicitors in respect of the claim referred to, except Mr. Chisholm, of London, Ontario. It is stated that Mr. Chisholm has been working on this claim among the Indians in question for a considerable length of time and almost all of these Indians have entered into contracts with him to represent them in the matter. In view of these facts, the Superintendent General of Indian Affairs some time ago entered into a contract with Mr. Chisholm to represent all the Pottawatomies in Canada in respect of their claim. The department does not attach any particular significance to the resolution obtained in favour of other solicitors, nor does it recognize the right of the few of these Indians who may have become impatient with the progress made in the matter, to dismiss Mr. Chisholm from his contract with the Superintendent General.

My Government, therefore, would suggest that, if there is no objection, representations should be made to the State Department with a view to the withdrawal of Bill S. 2916, a copy of which was enclosed in Your Excellency's despatch under reference.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
Sir C. AUCKLAND GEDDES, K.C.B.

[1] No. 234.

No. 237.

From the Governor General to His Majesty's Ambassador at Washington

No. 37.

GOVERNMENT HOUSE,
OTTAWA, March 2, 1922.

SIR,—With reference to my despatch No. 20 of the 23rd ultimo,[1] regarding the claim of the Pottawatomie Indians, I have been requested by my Government to enquire of Your Excellency what is the prospect of the resumption of negotiations for the arrangement of the Second Schedule of Claims for arbitration under the Pecuniary Claims Convention in which the claim above referred to might be included, and whether you are of the opinion that some other method of settling the claim offers better hope of its being satisfactorily arranged.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
Sir C. AUCKLAND GEDDES, K.C.B.

[1] No. 236.

No. 238.

From the Governor General to His Majesty's Ambassador at Washington

No. 54.

GOVERNMENT HOUSE,
OTTAWA, April 18, 1922.

SIR,—With reference to my despatch No. 37 of the 2nd March[1] on the subject of the claim of the Pottawatomie Indians, I have the honour to inform you that a suggestion has been received by the Department of Indian Affairs from Mr. Chisholm, who has been representing the Indians concerned, that it might be thought advisable to take action to obtain the insertion of an amount in the United States Indian Appropriation Act to provide for the payment to the Government of Canada of the amount claimed by the Canadian Pottawatomies.

I shall be grateful if Your Excellency will take such action as you may deem necessary in the matter.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
Sir C. AUCKLAND GEDDES, K.C.B.

[1] No. 237.

No. 239.

From His Majesty's Ambassador at Washington to the Governor General

No. 110.

BRITISH EMBASSY,
WASHINGTON, D.C., April 28, 1922.

MY LORD,—With reference to Your Lordship's despatches Nos. 37 of March 2nd and 54 of April 18[1] in regard to the claim of the Pottawatomie Indians, I have the honour to inform you that according to information I have received there is little prospect of the early consideration of this claim on the second schedule of claims for arbitration before the Pecuniary Claims Convention. A member of my staff has however held a number of unofficial conversations with the competent authorities of the United States Government in the hope of being able to find some more expeditious method of settling this claim. The fact that the claim of the American branch of the Pottawatomie Indians has now been paid by means of a series of appropriations passed by Congress has been confirmed. There appears, however, to be some question as to whether this portion of the claim of the Pottawatomie Indians was paid as a matter of grace or as a matter of right. It is, according to officials in the Department of State, open to contention whether or not the Indians who refused to live in the territory assigned to them in Kansas thereby forfeited their right to compensation under the treaty or treaties made with the United States Government. Should it be held that the payment of this portion of the claim was only made as a matter of grace, it is conceivable that Congress might not be disposed to extend this grace to that portion of the tribe which fled to a country not under the jurisdiction of the United States Government.

There is, in addition, it appears, some doubt as to the exact status of those Indians who fled to the Dominion of Canada. I have received information unofficially to the effect that if these Indians are considered still to be American citizens, any compensation which might be given them would not be given through the Canadian Government as I had previously requested,

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but would be paid to them direct through their attorneys. The undesirability of this procedure was emphasized in conversation by a member of my staff to an official of the Department of State who thereupon suggested that the question of the status of these Indians might be raised with the Canadian Government. I should be grateful, therefore, if you would be good enough to inform me of the views of Your Excellency's Ministers in regard to this matter.

In the course of these conversations reference was made to some treaties prior to the Chicago Treaty of 1912. These treaties do not appear to have been mentioned in the communications in regard to this claim which have reached this Embassy. In the circumstances, therefore, it would be of advantage if I might be furnished with a full statement of the claim in order that I may be able to make suitable representations to the United States Government. I would propose to transmit a copy of this statement to the State Department with a request that they should thereupon introduce a bill into Congress authorizing an appropriation to settle the claim. This procedure has been suggested unofficially by the competent authorities in the Department of State and there is reason to hope, therefore, that they will be disposed to consider favourably any such request provided that they can be furnished with sufficient information.

I have, etc.,

A. C. GEDDES.

His Excellency
The Lord Byng of Vimy, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] Nos. 237 and 238.

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL.

No. 240.

From the Governor General to the Secretary of State for the Colonies

No. 317.

Government House,
Ottawa, June 6, 1922.

Sir,—With reference to your despatch No. 29 of the 11th January, 1921,[1] on the subject of awards made by the Pecuniary Claims Tribunal, I have the honour to inform you that no official communication has been received by the Canadian Government of the further awards which it is understood were made at the subsequent sittings of the Tribunal. I should be grateful if copies of the awards delivered in any cases in which Canada was concerned might be supplied for the use of my Government.

I have, etc.,

BYNG OF VIMY.

The Right Honourable
Winston S. Churchill, P.C.,
Secretary of State for the Colonies.

[1] No. 225.

No. 241.

From the Governor General to His Majesty's Chargé d'Affaires at Washington

No. 104.

Ottawa, July 4, 1922.

Sir,—With reference to previous correspondence on the subject of the claim of the Pottawatomie Indians, and more particularly to Sir Auckland Geddes' despatch No. 23 of the 1st February last,[1] regarding the Attorneys authorized to represent these Indians, I have the honour to transmit, herewith, a duly certified copy of the resolutions[2] passed at a meeting of the descendants of the Pottawatomies residing in Canada held at Cape Croker in the Province of Ontario on the 23rd June, confirming and ratifying the powers of attorney previously given to Mr. Andrew G. Chisholm, K.C., of London, Ontario, and repudiating any alleged contract with any other solicitors.

I have, etc.,

L. H. DAVIES,
Deputy Governor General.

His Majesty's Chargé d'Affaires,
British Embassy,
Washington.

[1] No. 234.
[2] Not printed.

DEC 7 Recd

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No. 242.

From His Majesty's Chargé d'Affaires at Washington to the Deputy Governor General

No. 225.

BRITISH EMBASSY,
WASHINGTON, D.C., August 2, 1922.

SIR,—With reference to your note No. 104 of July 4th[1] regarding the claim of the Pottawatomie Indians, I have the honour to invite your attention to the request conveyed in Sir Auckland Geddes' despatch No. 110 of April 28th[2] for additional information with regard to the history of the claim.

Until this is received it will be difficult to take the claim any further with the United States Government.

I have, etc.,

H. G. CHILTON.

The Rt. Hon. Sir LOUIS HENRY DAVIES, P.C., K.C., K.C.M.G.,
Deputy Governor General of Canada,
Government House,
Ottawa.

[1]No. 241.
[2]No. 239.

No. 243.

From His Majesty's Ambassador at Washington to the Governor General

No. 232.

BRITISH EMBASSY,
WASHINGTON, August 14, 1922.

YOUR EXCELLENCY,—I have the honour to transmit to you, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
From Department of State dated August 9th, 1922.	Claims of Pottawatomie Indians in Canada against the Government of the United States.

Reference—Washington despatch No. 225 dated August 2nd, 1922.[1]

[1]No. 242.

ENCLOSURE IN No. 243

From the United States Secretary of State, Washington, to His Majesty's Chargé d'Affaires, Washington

DEPARTMENT OF STATE,
WASHINGTON, August 9, 1922.

SIR,—I have the honour to acknowledge the receipt of your note No. 531 of July 12, 1922, in which, with reference to previous correspondence concerning the claims of the Pottawatomie Indians in Canada against the Government of the United States, you transmit a duly certified copy of the resolutions passed at a meeting of the descendants of the Pottawatomies residing in Canada, confirming and ratifying the powers of attorney previously given

to Mr. Andrew G. Chisholm, K.C., of London, Ontario, as the sole representative of the Canadian Pottawatomie Indians interested in this claim.

In reply I have the honour to say that copies of your note and of its enclosure have been sent to the Secretary of the Interior and to the Chairman of the Committee on Indian Affairs, United States Senate, for their information in connection with previous correspondence.

Accept, etc.,
For the Secretary of State:

ROBERT WOODS BLISS.

Mr. HENRY GETTY CHILTON,
Chargé d'Affaires ad interim of Great Britain.

No. 244.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 428.

DOWNING STREET, August 29, 1922.

Prints 2nd February, 1922
Enclosure 4 do. 5

MY LORD,—With reference to Your Excellency's despatch No. 317 of the 6th of June, I have the honour to transmit to you, to be laid before your Ministers, copies of all the awards delivered at the session of the Pecuniary Claims Tribunal held at Washington in December last, viz., those in the matters of the *Argonaut* and *Colonel Jonas H. French*, the *Kate*, the *Favourite*, the *David J. Adams*, the *Wanderer*, the *Newchang*, the *Sidra*, and the *Jessie*, *Thomas F. Bayard* and *Pescawha*.

2. Copies of these Awards were not transmitted to you earlier as it was understood that copies had been sent direct by the Acting British Agent to the Deputy Minister of Justice.

3. I also enclose a copy of a despatch from the Acting British Agent, from which it will be seen that a sum of three hundred and forty-seven dollars seventy-five cents ($347.75) is still outstanding, due from the Canadian Government to His Majesty's Government, and I shall be obliged if arrangements can be made for the payment of this claim through the High Commissioner.

I have, etc.,

WINSTON S. CHURCHILL.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

ENCLOSURE 1 IN No. 244

No. 3.

From the Acting British Agent to the Secretary of State for Foreign Affairs

February 2, 1922.

MY LORD,—In my despatch No. 2 of December 12th, 1921, I had the honour to transmit copies of the judgments delivered by the Pecuniary Claims Tribunal on December 9th, 1921. Immediately after this session Sir Charles Fitzpatrick left for Quebec, and the only other session held was an informal one on December 13th at which the Protocols Nos. LII to LVI of the meetings of the Tribunal held at Paris and at Washington were signed by the President. Copies of these Protocols are enclosed (Enclosure 1).[1]

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2. In this connection, I may mention that,it appears that since the last session of the Tribunal here the office which was previously maintained has been closed, and the records transferred to the State Department, where both copies of the Minute Book of the Tribunal are at present kept.

3. After the delivery of the awards in the case of *Newchwang,* I received a visit from Mr. Robert C. Hayden, the present head of the firm which, in conjunction with Messrs. Barry Wainwright, Thacher and Symmers, conducted the case for the claimants. He was anxious to discuss the refusal of the Tribunal to award interest on the ground that no copy of the communication made by the British Embassy to the Department of State on December 21st, 1906, had been produced. I suggested to Mr. Hayden that the point must surely have been raised in the oral argument of the case, and proposed that he should examine the transcript and thereupon write me a formal letter raising the point. He has accordingly written me a letter, dated January 7th, of which copies are enclosed (Enclosure 2).[1] I have also obtained from His Majesty's Embassy a copy of the communication referred to, and enclose copies thereof (Enclosure 3.)[1] I have informed Mr. Hayden that I will bring the point to the notice of the British agent with a view to considering whether it should be raised at the next meeting of the Tribunal. If it is decided to raise it, it will no doubt be proper to notify the American agent in advance in order that he may be in a position to deal with it.

4. In accordance with your authority conveyed in your Lordship's telegram No. 17 of January 14th I have paid the share of His Majesty's Government in the expenses of the session, subject to one exception, mentioned later, and enclose a statement (Enclosure 4) showing the position, from which it will be seen that there is the sum of three hundred and forty-seven dollars seventy-five cents due from the Canadian Government to His Majesty's Government. I have suggested to Mr. Newcombe that this amount should be settled through the Colonial Office.

$375.

5. It will be seen from the enclosed statement that I have not made any payment to Sir Charles Fitzpatrick. This was arranged at the request of Mr. Newcombe, who had advanced to Sir Charles the necessary amount to cover his expenses and wished to be able to regulate the position with him. I have accordingly prepared the enclosed account (Enclosure 4) on the basis that Mr. Newcombe will pay to Sir Charles Fitzpatrick half of the total amount due to him, the account being adjusted between the Canadian Government and His Majesty's Government accordingly. The half due by the Government of the United States to Sir Charles will be paid by them to him direct.

6. I enclose in original (Enclosure 5) a letter from Sir Charles Fitzpatrick with the statement of his travelling expenses, which I examined with Mr. Quarmby. Of the items in this account, those for hotel bills at Washington, and telegrams, postage and sundry disbursements have been omitted as being covered by the salary payable in respect of the session, and the remaining items, amounting to three hundred and seventy-five dollars, have been accepted by the American agent.

$347.75.

7. In order to avoid the Delegation accounts being complicated by a matter entirely unconnected with it, it has been arranged that the cheque in payment of the amounts paid by myself, as shown in Enclosure 4, should be drawn by the Embassy and dealt with in the Embassy account. I have accordingly forwarded to the Embassy the receipts for all the amounts paid by myself with the exception of that paid to Monsieur Fromageot, whom I have asked to send his receipt direct to the Chief Clerk.

8. In accordance with the instructions conveyed in Your Lordship's telegram No. 4 of January 4th, I have discussed the proposal to hold a session of the Tribunal in Paris in June with Mr. Nielsen, who is acting temporarily as the American agent. I gather that in principle the Government of the United States would be quite prepared to agree to such a session, but are very doubtful whether they can make the necessary arrangements in time. Mr. Nielsen does not propose to act as agent himself, and it appears necessary for

them to appoint an agent and supply him with an office and staff before any further steps can be taken. In order that the responsibility for any failure to hold the proposed session should not rest with His Majesty's Government, I have accordingly made a formal proposal to Mr. Nielsen that the proposed session should be held, and I await his reply. Copies of my note are enclosed (Enclosure 6),[1] and I have sent a copy to Mr. Newcombe.

9. I am sending a copy of this despatch, and my two previous despatches on this subject, to His Majesty's Embassy.

I have, etc.,

H. W. Malkin.

The Most Honourable
The Marquess Curzon of Kedleston, K.G.,
etc., etc., etc.

[1]Not sent to Canada.

ENCLOSURE 2 IN No. 244

PECUNIARY CLAIMS ARBITRATION

Expenses, Washington Session, November-December, 1921

(*a*) One month's salary for three arbitrators at $1,200 each	$3,600 00
(*b*) Salary of Miss H. K. Thompson, Secretary to the Tribunal, as ordered by the Tribunal	350
(*c*) Cost of printing awards	216 00
(*d*) Sir Charles Fitzpatrick's travelling expenses	375 00
	$4,541 00
Amount payable by each Government	$2,270 50
Amount payable by H.B.M. Government	2,270 50
Amount payable by Canadian Government	1,135 25
Amounts paid by Acting British Agent—	
(*a*) M. Fromageot, half salary	$ 600 00
Mr. Chandler Anderson, half salary	600 00
(*b*) Miss H. K. Thompson, half salary	175 00
(*c*) Half cost of printing awards	108 00
	$1,483 00
Amount paid by Canadian Agent—	
(*a*) and (*d*) Sir Charles Fitzpatrick, half salary and travelling expenses	$ 787 50
	$2,270 50
Amount due from Canadian Government to British Government	$1,135 25
Less amount paid by Canadian agent	787 50
Amount payable	$347 75

ENCLOSURE 3 IN No. 244

From Sir Charles Fitzpatrick, Quebec, to H. W. Malkin, British Empire Delegation, Washington

Government House,
Quebec, December 30, 1921.

PECUNIARY CLAIMS CONVENTION

Dear Mr. Malkin,—With further reference to your letter of the 19th instant, I now enclose as requested, a note in duplicate of my expenses attending the recent Session of the Tribunal at Washington. I hope that this will be sufficient for the purpose. It is difficult to give any exact details. Hotel bills at Washington, though formidable, in the total amount at the present time, give few details, and I have had to apportion them as my wife and daughter were with me, and it was necessary to make a deduction on this account.

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Mr. Newcombe writes me that he will arrange with you a settlement of the amounts to be borne by the respective Governments in accordance with previous practice.

Yours faithfully,

C. FITZPATRICK.

H. W. MALKIN, Esq.,
British Empire Delegation,
Franklin Square Hotel,
Washington, D.C., U.S.A.

ENCLOSURE 4 IN No. 244

GOVERNMENT HOUSE,
QUEBEC, December 30, 1921.

AMERICAN AND BRITISH CLAIMS ARBITRATION

Memorandum of the expenses incurred by Sir Charles Fitzpatrick attending from the 23rd of November to the 13th of December, 1921, at the Sessions of the Tribunal held at Washington between these dates.

Paid Railway fares, Quebec to Washington and return for Sir Charles Fitzpatrick, his secretary and his valet.. .. .. $ 250 00
" Hotel bills at Washington.. .. .. 555 00
" Expenses travelling to and from, including hotel bills at Montreal and New York 100 00
" Express baggage charges.. .. .. 25 00
" Telegrams, postage and sundry disbursements exceeding.. .. .. 70 00
$1,000 00

ENCLOSURE 5 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *Favourite*
CLAIM No. 12

Arbitrators:
HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial
filed March 15, 1913.

United States Answer
filed December 24, 1913.

Hearing of the case
March 16, 17, 18, 19, 20, 1914.

Decision given
December 9, 1921.

Counsel:
Great Britain,
SIR CHARLES HIBBERT TUPPER.
United States,
J. REUBEN CLARK, JR.

This is a claim for $19,443.28 together with interest from November 30, 1894, presented by His Britannic Majesty's Government on behalf of Laughlin McLean, for damages arising out of the seizure of the British sealing schooner *Favourite* by the United States Revenue Cutter *Mohican* on August 24, 1894, and her subsequent detention.

The *Favourite* was a British schooner registered at the Port of Victoria, and her owner was Laughlin McLean, a British subject and master mariner. In 1894, R. P. Rithets and Company, Limited Liability, a body incorporated under the laws of British Columbia, and managers of the said schooner, fitted the vessel out for a sealing voyage.

After procuring a special sealing license, the vessel, manned by Laughlin McLean as master, and a crew of eight men, sailed from

Victoria on June 18, 1894. When the vessel sailed from Victoria, she had on board no firearms except one double-barrel shotgun, the barrels of which had been cut off to about eleven inches. The presence of this gun was noted on the ship's manifest. The vessel proceeded to Kyuquot on Vancouver Island, where a crew of forty-five Indian hunters was procured.

After the sealing implements on board had been sealed by Her Majesty's Customs Officers and entry made in her log book, the vessel set sail for Behring Sea on July 4, 1894; entered that sea on August 1st; and after breaking the seals on the implements commenced sealing and continued sealing until August 24, 1894. On that date when in longitude 168.30, latitude 54.27, the vessel was boarded and searched by an officer of the United States Revenue Cutter *Mohican*, who made the following entry in the ship's log:

> Boarded the *Favourite*. Found log correctly kept. No violations of regulations, as per log; one shot gun unsealed.

The officer then left the *Favourite*, but returned shortly thereafter and directed the master to go on board the *Mohican*, bringing with him all his papers and the gun, with which direction the master complied. The gun was fired and found to shoot very accurately for a distance of fifty yards. Whereupon the master was informed that the vessel was under seizure, for the following reasons, which are stated in the declaration of seizure:

> * * * for violation of article six (6) of the Award of the Tribunal of Arbitration and of that part of section ten (10) of the Act of Congress approved April 6, 1894, which reads:
>
> "* * * or if any licensed vessel shall be found in the waters to which this Act applies, having on board apparatus or implements for taking seals, but forbidden then and there to be used, it shall be presumed that the vessel in the one case and the apparatus or implements in the other was or were used in violation of this Act until it is otherwise sufficiently proved." (United States Answer, Exhibit 4.)

On August 30, 1894, the Commander of the United States Naval Forces in Behring Sea sent a report to the Secretary of the Navy, in which he stated—

> It is more than likely that the shotgun for which the vessel was seized was intended to be used in projecting signal stars, as the barrels were cut off, reducing them to a length of about twelve inches, but it was found after trial, that it could be used to kill seals much beyond the ordinary range of spear throwing.
>
> But whether this was the only intention, or whether there was another to use it for killing seals in case it was allowed for signal purposes, I am not prepared to say; but its possession is clearly in violation of the provisions contained in section 10 of the Act of Congress approved April 6, 1894. (United States Answer, Exhibit 7.)

To this report were annexed the reports of the officers of the *Mohican* with reference to the seizure of this vessel.

The *Favourite* was immediately sent in the custody of a prize crew from the *Mohican* to Unalaska, and on August 27th was delivered to the commanding officer of the British cruiser *Pheasant* at Unalaska, who ordered the *Favourite* to report to the Collector of Customs at Victoria, B.C.

Upon her arrival at Victoria, the *Favourite* was released by order of Rear Admiral Stevenson, the British Naval Commander in Chief on the Pacific Station.

The Government of His Britannic Majesty contend that the seizure of the *Favourite* was illegal and unjustifiable, as neither the Behring Sea Award nor the regulation made therein or thereunder, nor any legislation or other legal or competent authority, justified or authorized the seizure of the vessel in the circumstances.

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The United States Government, on the other hand, denies all liability; first, because its officers were acting on behalf of the British Government and not of the United States Government; second, because there was the *bona fide* belief that an infraction of the Behring Sea Award Act, 1894, had been committed; third, because the release of the *Favourite* by the British naval authorities without a regular prosecution before a court rendered it impossible to determine in the only competent way whether the seizure was illegal; fourth, because, even supposing the seizure was made without probable cause, the liability to pay damages would rest upon His Britannic Majesty's Government; fifth, because the detention of the vessel from and after August 27, 1894, the date of its delivery to the commanding officer of the British cruiser *Pheasant* at Unalaska, was due to the action of the British authorities; and sixth, because there is no basis in law or in fact for the measure of damages claimed.

I. As to the legality of the seizure and liability of the United States:

On the facts in this case, and for the reasons stated in the award of this Tribunal in the case of the *Wanderer,* Claim No. 13, delivered December 9, 1921, this Tribunal holds:

(1) That the seizure of the British ship *Favourite* by United States officers under section 10 of the Act of Congress approved April 6, 1894, was an improper exercise of the authority conferred upon them by the British Government under the Behring Sea Award Act of 1894, and the Order in Council of April 30, 1894;

(2) That the good faith of the United States naval officers is not questioned, their error in judgment being caused by the provisions of the aforesaid section 10, for which section and the error of judgment committed by its agents thereunder, the United States Government is liable;

(3) That inasmuch as the offence of the *Favourite* did not make her liable to forfeiture, the British Government were under no international or legal duty to proceed against the ship through their Admiralty Courts, and not to release her by a merely administrative decision; and

(4) That the British authorities, rather than the United States authorities were responsible for the detention of the ship after she was delivered to them on August 27th.

The United States Government, therefore, is liable only for the three days of her detention, namely from August 24th to August 27th, during which she was under the control of officers of the United States, and the three additional days which should be allowed for the vessel to return to the sealing grounds if she had been released at Unalaska on August 27th.

II. As to the amount of damages:

The damages claimed on behalf of the claimant, amounting to $19,443.28, as set forth in the British Memorial, are based upon "a reasonable estimate of the sums which the owners would have received as the proceeds of the voyage, if it had been completed, together with interest thereon," or, in the alternative, the said amount is claimed "by reason of the loss of time, wages, provisions and outfit for the remainder of the season after the 24th of August, 1894."

It is shown in the British Memorial that during the period between August 1st and August 24th, the *Favourite* had taken 1,247 seal skins, the net value of which, as shown by their sale in London, was at the rate of $8.62 per skin. This would make the average daily catch 52 skins, equivalent to $448.24 in value. It does not necessarily follow that the *Favourite* would have continued to take seal skins at this daily average during the remainder of her voyage, but the Tribunal is of the opinion that in view of her hunting equipment consisting of nineteen canoes and forty-five Indian hunters and a crew of eight white men, an estimated allowance of 52 skins per day as an average is not excessive. The Tribunal, therefore, considers that the prospective profits for these six days should be estimated at $448 per day, making $2,688 in all, and fixes this amount as damages for her loss of profits with $500 additional for the trouble occasioned by her illegal detention.

As to interest:

The British Government in their oral argument admit that the 7 per cent interest claimed in their memorial must be reduced to 4 per cent in conformity with the provisions of the Terms of Submission.

It appears from a letter addressed by the Marquis of Salisbury to the British Ambassador in Washington on August 16, 1895, and handed by him to the Secretary of State of the United States on September 6, 1895, that this was the first presentation of a claim for compensation in this case. Therefore, in accordance with the Terms of Submission, section IV, the Tribunal is of the opinion that interest should be allowed at 4 per cent from September 6, 1895, to April 26, 1912, on $2,688 damages allowed for loss of profits.

FOR THESE REASONS

This Tribunal decides that the Government of the United States shall pay to the Government of His Britannic Majesty, on behalf of the claimants, the sum of three thousand one hundred and eighty-eight dollars ($3,188) with interest on two thousand six hundred and eighty-eight dollars ($2,688) thereof at four per cent (4 per cent) from September 6, 1895, to April 26, 1912.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 9, 1921.

ENCLOSURE 6 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *Wanderer*

CLAIM NO. 13

Arbitrators:
HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial
filed March 15, 1913.

United States Answer
filed December 24, 1913.

Hearing of the case
March 16, 17, 18, 19, 20, 1914.

Decision given
December 9, 1921.

Counsel:
Great Britain,
SIR CHARLES HIBBERT TUPPER.
United States,
MR. J. REUBEN CLARK, JR.

This is a claim presented by His Britannic Majesty's Government for $17,507.36 and interest from November, 1894, for damages arising out of the seizure and detention of the British sealing schooner *Wanderer,* and her officers, men and cargo, by the United States Revenue Cutter *Concord* on June 10, 1894.

The *Wanderer,* a scooner of 25 tons burden, was a British ship registered at the Port of Victoria, B.C.; her owner was Henry Paxton, a British subject and a master mariner. On the 5th of January, 1894, she was chartered for the sealing season of 1894 by the said Paxton to Simon Leiser, a naturalized British subject. Under the terms of the agreement, Leiser had to provision and equip the vessel, and Paxton was appointed as master and to be paid as such; the net profits of the venture were to be divided between them in a fixed proportion.

On January 13, 1894, the *Wanderer* left the Port of Victoria, B.C., and sailed on her sealing voyage in the North Pacific Ocean. She was manned

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by Paxton as master, one mate and fourteen hunters, including twelve Indians (all of them British subjects), and two Japanese, and appears to have been equipped, at the time of her seizure, with five canoes and one boat for sealing.

On June 9, 1894, at 8.30 a.m., when the vessel was in latitude 58° north and longitude 150° west, and heading west south-west, en route for Sand Point, she was hailed by the United States Revenue Cutter *Yorkton,* and boarded by an officer who, acting under instructions hereinafter referred to, searched the schooner, placed her sealing implements under seal, and made an entry in the ship's log stating the number of seal skins found on board to be 400.

On the same day, about seven hours later, *i.e.,* at about 4 p.m., the vessel being in latitude 58° 21′ north and longitude 150° 22′ west, heading north, wind astern, she was hailed by another United States Revenue Cutter, the *Concord,* and boarded and searched. During his search the officer discovered hidden on board and unsealed one 12-bore shot gun, 39 loaded shells and 3 boxes primers, one of which was already opened. The United States naval officer took possession of the gun and shells and made the following entry in the ship's log:

> Lat. 58.21 N., Long. 150.22 W., June 9th, 1894.
>
> I hereby certify that I have examined the packages of ammunition, spears, and guns referred to in the preceding page, and found all skins intact, counted the seals and found the number to be 400.
>
> E. F. Leiper,
> Lieut. U.S.N., U.S.S. *Concord.*

> Lat. 58.21 N., Long. 150.22 W., June 9th, 1894.
>
> On further search of the vessel I found concealed on board 12-bore shot gun, 39 loaded shells and three boxes primers, one of which was opened already.
>
> E. F. Leiper,
> Lieut. U.S.N., U.S.S., *Concord.*

As the sea was rough, the commanding officer of the *Concord* at the request of the master of the *Wanderer* took her in tow to St. Paul, Kadiak Island. She arrived there towed by the *Concord* on June 10th, at 10 a.m., and the tow line being cast adrift, was about to make sail for a safe anchorage when the *Concord* without any warning ordered her to stand by and to anchor nearby. It appears also from the *Concord's* log that in the afternoon a committee of inspection went on board the *Wanderer* to ascertain whether she was seaworthy and that at the same time the master was informed that he was to be seized. At 4 p.m. the commanding officer of the *Concord,* Commander Goodrich, advised the master that his ship and the ship's papers had actually been seized.

The ordinary declaration of seizure was made and notice given that the seizure had been made for the following reasons:

> subsequent to the warning and certificate aforesaid arms and ammunition suitable to the killing of fur seals were discovered concealed on board * * * and whereas the possession of such unsealed arms and ammunition was in contravention of the Behring Sea Award Act, 1894, Clause I, par. 2, and Clause III, par. 2, as well as of Section 10 in the President's Proclamation * * * (United States Answer, Exhibit 5).

The master of the *Wanderer* protested against this declaration.

On June 16, Commander Goodrich sent a report to the Commander of the United States Naval Force in the Behring Sea (United States Answer, Exhibit 4) in which he stated:

> My action is based on the last half of Sec. 10 of the Act of Congress, April 6; the next to the last sentence in the "Regulations Governing Vessels, etc.;" the Behring Sea Award Act, and Pars. 1 and 3 of your confidential instructions of May 13th.

To this report were annexed the statements of the officers and men of the *Concord,* who took part in the search, all of which referred merely to the discovery on board of a gun and ammunition hidden and unsealed. On July 1st, the *Wanderer* arrived at Dutch Harbour, Unalaska, where she remained under seizure until August 2nd, when she was handed over to her Britannic Majesty's ship *Pheasant.* (United States Answer, Exhibits 12, 13.)

On August 6th the schooner was sent to Victoria, B.C., and after her arrival there she was released by order of the British Naval Commander in Chief on the Pacific Station. (British Memorial, p. 10.) The evidence does not disclose how long the *Wanderer* was detained at Victoria by the British authorities before her release was ordered.

The Government of His Britannic Majesty contend that the seizure of the *Wanderer* was illegal; that the alleged reason for it was wholly insufficient, and that the Government of the United States is responsible for the act of its naval officers.

The United States Government, on the other hand, denies all liability; first, because its officers were acting on behalf of the British Government and not of the United States Government; second, because there was a *bona fide* belief that an infraction of the Behring Sea Award Act, 1894, had been committed; third, because the release of the *Wanderer* by the British naval authorities without a regular prosecution before a court rendered it impossible to determine in the only competent way whether the seizure was illegal; fourth, because even supposing the seizure was made without probable cause, the liability to pay damages would rest upon His Britannic Majesty's Government; fifth, because the detention of the vessel after July 1, 1894, the date when she arrived at Dutch Harbour, Unalaska, was due to the failure of the British naval authorities to send a vessel there to take charge of the schooner; and sixth, because there is no basis in law or in fact for the measure of damages.

I. As to the legality of the seizure and liability of the United States:

The fundamental principle of the international maritime law is that no nation can exercise a right of visitation and search over foreign vessels pursuing a lawful avocation on the high seas, except in time of war or by special agreement.

The *Wanderer* was on the high seas. There is no question here of war. It lies therefore on the United States to show that its naval authorities acted under special agreement. Any such agreement being an exception to the general principle, must be construed *stricto jure.*

At the time of the seizure, as the result of the Arbitral Award of Paris, August 15, 1893, and the Regulations annexed thereto, there was in operation between the United States and Great Britain a conventional régime the object of which was the protection of the fur seals in the North Pacific Ocean.

By the Award, it was decided *inter alia:*

> that concurrent regulations outside the jurisdictional limits of the respective governments are necessary and that they should extend over the water hereinafter mentioned.

By the Regulations above referred to, it was provided that the two Governments should forbid their citizens and subjects, first, to kill, capture, or pursue at any time and in any manner whatever, the fur seals within a zone of sixty miles around the Pribilof Islands; and second, to kill, capture and pursue fur seals in any manner whatever from the first of May to the 31st of July within the zone included between latitude 35° north and the Behring Straits, and eastward of longitude 180°.

Furthermore the same Regulations provide:

> Article 6. The use of nets, firearms and explosives shall be forbidden in the fur-seal fishing. This restriction shall not apply to shot guns when such fishing takes place outside of Behring's Sea during the season when it may be lawfully carried on.

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To comply with the Award and Regulations, an Act of Congress was passed in the United States on April 6, 1894. This Act provided:

> Sec. 10. * * * if any licensed vessel shall be found in the waters to which this Act applies, having on board apparatus or implements suitable for taking seals, but forbidden then and there to be used, it shall be presumed that the vessel in the one case and the apparatus or implements in the other was or were used in violation of this Act until it is otherwise sufficiently proved.

On April 18, 1894, instructions were given to the United States naval authorities, according to which—

> Par. 6. Any vessel or person * * * having on board or in their possession apparatus or implements suitable for taking seal * * * you will order seized. (United States Answer, Exhibit 20.)

On their side the British Government passed an Act dated April 23, 1894, providing:

> Sec. 1. The provisions of the Behring Sea Arbitration Award * * * shall have effect as if those provisions * * * were enacted by this Act. (United States Answer, Exhibit 17.)

The British Act further provides:

> Sec. 3, par. 3. An Order in Council under this Act may provide that such officers of the United States of America as are specified in the order may, in respect of offences under this Act, exercise the like powers under this Act as may be exercised by a commissioned officer of Her Majesty in relation to a British ship. * * * (United States Answer, Exhibit 17.)

As may be observed, the United States Act and the instructions to its naval authorities did not follow the wording of the Award Regulations exactly, and Her Majesty's Government drew attention to the variance, in a letter addressed by their Ambassador in Washington to the Secretary of State on April 30, 1894:

> * * * I am directed to draw your attention to paragraph 6 of the draft instructions, so far as it relates to British vessels. The paragraph requires modification in order to bring it, as regards the powers to be exercised by United States cruisers over British vessels, within the limits prescribed by the British Order in Council conferring such powers.
>
> The Earl of Kimberley desires me to state to you that the Order in Council which is about to be issued to empower United States cruisers to seize British vessels will only authorize them to make seizures of vessels contravening the provisions of the British Act of Parliament, or, in other words, the provisions of the award.
>
> There is no clause in the British Act corresponding with section 10 of the United States Act of Congress. United States cruisers can not therefore seize British vessels merely for having on board, while within the area of the award and during the close season, implements suitable for taking seal. (United States Answer, Exhibit 21.)

Meanwhile and on April 30, 1894, a British Order in Council was issued providing:

> Par. 1. The commanding officer of any vessel belonging to the naval or revenue service of the United States of America, and appointed for the time being by the President of the United States for the purpose of carrying into effect the powers conferred by this article, the name of which vessel shall have been communicated by the President of the United States to Her Majesty as being a vessel so appointed as aforesaid,

> may * * * seize and detain any British vessel which has become liable to be forfeited to Her Majesty under the provisions of the recited Act, and may bring her for adjudication before any such British court of admiralty as is referred to in section 103 of "The Merchant Shipping Act, 1854" * * * or may deliver her to any such British officer as is mentioned in the said section for the purpose of being dealt with pursuant to the recited Act. (United States Answer, Exhibit 18.)

It appears from the documents that an exchange of views took place between the two Governments in order to arrive at some agreement as to the regulations. On May 4, 1894, an agreement was reached. The previous United States instructions, dated April 18, 1894, were revoked (53 Cong., 2nd Sess., Senate Ex. Doc. No. 67, p. 228); a memorandum of the agreement regulations was exchanged (*Ibid.*, p. 120; United States Answer, Exhibit 23), and those regulations were sent by the United States Government to their naval officers (*Ibid.*, pp. 126, 226, 228). From these new regulations of May 4, 1894, the provision concerning the possession of arms was omitted.

In these circumstances, the legal position in the sealing zone at the time of the seizure of the *Wanderer* may be summarized as follows: The provisions of the Award in their strict meaning, and those provisions only, had been agreed upon as binding upon the vessels, citizens and subjects of the two countries; and it was only for contravention of those provisions that the United States cruisers were authorized to seize British vessels.

Such being the state of the law, the question to be determined here is whether or not the *Wanderer* was contravening the aforesaid provisions so as to justify her seizure.

The declaration of seizure does not allege that the *Wanderer* was killing or pursuing or had killed or pursued fur seals within the prohibited time or zone, but that she was discovered to have certain arms and ammunition unsealed and hidden on board. The offence alleged was the possession of such arms and ammunition (United States Answer, Exhibit 5). The same charge is brought by the notice of the declaration of seizure "* * * whereas in thus having concealed arms and ammunition on board, you were acting in contravention * * *" (United States Answer, Exhibit 6). In the report of the United States authorities, a report of a merely domestic character, the same view is taken. It is explained by the repeated references to the above quoted Section 10 of the United States Act of April 6, 1894.

Inasmuch as it was only *use* and not the mere *possession* of arms and ammunition which was prohibited by the Paris Award and Regulations, it is impossible to say that the *Wanderer* was acting in contravention of them.

Even if it be admitted that in case of contravention the United States officers were empowered to seize on behalf of Her Majesty's Government under the British Act, it is clear that such a delegation of power only gave them authority to act within the limits of that Act, and as the seizure was made for a reason not provided for by that Act, it is impossible to say that in this case they were exercising that delegated authority.

The *bona fides* of the United States naval officers is not questioned. It is evident that the provisions of section 10 of the Act of Congress constituted a likely cause of error. But the United States Government is responsible for that section, and liable for the errors of judgment committed by its agents.

Further, contrary to the contention of the United States Answer, it must be observed that Her Majesty's Government were under no international or legal duty to proceed against the ship through their Admiralty courts, and not to release her by a merely administrative decision. Under section 103 of the British Merchant Shipping Act, 1854 (United States Answer, p. 65), it is only when a ship has become subject to forfeiture that she may be seized and brought for adjudication before the court, and as the ship in this case was not considered subject to forfeiture, the aforesaid provision had no application.

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The United States Government points out that the Government of Her Britannic Majesty were held responsible by Her Majesty's courts in certain cases of seizures made by the United States authorities under the Paris Award Act, even when those seizures were held to be unjustified in the circumstances. But it must be observed that in those cases the seizure was for acts, which if they had been proved would have constituted a contravention justifying the seizure; in this case on the contrary the seizure was made for an act, namely, the possession of arms, which did not constitute any contravention justifying the seizure. In other words, in the aforesaid cases, it was not contested that the United States authorities acted within the limits of the powers entrusted to them, but it was decided that their action was not justified by the facts.

The contention that the British Government is liable for the detention of the *Wanderer* from and after July 1, 1894, the date when she arrived at Unalaska, until she was delivered to the *Pheasant*, because of the delay of that vessel in reaching that port, is not well founded. According to the power delegated to them under the British Act and Order in Council, the United States naval authorities in case of seizure had either to bring the vessel before a British court or to deliver her to the British naval authorities. Here the United States officers neither brought the *Wanderer* before a British court, nor delivered her to a British naval authority, before the 2nd of August.

It has been contended by the United States that although the *Wanderer* was sent to Dutch Harbour, Unalaska, about 500 miles to the west of St. Paul, that is to say in exactly the opposite direction from where a British court could be found, nevertheless, it is shown by a letter of the commanding officer of the American fleet, dated June 13, 1894, that he had been informed that a British man-of-war would be sent to Unalaska about the time the *Wanderer* arrived there. As to this contention, it must be observed that the said letter is dated three days after the *Wanderer* was sent to Unalaska, which was on June 10th. Furthermore, it appears from a letter of the commanding officer of the United States fleet addressed to the Secretary of State on May 28, 1894, *i.e.*, twelve days before the seizure, that that officer having been informed by H.M.S. *Pheasant* that she was the British vessel ordered to co-operate in carrying out the concurrent regulations, had himself suggested to the commanding officer of the *Pheasant* that he should make his headquarters at Sitka until June 12th, at St. Paul, Kadiak Island, until June 30th, and after that at Unalaska " as this seems to be the best arrangement that could be made for turning over British sealers that may be seized * * * ." This arrangement was communicated to the American fleet on the same day by a circular dated May 28, 1894 (Ex. Doc., 264).

Consequently there is nothing to show that on June 10th, the date when the *Wanderer* was sent to Unalaska, the United States naval authorities believed the British man-of-war would be at Unalaska at the date of the schooner's arrival.

There still remains to be considered the question of the liability of the United States for damages arising after the *Wanderer* was delivered on August 2nd (United States Answer, Exhibit 13) to Her Britannic Majesty's ship *Pheasant* at Dutch Harbour, Unalaska.

The above mentioned Order in Council of April 30, 1894, which authorized American officers to seize British sealers for contravention of the Behring Sea Award Act of 1894, provides that vessels seized by such officers either may be brought for adjudication before a British Court of Admiralty, as specified in section 103 of the Merchant Shipping Act of 1854, or may be delivered " to any such British officer as is mentioned in the said section for the purpose of being dealt with pursuant to the recited Act." In this case the latter course was followed, and the *Wanderer* was delivered to the commander of the *Pheasant* on August 2nd, and was ordered by him to proceed forthwith to Victoria, B.C., where there was a British court having authority to adjudicate in the matter. Upon the arrival of the *Wanderer* there, the

customs officers declined to take proceedings against her, and the Admiral in charge of Her Britannic Majesty's ships ordered that she be released from custody.

This Tribunal having held that Her Britannic Majesty's Government were under no international or legal duty to proceed against this ship, and that the release of the ship by administrative action was justified under section 103 of the Merchant Shipping Act of 1854, it follows that the British authorities, rather than the United States authorities, were responsible for the detention of the vessel after she was delivered to their charge on August 2nd. The authority conferred by the above-mentioned Order in Council upon the American officer who seized this vessel was to exercise " the like powers under the Behring Sea Award Act of 1894 as may be exercised by a commissioned officer of Her Majesty in relation to a British ship." In other words, the powers of the British officer and the American officer in relation to the detention of this ship were identical, and consequently the Tribunal having held that the detention of the vessel by the American officer was not justified, must likewise hold that her detention by the British officer was equally unjustified. Inasmuch as the British officer was at liberty to release the vessel, and as the United States is not responsible for her unjustifiable detention by a British officer, the United States is responsible only for damages for detaining the vessel until the 2nd of August.

II. As to the consequences of liability and the amount of damages:

The provisions of Article 2 of the Award of the Fur Seal Arbitration Tribunal of 1893, which was adopted by the legislative enactment by the Government of Great Britain and of the United States in 1894, are as follows:

> The two Governments shall forbid their citizens and subjects, respectively, to kill, capture, or pursue in any manner whatever, during the season extending, each year, from the 1st of May to the 31st of July, both inclusive, the fur seals on the high sea, in the part of the Pacific Ocean, inclusive of the Behring Sea, which is situated to the north of the 35th degree of north latitude, and eastward of the 180th degree of longitude from Greenwich. * * * (United States Answer, Exhibit 16.)

It appears, therefore, that from the 10th of June, when this vessel was seized, until the 31st of July, she was prohibited by these provisions from sealing operations in the North Pacific within the limits described, which were fixed by the Award of the Arbitration Tribunal as the limits which included the entire area within which fur sealing might profitably be engaged in during that period, and she was within those limits when seized. It follows that during the part of her detention for which the United States is responsible, the only period during which she was unlawfully prevented from sealing by the United States authorities, was the period covered by the first two days in August, which followed the termination of the close season on the 31st of July, as fixed by the Award, and the three additional days which should be allowed for the vessel to reach the sealing grounds, if she had been released at Dutch Harbour on August 2nd.

The damages claimed by the claimants as set forth in the British Memorial are based upon " a reasonable estimate of the sums which the owners would have received as the proceeds of the voyage if it had been completed, together with interest thereon," and these sums include only the value of the estimated catch for the season if the schooner had not been seized, damages for detention of master and crew, the value of provisions and alleged injuries to guns. It does not appear that any damages were claimed for the detention of the ship during the period prior to the 1st of August, and it is clear that no pecuniary loss on account of any of the items mentioned was suffered by the detention of the ship, or the master and crew during that period, because it is evident from the surrounding circumstances that it was her purpose to

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occupy that period in proceeding to Behring Sea, and remaining in that vicinity until the open season began on the 1st of August. The value of the prospective catch for the whole season is estimated by the claimants at $9,080.86 on the basis of 950 skins at 39 shillings 3 pence per skin.

It is shown by the documents that the average catch during the same season of other schooners similarly equipped was about 96 skins per boat or canoe, or 43 skins per man. The *Wanderer* had one boat and five canoes and fourteen men, which would make 576 skins reckoning by boats and canoes, or 602 skins reckoning by men, or striking a mean, 589 skins.

It has been shown that the average value of skins was about $8.60 per skin in 1894. Consequently on these figures the loss for the season may be estimated at about $5,000.

As damages are claimed in this case by the British Government not only for the owners but also for the officers and men who by the seizure were deprived of their earnings per skin, no deduction for wages should be made from the aforesaid value per skin.

The exact duration of the season is not stated, but it appears from the evidence that it extended through the month of August and the greater part of September, covering about forty days, so that the average value of the catch per day can be estimated at about $125. The evidence offered as a basis for this estimate is indefinite and inconclusive, but the Tribunal is of the opinion that taking into consideration the illegal detention of this vessel by the United States authorities for a period of nearly two months, it is justified in adopting a liberal estimate of the profits which she would have made on the five sealing days during which she might have hunted, if she had not been unlawfully detained by the United States until August 2nd. This Tribunal, therefore, considers that the damages for this detention should be fixed at $625 for her loss of profits, and $1,000 for the trouble occasioned by her illegal detention.

As to damages for the detention of the master, mate and men, there is no evidence sufficient to support these claims.

A sum of $120 is also claimed for injury to guns; but no evidence is afforded sufficient to support this item and it must be disallowed.

As to the sum of $126.50, the amount of certain provisions, which are said to have been supplied and purchased from H.M.S. *Pheasant,* there is no evidence sufficient to support it.

On the other hand, it appears from a letter dated August 5, 1894, addressed by the commanding officer of the American fleet to the Secretary of the Navy that some provisions valued at $21.95 supplied by the U.S.S. *Concord* to the *Wanderer* were not paid for. (United States Answer, Exhibit 13.) This sum then must be deducted from the total amount of damages to be paid by the United States Government.

As to interest:

The British Government in their oral argument admit that the 7 per cent interest claimed in their memorial must be reduced to 4 per cent in conformity with the provisions of the Terms of Submission.

It appears from a letter addressed by the Marquis of Salisbury to the British Ambassador in Washington on August 16, 1895, and handed by him to the Secretary of State on September 6, 1895, that this was the first presentation of a claim for compensation in this case. Therefore, in accordance with the Terms of Submission, section IV, the Tribunal is of the opinion that interest should be allowed at 4 per cent from September 6, 1895, to April 26, 1912, on the $625 damages allowed for loss of profits less $21.95 for the provisions supplied by the U.S.S. *Concord,* namely on $603.05.

FOR THESE REASONS

The Tribunal decides that the Government of the United States shall pay to the Government of His Britannic Majesty for the claimants the sum

of one thousand six hundred and three dollars and five cents ($1,603.05), with interest at four per cent (4 per cent) on six hundred and three dollars and five cents ($603.05) thereof, from September 6, 1895, to April 26, 1912.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 9, 1921.

ENCLOSURE 7 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *Argonaut* and *Colonel Jonas H. French*

CLAIMS NOS. 14 AND 15

Arbitrators:
HENRI FROMAGEOT,
CHANDLER P. ANDERSON,
SIR CHARLES FITZPATRICK.

United States Memorial
filed March 18, 1913.

British Answer
filed November 17, 1913.

United States Reply
filed March 27, 1914.

Hearing of the cases
April 2, 3, 6, 1914.

Decision given
December 2, 1921.

Counsel:
United States,
FREDERICK H. TARR.
Great Britain,
HON. E. L. NEWCOMBE,
CHRISTOPHER ROBINSON.

The Government of the United States claims from the Government of His Britannic Majesty, on account of the wrongful seizure and confiscation of some boats and seines of the American vessels *Argonaut* and *Colonel Jonas H. French* and the consequent loss to the owners of such vessels by reason of such seizures and threatened seizure of the vessels, the sum of $46,655.75 with interest, being $24,600 on account of the *Argonaut,* and $22,055.75 on account of the *Colonel Jonas H. French.*

On the 24th of July, 1887, the *Argonaut* and *Colonel Jonas H. French,* two American schooners, duly registered and licensed at Gloucester, Massachusetts, United States, were fishing for mackerel southward of East Point, Prince Edward Island, Dominion of Canada, in the vicinity of the Canadian Government Cutter *Critic* and some other American fishing vessels.

In the afternoon of that day, the *Argonaut,* being off the West River, discovered a school of mackerel and sent one of her boats with a seine to catch them.

It is shown by the affidavits sworn on August 5 and 12, 1887, by the owner, the master and men of the *Argonaut* (United States Memorial, Exhibits 7, 8, 9), that the seine was set and enclosed the mackerel at a distance of about four miles from shore (United States Memorial, Exhibit 7), and also that there was at that time an ebb tide running eastward at the rate of about three miles an hour (*Ibid*).

It appears that the seine being fouled, about one hour elapsed before it was pursed up and the fish secured (United States Memorial, Exhibit 8), and during that time the aforesaid ebb tide set the boat and seine towards the shore quite rapidly (United States Memorial, Exhibit 7). In order to avoid difficulties with the Canadian cutter, the seine was taken up into the boat and the fish turned out alive.

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At that time the Canadian cutter was about a mile away from the boat. The master of the *Argonaut* went to the *Critic* and asked if they considered the seine and boat within three miles of the shore, informing the captain that the tide had swept them from a position fully a mile outside. The captain of the *Critic* replied that the boat and seine were only two miles off shore. Notwithstanding the explanation of the master of the *Argonaut* that if the seine was inside the limit it was entirely without design on his part but the result of the tide taking it in, the seine and boat were seized and twelve men arrested.

About the same time and place, the schooner *Colonel Jonas H. French* was lying about three and a half miles off shore when she saw mackerel outside of her about a mile (United States Memorial, Exhibit 14). Two boats went with their seines, which were set around the fish, and one of the boats with two men in it was left in charge of the seine with the mackerel enclosed. These men soon found that they were drifting rapidly with the tide along the shore and also toward the shore, and they had no anchor or other means of preventing the boat and seine from going with the tide (United States Memorial, Exhibit 15). Finding that they must inevitably drift inside the three-mile limit, they endeavoured to take in the seine, and, while doing so, were arrested by the Cutter *Critic*. About three-quarters of an hour had elapsed from the time the boat was left as aforesaid until the seizure (United States Memorial, Exhibit 15).

On July 29, 1887, two brief printed circulars were addressed by the captain of the *Critic* to the United States Consul General at Halifax, Nova Scotia, stating the fact of the seizures "for violation of the statutes in force in Canada, relating to foreign fishing vessels" (United States Memorial, Exhibit 2).

Immediately after the seizure of their boats and seines and the arrest of their men, the masters of the *Argonaut* and the *Colonel Jonas H. French* abandoned their fishing trip and returned to their home port in the United States. While returning they heard that it was the intention of the Canadian authorities to seize the schooners themselves wherever they could be found outside the territorial waters of the United States (United States Memorial, Exhibits 3, 4, 10).

On September 19, 1887, proceedings were begun in the Vice-Admiralty Court of Prince Edward Island for the forfeiture of the boats and seines, and an March 6, 1888, two decisions *ex parte* were rendered condemning the same to be forfeited for having been found to be fishing and to have been fishing and preparing to fish in the Canadian waters within three miles of the shore (British Answer, Annexes 57, 58).

It is shown by the documents that the owners, although opportunity was given to them to make the necessary application to the Vice-Admiralty Court, did not exercise their right to have the cases reopened and to put in their defence before the court (United States Memorial, Exhibits 25, 26).

It does not appear that there was any diplomatic correspondence relating to these cases before they were submitted to this arbitration.

In law:

By article 1 of the Treaty concluded at London, October 20, 1818, between the United States and Great Britain, it was stipulated that, except in certain localities, without interest in this case, the United States renounced:

> forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's dominions in America not included within the above mentioned limits; Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever.

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By the Imperial Statute 59 George III, Chapter 38 (1819), article II, it is prohibited to any foreigner in a foreign vessel to fish for or to take any fish within the three-mile limit of the Canadian coast, and by the Revised Statutes of Canada, 1856, chapter 94, sections 1, 2, 3 and 7, certain penalties and the forfeiture of the vessel and the legal prosecutions are provided for in case of contravention.

It is a universally recognized principle of international law that a State has jurisdiction over sea-fishing within its territorial waters, and to apply thereto its municipal law, and to impose in respect thereof such prohibitions as it may think fit. The Treaty of 1818 did not make any exception in regard to the inhabitants of the United States in these waters.

The only question then to be decided in this case is whether or not the boats and seines of the *Argonaut* and *French* were within the three-mile limit.

It is to be noted that, though the Canadian regulations required them to be made (See *David J. Adams'* case, United States Memorial, p. 358), no official statement of the circumstances of the alleged offences or of the legal provisions alleged to be contravened, no document drawn up by the officers who carried out the seizures proving the alleged illegal position of the boats and seines, or reporting any bearings or soundings taken at the time, are presented by the British Government in justification of the action of their naval authorities. The log book of the Cutter *Critic* is not even produced. The only documents presented are the two brief reports, above referred to, stating the fact of the seizures for violation of the statutes in force in Canada, relating to foreign fishing vessels. This is insufficient proof of the legality of the seizures.

However, according to article 5, paragraph 4, of the Special Agreement, this Tribunal is to decide all claims submitted upon such evidence or information as may be furnished by either Government.

In regard to the *Argonaut*, it results from the affidavits of the owner, master and men, produced by the United States (United States Memorial, Exhibits 7, 8) and above referred to, that, first, the boat and seine were set at four miles off shore; second, that they remained out for about one hour and were drifting shoreward with the tide, and third, that the tide was running to the eastward at from two and a half to three miles an hour.

In his protest, the owner does not contest so much the position of the boat and seine within the three-mile limit as the alleged act of fishing to which the Canadian law was applied; nor does the United States Consul General, when reporting to the Assistant Secretary of State on August 7, 1887, the statements of the men, deny that the boats were seized within the three-mile limit (United States Memorial, Exhibit 2).

In regard to the boat and seine of the *Colonel Jonas H. French*, the sworn affidavits of the owner, master and men, produced by the United States (United States Memorial, Exhibits 14 and 15) show, first, that the vessel was three and a half miles from the shore; second, that the mackerel were one mile outside the vessel, so that the boat and seine were four and a half miles from the shore when the seine was set out, and third, that they delayed about three-quarters of an hour, being swept shoreward by the ebb tide, when they were seized.

It must be observed that though the intention was to fish quite near the three-mile limit and though with the exercise of a very small amount of prudence it could have been foreseen that there would be a strong tide setting shorewards, there was on board the boat no anchor or any other means of preventing it drifting within the prohibited zone.

On all the facts presented in these cases, this Tribunal finds that the boats and seines of both vessels were less than three miles from the shore when seized.

The boats and seines of the two vessels being inside the territorial waters, were, from the international law point of view, undoubtedly subject to the municipal law and the jurisdiction of Canada, and the question whether or

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not, under the circumstances of these cases, taking into consideration the good faith of the fishermen and the exact character of their acts, a proper interpretation and application of the Canadian law was made by the Canadian court is a question of municipal law and not a question of international law to be decided by this Tribunal, so far as these cases stand.

In regard to the contended intention of the Canadian authorities, to seize the two schooners themselves, that mere intention, even if any such existed, cannot by itself be the basis for indemnity unless it was actually manifested by some wrongful act, and, in that respect, no sufficient evidence is offered to establish any order of seizure given, or any other measure of execution taken against the two vessels.

FOR THESE REASONS

This Tribunal decides that the claims be dismissed.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 2, 1921.

ENCLOSURE 8 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *David J. Adams*

CLAIM NO. 18

Arbitrators:
HENRI FROMAGEOT,
CHANDLER P. ANDERSON,
SIR CHARLES FITZPATRICK.

United States Memorial
filed April 18, 1913.

British Answer
filed November 14, 1913.

Hearing of the case
April 8, 9, 11, 1914.

Decision given
December 9, 1921.

Counsel:
United States,
J. REUBEN CLARK, JR.
Great Britain,
E. L. NEWCOMBE.

The United States Government claims from His Britannic Majesty's Government the sum of $8,037.96 with interest thereon from May 7, 1886, for loss resulting from the seizure of the schooner *David J. Adams* by the Canadian authorities in Digby Basin, Nova Scotia, on May 7, 1886, and the subsequent condemnation of the vessel by the Vice-Admiralty Court at Halifax on October 20, 1889.

I. As to the facts:

The *David J. Adams,* a fishing schooner (United States Memorial, p. 316), of 66 register tonnage, owned by Jesse Lewis, an American citizen of Gloucester, Massachusetts, United States of America; Alden Kinney, likewise an American citizen, being the master, sailed from Gloucester on or about April 10, 1886, for cod and halibut fishing on the Western Banks, lying to the southeast of Nova Scotia, in the North Atlantic Ocean, with special instructions to the master not to enter into Canadian ports. (United States Memorial, pp. 182, 185, 248.) After remaining on the Banks for about 12 days, the vessel proceeded to Eastport, Maine, United States of America, to obtain bait and other supplies, but being unable to procure at Eastport her needed supply of bait, she proceeded to Nova Scotia's shore, namely, to Annapolis Basin (United States Memorial, pp. 249, 309). On the morning of May 6, 1886, contrary to the owner's instructions, she entered Annapolis Basin, and when entering the Gut, she heard from another boat that there was bait at Bear River.

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(United States Memorial, p. 309.) Then she anchored above the mouth of Bear River (United States Memorial, pp. 269, 273, 288, 309). While the schooner was lying at anchor, the Master with some men of the crew went on shore, and addressing a Canadian fisherman, Samuel D. Ellis, he said that he wanted to know whether he had any bait, and on the affirmative answer of Ellis, he asked him whether he would sell it to him.

On the refusal of Ellis, because it was against the law and he could not sell to Americans, Kinney replied "that the schooner had been an American, but the English had bought her." Having been told by Ellis that the price was $1 a barrel, he offered $1.25, and so he bought four barrels of herring which had been caught the same morning. (United States Memorial, p. 275.) The same Kinney addressed, likewise, a certain Robert Spurr; he asked him who owned the bait, and the said Robert Spurr, showing about four and a half barrels of bait in a boat anchored in a weir, said it belonged to his father, William Spurr, and to his partner, George Vroom. The master of the *David J. Adams* bought those four and a half barrels and engaged the next morning's catch at the rate of $1 per barrel. On May 7th, as she was preparing to leave Digby Basin, the schooner was boarded by the chief officer of the Canadian cruiser *Lansdowne,* who asked the master what he was in for and if he had any bait on board; the master answered that he was in to see his people (United States Memorial, pp. 253, 289), and that he had no bait on board; then the said officer told Pinney that he had no business to be there; he asked him if he knew the law, and being answered affirmatively (United States Memorial, pp. 254, 258), he ordered the said master to proceed beyond the limits and returned to his cruiser. Being ordered by the commander of the cruiser to board the schooner again and to examine her thoroughly, the same officer went alongside the schooner and told the master it was reported that he had bought bait. On the formal denial of Pinney, the officer proceeded to make a search, and having found bait, apparently perfectly fresh, was told by the master it was ten days old. Leaving the schooner again, the officer went to report to his commanding officer, and having so reported was ordered to return to the schooner with Captain Charles T. Dakin of the *Lansdowne,* who after putting the same questions and having received the same denials from the captain, returned to the *Lansdowne,* once more leaving the schooner free. But on their report the Commanding Officer of the Canadian cruiser ordered the schooner to anchor close to the *Lansdowne.* The following day, *i.e.,* on May 8th, the schooner was declared to be seized. (United States Memorial, pp. 253, 254, 259.)

On the same day, the vessel was removed to St. Johns, New Brunswick, and three days later she was taken back again to Digby.

On May 7th, a process in an Admiralty suit against the schooner was served on the vessel for (1) violation of the convention between Great Britain and the United States, signed at London on October 20th, 1818, and (2) for violation of the Act of the British Parliament, being Chapter 38 of the Acts passed in the 59th year of the reign of his late Majesty George III, and being entitled, "An Act to enable His Majesty to make regulations with respect to the taking and curing of fish in certain parts of the coasts of Newfoundland and Labrador, and in his said Majesty's other possessions in North America, according to a Convention made between His Majesty and the United States of America," and (3) for violation of Chapter 72 of the Acts of the Parliament of the Dominion of Canada made and passed in the year 1883, and entitled, "The Customs Act, 1883," and the Acts of the said Parliament of the Dominion of Canada in amendment thereof. (United States Memorial, p. 202.)

In the meantime, the Secretary of State of the United States having been informed by the shipowner of these occurrences, the American Consul General at Halifax, acting on the instructions of the Secretary of State, proceeded to Digby to inquire into the facts. He seems to have encountered some difficulties in ascertaining what were the grounds on which the Canadian

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authorities were basing the seizure (United States Memorial, pp. 39, 42, 43, 47), and it appears from the documents (United States Memorial, pp. 78, 79, 89), that the charges against the schooner were alternatively said by the Canadian authorities to be a violation of the Fisheries Stipulations in force between the British Government and the United States Government, and of the Canadian Fisheries Acts, and a violation of the Canadian Customs Acts. On the other hand, the Consul General must have had some difficulty in ascertaining the true facts, since in the master's affidavit of May 13th is the solemn and misleading declaration that he did not buy bait when anchored above Bear River. (United States Memorial, p. 44.)

A diplomatic correspondence ensued with the United States Government protesting against what it contended to be a misinterpretation of the Treaty of 1818 by the Canadian Government and His Britannic Majesty's Government contending that, as the case of the *David J. Adams* was still *sub judice,* diplomatic action was to be suspended for the time being. After having been somewhat delayed, by reason of certain negotiations which took place in 1886-1888 between the two Governments concerning fisheries, the action for forfeiture of the *David J. Adams* and her cargo was decided on October 28, 1889, by the Vice-Admiralty Court at Halifax. The ship and her cargo were condemned as forfeited to Her Britannic Majesty for breach and violation of the Convention and the various Acts relating thereto, and ordered to be sold at public auction, and expressly on the following motives (United States Memorial, p. 326):

> That the said vessel [*David J. Adams*] * * * did on or about the 6th day of May, A.D. 1886, enter into Annapolis Basin, * * * and that the said vessel *David J. Adams* and those on board the said vessel did so enter for purposes other than the purpose of shelter or repairing damages, of purchasing wood or of obtaining water, and that the said vessel *David J. Adams* and those on board of the said vessel did within three marine miles of the shores of the said Annapolis Basin on the said 6th day of May, A.D. 1886, prepare to fish within the meaning of the Convention between His late Majesty, George III, King of the United Kingdom * * * and the United States of America, made and signed at London on the 20th day of October, A.D. 1818, and within the meaning of * * * [British Act 59, George III, c. 38, and Canadian Acts, 31 Vict., Chap. 61 (1868), 33 Vict., Chap. 15 (1870), 34 Vict., Chap. 23 (1871)], * * * and contrary to the provisions of the said Convention and of the said several Acts, and that the said vessel *David J. Adams* and her cargo were thereupon seized within three marine miles of the shores of the Annapolis Basin * * *.

It is not contested that no appeal was taken against that decision.

Now this case is presented before this Tribunal under the following conditions:

By reason of certain conditions of fact and for various other considerations, while by the Treaty of London of October 20th, 1818, the United States renounced the liberty of fishing in Canadian waters, except on certain specified coasts, the access of American fishermen to the British territorial waters of Canada was conventionally regulated between the American and British Governments as follows:

> The United States hereby renounce forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof, to take, dry or cure fish on, or within three marine miles of any of the coasts, bays, creeks, or harbours of His Britannic Majesty's Dominions in America not included within the above-mentioned limits: Provided, however, that the American fishermen shall be admitted to enter such bays or harbours for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. (United States Memorial, p. 375.)

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Great Britain and Canada, acting in the full exercise of their sovereignty and by such proper legislative authority as was established by their municipal public law, had enacted and were entitled to enact such legislative provisions as they considered necessary or expedient to secure observance of the said Treaty; and, so far as they are not inconsistent with the said Treaty, those provisions are binding as municipal public law of the country on any person within the limits of British jurisdiction. At the time of the seizure of the *David J. Adams* such legislation was embodied in the British Act of 1819 (59 George III, c. 38), and the Canadian Acts of 1868 (31 Vict. 61), 1871 (34 Vict., c. 23).

Great Britain and Canada, acting by such proper judicial authority as was established by their municipal law, were fully entitled to interpret and apply such legislation and to pronounce and impose such penalty as was provided by the same, but such judicial action had the same limits as the aforesaid legislative action, that is to say, so far as it was not inconsistent with the said Treaty.

In this case, the question is not and cannot be to ascertain whether or not British law has been justly applied by said judicial authorities, nor to consider, revise, reverse or affirm a decision given in that respect by British courts. On the contrary, any such decision must be taken as the authorized expression of the position assumed by Great Britain in the subject-matter, and, so far as such decision implies an interpretation of said treaty, it must be taken as the authorized expression of the British interpretation.

The fundamental principle of the juridical equality of States is opposed to placing one State under the jurisdiction of another State. It is opposed to the subjection of one State to an interpretation of a Treaty asserted by another State. There is no reason why one more than the other should impose such an unilateral interpretation of a contract which is essentially bilateral. The fact that this interpretation is given by the legislative, or judicial or any other authority of one of the parties does not make that interpretation binding upon the other party. Far from contesting that principle, the British Government did not fail to recognize it. (United States Memorial, p. 119.)

For that reason the mere fact that a British court, whatever be the respect and high authority it carries, interpreted the treaty in such a way as to declare the *David J. Adams* had contravened it, cannot be accepted by this Tribunal as a conclusive interpretation binding upon the United States Government. Such a decision is conclusive from the national British point of view; it is not from the national United States point of view. On the other hand, the way in which the Canadian Acts, enacted to enforce the Treaty, had been applied by the Canadian courts, and penalties have been imposed, is a municipal question, and this Tribunal has no jurisdiction to deal with them. The only exception would be the case of a denial of justice. But a denial of justice may not be invoked, unless the claimant has exhausted the legal remedies to obtain justice. As has been shown, the claimant in this case renounced his right to appeal against the decision concerning his vessel. Then the duty of this international Tribunal is to determine, from the international point of view, how the provisions of the treaty are to be interpreted and applied to the facts, and consequently whether the loss resulting from the forfeiture of the vessel gives rise to an indemnity. (Oral Argument, p. 157.)

According to the British view, the stipulation of the Treaty of 1818 according to which the American fishermen shall be admitted to enter the Canadian bays and harbours for shelter, repairing damages, purchasing wood, and obtaining water, "and for no other purpose whatever," means that the American fishermen have no access to the said bays and harbours for purchasing bait.

On the other hand, the United States Government contends that the right of access as such is not prohibited to the American fishermen by the Treaty, except so far as it is inconsistent with the prohibition of taking, drying or curing fish within the three-mile limit, accepted by the United States in that

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Treaty. The four cases (shelter, repairs, wood and water) of admittance, are cases where admittance is secured by the Treaty, and cannot be refused or prohibited by local legislation.

In other words, according to the American view, the United States Government had renounced by the Treaty their former liberty to fish in Canadian territorial waters. That renunciation has as a counterpart the obligation of the Canadian Government to admit American fishermen for shelter, repairs, wood and water and for no other purpose. That is to say, that Canada has no obligation to admit the said fishermen for any other purpose than these four—that Canada may very well prohibit the entrance for any other purposes; but, so long as entrance for the purpose of purchasing bait is not prohibited by Canadian legislation, it must be considered as the legal exercise of the right of access belonging to any American ship.

In this Tribunal's opinion, a stipulation which says that fishermen "shall be admitted" for certain enumerated purposes and "for no other purpose whatever," seems to be perfectly clear and to mean that for the specified purposes the fishermen shall be admitted and for any other purposes they had no right to be admitted, and it is difficult to contend that by such plain words the right to entrance for purchasing bait is not denied.

No sufficient evidence of contrary intention of the High Contracting Parties is produced to contradict such a clear wording.

It has been said in support of the United States contention that "if the language of the Treaty of 1818 is to be interpreted literally, rather than according to its spirit and plain intent, a vessel engaged in fishing would be prohibited from entering a Canadian port 'for any purpose whatever, except to obtain wood or water, to repair damages or to seek shelter.'" And also that "the literal meaning of an isolated clause is often shown not to be the meaning really understood or intended." (United States Memorial, pp. 56, 57.)

Such an intention of the negotiators to contradict the literal meaning of the Treaty does not appear in the evidence presented in this case. It appears from the report dated October 20, 1818, from Gallatin and Rush, the two American Plenipotentiaries (British Answer, pp. 27, 28), that they had in view to procure for the American fishermen fishing on the fishing grounds outside the three-mile limit off Nova Scotia coasts, the privilege (that is to say, the exceptional right) of entering the ports for shelter.

But, assuming the construction contended for by the United States Government, it must be considered that as early as 1819, that is to say, immediately after the Treaty, the British Act of 1819 (59 Geo. III, c. 36, section III) expressly enacted that the entrance into the Canadian bays and harbours should not be lawful. This Act says:

> Be it enacted that it shall be lawful for any fishermen of the said United States to enter into such bays or harbours of His Britannic Majesty's Dominions in America as are last mentioned for the purpose of shelter, and repairing damages therein, and of purchasing wood, and of obtaining water, and for no other purposes whatever.

If the entrance for the other purposes is not lawful, it is difficult to say that such entrance is not prohibited.

It is true that, according to the various documents produced, either by reason of arrangements between the American and British Governments or for political or economic reasons the enforcement of the prohibition resulting from that statute was practically rare, and it results from the documents that the entering of American fishermen into the Canadian ports for the purpose of purchasing bait was at certain periods of time commonly practiced.

But it has been shown that, at least in 1877, before the Halifax Commission, it was admitted by the United States that the American fishermen were enjoying access to the Canadian ports for purchasing bait "only by sufferance," and could at any time be deprived of it "by the enforcement of existing laws or the re-enactment of former oppressive statutes." And the United States Government stated at that time that it was not aware "that the former inhospitable statutes have ever been repealed. Their enforcement may be renewed at any moment." (British Answer, p. 11.)

During the period extending from 1877 to 1886, the fisheries articles of the Treaty of Washington (May 6, 1871; United States Memorial, p. 392), superseded the Treaty of 1818 as regards the prohibition of fishing and the tolerance for purchasing bait was continued.

On January 31st, 1885, the United States Government denounced the Washington convention, which was declared to be terminated on July 1st, 1885 (British Answer, p. 60), but in order not to disturb the fishing campaign of 1885 a *modus vivendi* was agreed upon by the two governments to end on January 1st, 1886, and the notes exchanged on that occasion show that the purchasing of bait was to continue during that time and that the Canadian authorities should abstain from impeding the local traffic incidental to fishing during the remainder of the season of 1885 (United States Memorial, pp. 397, 400). At the same time the Canadian Government proposed to the United States Government that a mixed commission should settle by agreement the various fishing difficulties existing between the two countries and the *modus vivendi* was proposed from the Canadian side, based on a favourable Presidential recommendation for that proposal. (United States Memorial, p. 401; British Answer, p. 62.)

The Senate of the United States did not agree to that proposition.

At the termination of the transitory régime which purported to avoid an "abrupt transition" in the existing state of things (United States Memorial, p. 399), in the early days of March, 1886, and before the beginning of the fishing campaign of 1886, the Canadian Government gave a public warning, dated March 5th, 1886 (United States Memorial, p. 367), reproducing the text of the 1818 Treaty. The same warning also called attention to the provisions of the Canadian Act, 1868, respecting fishing by foreign vessels, but not to the special provisions of the Act of 1819 concerning the entrance by the fishermen into the Canadian harbours. The British Government requested the United States Government to give also a public warning; but it answered that the proclamation of the President already given on January 31st, 1885, constituted a "full and formal public notification," and it was not necessary to repeat it. (British Answer, pp. 62, 63.)

Such was the state of things when the owner of the *David J. Adams* was deprived of his vessel.

The United States Government contends that even assuming the existence of the prohibition of entering into Canadian harbours for purchasing bait, the seizure was, on the facts in this case, a violation of international law, because "as a matter of international law, where for a long-continued period a Government has, either contrary to its laws or without having any laws in force covering the case, permitted to aliens a certain course of action, it cannot under the principles of international law, suddenly change that course and make it affect those aliens already engaged in forbidden transactions as the result of that course and deprive aliens of their property so acquired, without rendering themselves liable to an international reclamation." (Oral Argument, p. 751; see also p. 47.)

But it seems difficult to apply such a principle based upon the *bona fides* of foreigners to this case where (*a*) the master of the schooner was not an alien already engaged in the country in a transaction suddenly forbidden; (*b*) the said master entered the Canadian harbour in violation of his own shipowner's instructions (United States Memorial, pp. 182, 185, 248); (*c*) the said master admitted that he knew the Canadian law (United States Memorial, pp. 254, 258); (*d*) the said master, in order to induce his vendor to sell him the bait, falsely declared that his vessel had been bought by Englishmen and

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was no more an American one; (*e*) the said master falsely declared that he entered the harbour to see his relatives (United States Memorial, pp. 253, 289); that he had no bait on board (United States Memorial, pp. 254, 263); that he strongly denied that he had bought bait (United States Memorial, pp. 254, 259); that the bait, which was afterwards revealed by the search, was ten days old (United States Memorial, pp. 254, 263, 289, 290, 302), and even after the seizure, he tried to deceive the United States Consul General by asserting under oath that he did not purchase or attempt to purchase bait while at anchor above Bear River (United States Memorial, pp. 46, 269, 273, 288, 309); (*f*) the said master took away the ship's papers (United States Memorial, p. 45), which afterwards he refused to give to the Canadian authorities (United States Memorial, p. 316); and where, as it is clearly shown, this master made desperate efforts to avoid the consequences of an act which he knew was illegal.

If, on the other hand, such an attitude of the master of the *David J. Adams* is compared with the public proclamations by the Canadian Government as well as by the United States Government (United States Memorial, p. 367; British Answer, pp. 62, 63), it does not appear that this was a case of a sudden and unexpected change of a government's conduct towards a foreigner suddenly surprised by that change.

Furthermore, and without interfering with what the Canadian authorities, acting under their municipal rights of jurisdiction, held to be the proper application of their legislation and the penalties thereunder, and without admitting any foundation in this case for a contended denial of justice, for the reasons above stated, this Tribunal cannot refrain from observing that if the unlawfulness of the entrance in the Canadian ports was effectively provided for in the Act of 1819, in accordance with the Treaty of 1818, on the other hand the penalty of forfeiture for buying bait was enacted for the first time by the Act of 1886 (49 Vict., c. 114; United States Memorial, p. 386), posterior to the seizure of the *David J. Adams*.

Further, if the consequences resulting to the owner of the *David J. Adams* from the confiscation so pronounced, are considered, they appear as being particularly unfortunate and unmerited.

It results from the documents (United States Memorial, p. 181) that Jesse Lewis was a poor aged man, who was possessed of no means of any moment or value other than the said schooner, that his wife was an invalid, and that after his vessel was seized, he was compelled to go to sea to earn a living for himself and his wife (United States Memorial, p. 183). And further he appears as having been perfectly innocent of his master's conduct, whom he had expressly prohibited from entering Canadian ports, as it has been shown.

It is true, the proceedings which resulted in the confiscation of the *David J. Adams* constituted an *actio in rem* against the vessel and not against the owner; but finally all the consequences of the affair were inflicted on the owner and his abandonment of his right of appeal which might have succeeded as to the penalty, seems to have been partly due to his absence of pecuniary means.

Under these circumstances, this Tribunal thinks it is its duty to draw the special attention of His Britannic Majesty's Government to the loss so incurred by Jesse Lewis and it ventures to express the desire that that Government will consider favourably the allowance as an act of grace to the said Jesse Lewis or to his representatives, on account of his unfortunate misfortune, of adequate compensation for the loss of his vessel and the damages resulting therefrom. That compensation, this Tribunal earnestly urges upon the attention of the British and Canadian Governments.

FOR THESE REASONS

The Tribunal decides that, with the above recommendation, the claim presented by the United States Government in this case be disallowed.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 9, 1921.

ENCLOSURE 9 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the ss. *Newchwang*

CLAIM No. 21

Arbitrators:
HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial
filed May 2, 1913.

United States Answer
filed February 1, 1914.

British Reply
filed March 5, 1914.

Hearing of the case
March 12, 13, 14, 1914.

Decision given
December 9, 1921.

Counsel:
Great Britain,
MR. JAMES H. HAYDEN.
United States,
MR. ARTHUR P. MCKINSTRY.

This is a claim presented by His Majesty's Government for the sum of £4,271/4/8 with interest from August 27, 1902 (the date on which the claim was first brought to the notice of the United States Government), for damage sustained by the China Navigation Co., Ltd., a British corporation, as the result of a collision which occurred on May 11, 1902, off the southern mouth of the Yangtse River between the British steamship *Newchwang*, owned by the said company, and the *Saturn*, a naval collier, owned and operated by the United States Government.

There is no contest about the ownership of either the *Newchwang* or the *Saturn*, the British nationality of the claimant, or the fact of the collision.

On July 11, 1902, an action for damages was brought by the United States Government against the China Navigation Co., Ltd., in His Britannic Majesty's Supreme Court of China and Corea in Admiralty. On August 16, 1902, an application for leave to enter a counter-claim was filed by the China Navigation Co., Ltd., but on August 20, 1902, an order was made refusing this application for lack of jurisdiction. On January 16, 1903, both parties being represented, the court decided the case upon its merits, and delivered a judgment as follows:

> This court doth decree and order that the ss. *Newchwang* being in no way to blame for the collision referred to in the plaintiff's petition this suit be dismissed with costs to be taxed. (British Memorial, p. 51.)

The British Government contend that by reason of this judgment the liability of the United States for the damage and loss suffered by the China Navigation Co., in consequence of the collision, is covered by the principle of *res judicata* and, therefore, not open to dispute.

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It is unnecessary here to discuss the value of a plea of *res judicata* before an international tribunal of arbitration. It is a well established rule of law that the doctrine of *res judicata* applies only where there is identity of the parties and of the question at issue. The only matter before His Britannic Majesty's Supreme Court was the liability of the China Navigation Co., Ltd., as owners of the *Newchwang,* whereas the question submitted to this Tribunal is the liability of the United States Government as owners of the *Saturn.* Whatever, therefore, be the connection in fact between the two questions, they are not identical. Further, it is impossible to say that the question of the liability of the United States is concluded by the decision of His Britannic Majesty's court, when that court, on the contrary, held that it had no jurisdiction to deal with that question.

In these circumstances it is for this Tribunal to decide whether the United States Government is liable to pay compensation for the said collision. For this purpose it is authorized by Article 5 of the Pecuniary Claims Convention to consider such evidence and information as may be furnished by either Government.

Although the decision of His Majesty's Supreme Court is not in any sense *res judicata* in this case, and although the findings of the court as to the facts upon which liability depends are not binding upon this Tribunal, yet they are evidence of the conclusions reached by a competent municipal tribunal. But, in considering these conclusions, and the evidence upon which they were based, it must be remembered firstly, that there the burden of proof was on the *Saturn,* while before this Tribunal it is on the *Newchwang;* and secondly, that evidence has been put before this Tribunal which was not before that court. In behalf of the United States, the most important fresh evidence is the report of the proceedings of the United States Naval Board of Investigation, dated May 23, 1902, within two weeks after the collision, which laid the blame for the collision on the *Newchwang.* The only evidence presented on the part of Great Britain which was not before the trial court, consists: (*a*) of certain bills introduced into the United States Senate providing for the reference of this claim to the Court of Claims, to determine, subject to certain conditions, whether any damages should be paid, and (*b*) a copy of a letter dated January 30, 1907, addressed by the Secretary of the Navy to the Chairman of the Committee on Claims of the House of Representatives. His Majesty's Government contend that this letter contains an admission of liability which estops the United States from denying responsibility. It appears, however, from a statement made by the Counsel for Great Britain on the oral argument, that this letter was merely a personal or private recommendation to the Chairman of the Committee on Claims, and has never been officially published, and for this reason in the opinion of the Tribunal it cannot be regarded as an admission of liability on the part of the United States. As to the bills, it was also stated in the oral argument that none of them were voted upon in the Senate, nor were they even favourably reported upon by the Committee on Claims, to which they were referred.

Dealing now with the merits.

I. As to the facts:

It is admitted on both sides that the night was clear and the water smooth and that there was plenty of searoom; it is shown that the regulation lights were burning brightly and the regular watches kept; the force of the tide is not in dispute, and under all these circumstances it is difficult to understand how, with the exercise of ordinary care and skill, the collision occurred.

Notwithstanding a considerable conflict of evidence, and a wide variance between the *Preliminary Acts* of the two ships and the oral evidence of those on board them, the following facts are clearly established.

On May 11, 1902, at about eleven p.m., the British ss. *Newchwang,* 894 tons gross tonnage, was proceeding up the Chinese coast from Amoy to Shanghai and had passed through Steep Island Pass, steering North 2° West Mag-

netic. Her speed was 10-12 knots. She sighted at a distance of six miles and about two points on her *port* bow the masthead light of another steamer, which afterwards proved to be the *Saturn.* She held on her course.

At the same time, the United States collier *Saturn,* bound from Shanghai to Cavite, Philippine Islands, had passed Bonham Straits and Elgar Island; her speed was 10-12 knots and she was steering South ¾ East. She reported no light at all at the time when she herself was sighted by the *Newchwang.*

However, about twenty minutes later the *Saturn* passed another steamer, the *Hoihow,* which was going north in front of and in the same course as the *Newchwang.* The *Saturn* ported her helm and came to starboard in accordance with the Rules of the Road, but so tardily that the captain of the *Hoihow* testified that the two vessels passed at two ships' length apart.

After so passing the *Hoihow* the *Saturn* resumed her course and it was only then that she sighted the masthead light of the *Newchwang.* At that time the two vessels were less than 1½ miles apart. In the oral argument, not only was it admitted but stress was laid upon the fact that from the time the *Saturn* passed the *Hoihow* at 11.14 p.m., only six minutes elapsed before the collision; that the *Saturn* saw the masthead light of the *Newchwang* at 11.16 p.m., and her red light at 11.17.43 p.m., and that the collision occurred at 11.20 p.m., so that the *Saturn* saw the masthead light of the *Newchwang* only four minutes and her sidelight only two minutes before the collision. The combined speed of the vessels at the time was about 22 knots.

At that moment as soon as she saw the sidelight on the *Newchwang* the *Saturn* ported her helm, as she had done a few minutes before, when she met the *Hoihow.*

The fact that the *Saturn* crossed the Newchwang in this way has been contested. But it seems to be the correct inference from the statement in the Preliminary Act of the *Saturn* that when first seen, two minutes, that is after passing the *Hoihow,* the *Newchwang* bore ¾ of a point off the *Saturn's* starboard bow—from the admission by Counsel for the United States in the course of the oral argument that it was the duty of the *Saturn* to keep out of the way of the *Newchwang,* from the evidence of her captain ("I sighted light on starboard bow ½ to ¾ of a point"), and also from the captain's admission that after passing the *Hoihow,* he resumed his course, which was south by ¾ East and then saw the *Newchwang's* red light. This would have been impossible unless he had crossed her bow from starboard to port. On the other hand the consistent evidence of those on the *Newchwang* is to the effect that they first saw the green light of the *Saturn* on their starboard bow, the *Newchwang's* course then being North 2° West Magnetic, and that subsequent to that the *Newchwang* starboarded to clear a junk and did not go back on her course, so that she was getting further away from the *Saturn.*

As soon as the *Saturn* sighted the side lights of the *Newchwang, i.e.,* two minutes before the collision, and came to starboard she blew her whistle and reversed her engines. But the collision was already inevitable.

On her side the *Newchwang* tried to minimize the collision by coming to port, but that proved to be useless and the two ships struck at about right angles.

II. As to the liability:

It is clear that a good lookout was not kept on board the *Saturn* from the fact that though more than twenty minutes before the collision she was sighted by the *Newchwang,* at about six miles' distance, she herself did not report the *Newchwang* until four minutes before the collision when the two ships were only 1½ miles apart—and from the fact that she did not report any light of the other steamer, the *Hoihow,* which was passed a few minutes before the collision.

If a good lookout had been kept, the *Saturn* would have sighted the *Hoihow,* and, behind her, the *Newchwang,* and after passing the *Hoihow* she would have kept clear of the second steamer. Instead of that, the *Saturn* not having reported the *Hoihow,* passed her under circumstances of some peril,

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and having passed her, resumed her course, so that she came upon the *Newchwang* under similar but more dangerous conditions, too late for either ship to avoid an accident.

Accordingly the *Saturn* must be held to be to blame, 1st, for having neglected to keep a good lookout; 2nd, for having resumed her course after passing the *Hoihow,* when she ought to have known that another steamer was following; and 3rd, for having manœuvred too late to render the collision unavoidable.

As to the *Newchwang,* the United States Naval Inquiry blamed that ship, 1st, for not having answered the *Saturn's* starboarding whistle. But according to the Rules of the Road no answering whistle ought to have been given by the *Newchwang* unless she was going to alter her course. It is true that this is not the American rule, but on the high seas the American rule does not apply to a foreign vessel; 2nd, for not having stopped and reversed her engines; but evidence has shown that she did; 3rd, for having her red light burning dimly; but the evidence has shown that it was burning brightly; 4th, at all events for not entering into conversation before the collision, and for striking nearly at right angles; but the *Newchwang's* manœuvre at that moment was a desperate endeavour to minimize, if possible, the effect of a collision which had been rendered unavoidable by the inexplicable action of the *Saturn.*

The *Newchwang* appears to have kept a proper lookout. When she sighted the *Saturn* on her port bow, she had only to keep her course in order to pass port to port according to the Rules; and her manœuvring when the collision was inevitable was merely as has been said a desperate attempt to minimize its effect and cannot be imputed to her as a fault.

III. As to the amount of liability:

The British Government claims not only the amount of the damage suffered by the *Newchwang* and the cost of her repair, but also the various expenses entailed by the action brought by the United States before the Shanghai court.

It may be that the item for legal expenses might have been claimed in an appeal from the Shanghai decision. But this Tribunal has not to deal with such appeal, and has no authority either to reverse or affirm that decision or to deal with damages arising out of the action brought by the United States. It is true that such expenses are damages indirectly consequent to the collision; but it is a well-known principle of the law of damages that *causa proxima non remota inspicitur.*

As to the amount directly arising from the collision, the British Government claim for £1,612 as loss of profit and expenses during the time of repair. But no sufficient evidence is adduced to prove the loss alleged and the compensation for the deprivation of use must be computed according to the ordinary rule of demurrage at 4d. per ton gross tonnage, that will be for 894 tons, the *Newchwang's* gross tonnage, a sum of £744/16/0 for fifty-two days. According to the account of Farnham, Boyd & Co., Ltd., for executing repairs, the amount of those repairs was taels 19,251.10, *i.e.,* £2,401/7/6.

As to the interest, it appears in the evidence that a communication was made to the Department of State by the British Embassy at Washington in relation to this matter (British Memorial, p. 61), but as a copy of that communication has not been produced the Tribunal is not in a position to say whether or not it was an official presentation of this claim, or to ascertain the date of the communication, and consequently the Tribunal is unable to decide on the question of interest.

FOR THESE REASONS

The Tribunal decides that the United States Government shall pay to the British Government the sum of three thousand one hundred and seventy-

six pounds three shillings and six pence (£3,176/3/6) on behalf of the China Navigation Company, Limited, owner of the ss. *Newchwang.*

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 9, 1921.

ENCLOSURE 10 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *Sidra*

CLAIM No. 23

Arbitrators:
HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial
filed May 29, 1913.

United States Answer
filed October 21, 1913.

British Reply
filed March 6, 1914.

United States Supplemental Answer
filed March 7, 1914.

Hearing of the case
April 28, 29, 30, 1914.

Decision given
November 29, 1921.

Counsel:
Great Britain,
MR. A. C. THACHER,
MR. FRED M. BROWN,
MR. J. H. HAYDEN.
United States,
MR. A. P. MCKINSTRY.

This is a claim presented by His Britannic Majesty's Government for £4,336/7/4 and £1,127 interest for damages on account of a collision which occurred during a dense fog in the Patapsco River in the approaches of Baltimore Harbour, Maryland, in the territorial waters of the United States on the 31st of October, 1905, between the United States Government tug boat *Potomac* and the British merchant ship *Sidra.*

It appears from her certificate of registry that the *Sidra,* a steam-screw vessel, was, in 1905, a British ship of 5,400 tons of displacement, 322 feet long and drawing 10 to 12 feet.

The *Potomac* was a steam-screw tug boat owned by the United States Government; she was 135 feet in length with a draft of about 15 feet; her displacement was 650 tons.

On October 31, 1905, at 6 o'clock in the morning, the *Sidra* bound from New York to Baltimore was proceeding up the channel to Baltimore harbour; the pilot and the captain were on the bridge, a seaman was at the wheel, the chief officer and carpenter were stationed on the forward deck by the anchor, which was ready to let go.

At about 7.30 a.m., soon after passing Fort Carroll, the weather became foggy, and the fog became so thick that at 7.45 in the judgment of pilot it was prudent to anchor. The exact position of the vessel, when anchored, is contested.

Immediately upon anchoring, the *Sidra* rang her bell in conformity with the Inland Rules of the United States, article 15, and, thereafter, hearing the fog-blasts of an approaching steamer, which proved to be the *Potomac,* she continued to ring her bell.

On the same day, October 31, 1905, at about 6 a.m., the United States tug boat *Potomac* had left Annapolis, under orders to proceed to Baltimore to obtain provisions for the North Atlantic fleet and to return to Annapolis

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on the afternoon of that same day (United States Answer, Exhibit 6). The commanding officer was on the bridge and with him a Government-licensed pilot and the boatswain as lookout. She had no lookout on the forecastle.

At about 8 o'clock in the morning the *Potomac* passed Fort Carroll and proceeded up the river on the starboard side of the channel heading up; at that time the weather was still clear (United States Answer, p. 44), but about ten minutes later it suddenly changed and a dense fog shut in upon the water.

Before the fog shut down, the *Potomac* sighted a steamer under way about two miles ahead in the channel, and, according to the commanding officer, she was the *Sidra* (United States Answer, p. 18).

As soon as the fog shut in, the *Potomac* slowed gradually until going four knots (United States Answer, p. 44), and blew her whistle in conformity with the regulations. She passed on starboard hand close aboard of one of the buoys marking the starboard side of the channel, then she passed a second one which she ran over, then having altered her course, so as to keep more in the channel, she heard the bell of a ship, which proved to be the *Sidra*. The sound seemed to her to come from dead ahead; her course was altered so as to bring it on the starboard bow. But suddenly the shape of the steamer loomed up dead ahead at about 100 or 150 feet. The *Potomac* immediately reversed the engines full speed astern, but she was unable to check her headway in sufficient time to avoid collision. The *Potomac* collided with the *Sidra* at about right angles, causing her a large amount of damage without damaging herself. At the moment of the collision it was 8.15 a.m.

A few days after the collision occurred, *i.e.*, on November 3, 4, 6 and 9, 1905, a United States Naval Board of Investigation was convened by the Commander in Chief of the North Atlantic Fleet, to inquire into the circumstances of the collision, and to express an opinion as to which one of the two vessels was responsible for the collision. The conclusion reached by that Board was that the *Sidra* was responsible, as she might have anchored well clear of the channel and she did not.

Before this Tribunal the British Government contend that the collision occurred by the fault of the *Potomac* in that she was proceeding at an excessive rate of speed in fog and did not stop her engines and navigate with caution on hearing forward of her beam the fog signal of a vessel anchored, whose position was not ascertained, and further in that the *Potomac* did not keep within the channel but ran outside thereof, and in that she did not maintain a proper or sufficient lookout.

The United States Government contends that the collision was due to the fault of the *Sidra* in anchoring in the channel and obstructing the path of navigation, while she might, without difficulty and with perfect safety, have been anchored outside and out of the path of other vessels.

According to the well-settled Admiralty rule, recognized both in the United States and Great Britain, in case of a collision between two ships, one of them being moving and the other at anchor, the liability is for the vessel underway, unless she proves that the collision is due to the fault of the other vessel.

Consequently in this case, the responsibility lies upon the *Potomac*, and the Government of the United States, unless and so far as it is established that the *Sidra* was in fault.

In that respect there is not sufficient evidence to show the exact location of the place where the *Sidra* anchored and the collision took place. It has been stated by the commanding officer of the *Potomac* (United States Answer, p. 17), that the *Sidra's* anchor was a little outside the line of buoys on the easterly or starboard side of the channel, the ship herself lying across the channel. Also there is the concurring statement of those on board two other vessels, the *Chicago* and the *Sparrow*. The *Sparrow* said that she saw the *Sidra*, lying her portside parallel with the line of the channel about 50 yards from it, *i.e.*, 160 feet. And the *Chicago* said that she saw the *Sidra* lying

from 150 to 200 feet from the channel and at the time the vessel did not project into the channel.

On the other hand, the testimony of the captain of the *Sidra* shows that he took no soundings before or when anchoring (British Memorial, p. 41); that he did not know where he anchored from bearings, buoys, etc. (*ibid.*), and that he anchored when he thought he was clear of the channel, but he did not know (*ibid.*, question 31, p. 41; question 79, p. 70; see also p. 76), and that after the collision at 8.20, the tide beginning to change, he used the engines to bring the vessel around quicker, in order not to be laying across the channel, and afterwards changed her anchorage in order not to be "worrying about" vessels passing up and down; furthermore, he admitted that he could have gone at least half a mile further to the northeast with entire safety and that there is three-fourths of a mile between the line of the channel and the shoal water. (See British Memorial, pp. 64, 65, 70.)

No sufficient evidence is afforded by the British Government to contradict the above elements of proof, from which it results that the *Sidra* anchored outside the channel, but being given her 322 feet length, not far enough to prevent her from rounding across the eastern side of the path of navigation. As noted by the United States Board of Inquiry, "prudence would dictate to any vessel finding herself under the necessity of anchoring to choose a position well clear of the channel." This the *Sidra* did not do, and no reason is given why it could not have been done. As it has been shown there was about one-half mile room farther outside the channel; the *Sidra* said that she rounded one of the buoys marking the channel before anchoring; then she had the possibility of calculating how far she had to go to be certain she was entirely clear of the line. It was so much more her duty to do it, since she heard the whistle of other vessels in the neighbourhood (British Memorial, p. 66, question 50).

By that lack of prudence, the *Sidra* had, in this Tribunal's opinion, contributed to the collision.

As regards the *Potomac*, this Tribunal regrets not to have before it such important testimonies and documents as the testimony of the chief engineer and the log book of that vessel. But it results from the testimony of the commanding officer that when the vessel heard the bell of the *Sidra* she was going at 4 knots an hour, and that after she had stopped her engines and altered her course to port, again she continued her course ahead under the same speed (United States Answer, pp. 16, 32, 46 and 62) without ascertaining the location of that bell.

In dense fog, it is the common rule of prudent navigation not only to stop as soon as a bell is heard, but also to keep stopped until the location of the other vessel ringing the bell and being an obstruction be ascertained, and everybody knows that it is impossible in fog to rely upon the apparent direction of the sound for ascertaining that location (See Marsden, Collisions at Sea, pp. 378, 379).

That rule is confirmed by articles 16 and 23 of the Inland Rules of the United States as they have been construed by various Federal decisions (*The Grenadier v. The August Korff*, 74 Fed. Rep., 974, 975).

Furthermore, it must be observed that whatever be her naval orders, the *Potomac* was proceeding in a narrow channel of 600 feet wide, frequented by numerous ships going up and down, and that she knew another steamer was ahead on her way, and she had to be especially cautious as to her speed, and the strict observance of the most prudent navigation. The *Potomac*, as has been shown had no lookout on the forecastle and she was proceeding in a fog so dense that she was unable to sight the *Sidra* until about 50 feet before colliding and she was proceeding at such a speed as to make her unable to avoid collision.

For these reasons, the *Potomac* is to be held responsible for the collision, for not navigating with sufficient prudence, and on the other hand, the *Sidra* is to be held as having contributed to the collision by having imprudently anchored too close to the channel.

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According to the well-settled rule of international law, the collision having occurred in the territorial waters of the United States, the law applicable to the liability is the law of the United States, according to which when both ships are to blame the damage suffered by each of them must be supported by moiety by the other.

It results from the United States inquiry that the *Potomac* suffered no damage, and it is shown by the documents that the damage suffered by the *Sidra* amounts to £4,336/7/4, including £750 for demurrage. Consequently the United States Government, as the owner of the *Potomac*, is liable for £2,168/3/8.

As for the interest, it seems difficult to consider the letter of November 10, 1905, by which the representatives of the *Sidra* asked for the result of the United States Naval Investigation, as having brought the present claim to the notice of the United States Government.

FOR THESE REASONS

This tribunal decides that the United States Government shall pay to His Britannic Majesty's Government for the benefit of the owners of the *Sidra*, the sum of two thousand one hundred and sixty-eight pounds three shillings and eight pence (£2,168/3/8).

The President of the Tribunal,
HENRI FROMAGEOT.

Washington, D.C.,
November 29, 1921.

ENCLOSURE 11 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the Schooner *Jessie*, Schooner *Thomas F. Bayard*, Schooner *Pescawha*

CLAIMS NOS. 24, 25 AND 26

Arbitrators:
HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial filed June 2, 1913.

United States Answer filed December 24, 1913.

British Reply filed March 16, 1914.

Hearing of the cases March 21, 1914.

Decision given December 2, 1921.

Counsel:
Great Britain,
MR. O. C. BASS,
United States,
MR. J. R. CLARK, JR.

These are three claims presented by His Britannic Majesty's Government.

1. For $38,700 on behalf of the British schooner *Jessie*.
2. For $51,628.39 on behalf of the British schooner *Thomas F. Bayard*.
3. For $52,661.60 on behalf of the British schooner *Pescawha*,

together with interest from June 23, 1909.

It is admitted that the *Jessie*, the *Thomas F. Bayard*, and the *Pescawha*, all of them British schooners, cleared at Port Victoria, B.C., for sealing and sea otter hunting and were in June, 1909, actually engaged in hunting sea otters in the North Pacific Ocean; that on June 23, 1909, while on the high seas near the north end of Cherikof Islands they were boarded by an officer from the United States Revenue Cutter *Bear* who, having searched

them for seal skins and found none, had the firearms found on board placed under seal, entered his search in the ship's log, and ordered that the seals should not be broken while the vessels remained north of 35° north latitude, and east of 180° west longitude.

The United States Government admits in its Answer to the British Memorial that there was no agreement in force during the year 1909 specifically authorizing American officers to seal up the arms and ammunition found on board British sealing vessels, and that the action of the Commander of the *Bear* in causing the arms of the *Jessie*, the *Thomas F. Bayard*, and the *Pescawha* to be sealed was unauthorized by the Government of the United States.

The United States Government, however, denies any liability in these cases, first, because the boarding officer acted in the *bona fide* belief that he had authority so to act, and second, because there is no evidence on the claims except the declaration of the interested parties, and because these claims are patently of an exaggerated and fraudulent nature.

I. As to the liability:

It is a fundamental principle of international maritime law that, except by special convention or in time of war, interference by a cruiser with a foreign vessel pursuing a lawful avocation on the high seas is unwarranted and illegal, and constitutes a violation of the sovereignty of the country whose flag the vessel flies.

It is not contested that at the date and place of interference by the United States naval authorities there was no agreement authorizing those authorities to interfere as they did with the British schooners, and, therefore, a legal liability on the United States Government was created by the acts of its officers now complained of.

It is unquestionable that the United States naval authorities acted *bona fide*, but though their *bona fides* might be invoked by the officers in explanation of their conduct to their own Government, its effect is merely to show that their conduct constituted an error in judgment, and any government is responsible to other governments for errors in judgment of its officials purporting to act within the scope of their duties and vested with power to enforce their demands.

The alleged insufficiency of proof as to the damage and the alleged exaggeration and fraudulent character of the claims do not affect the question of the liability itself. They refer only to its consequences, that is to say, the determination of damages and indemnity.

II. As to the consequences of the liability:

It must first be observed that the insufficiency of proof as to damages, and the alleged exaggeration of the claims formulated by the British Memorial are not enough in themselves to justify the charge that they are fraudulent in character. For this Tribunal, the mere fact that the claims are presented by the Government of His Britannic Majesty is sufficient evidence of their complete *bona fides*.

The three schooners, after their arms and ammunition had been sealed with an order that the seals must not be broken until they were outside the conventional protected zone of fur-sealing, went across the North Pacific Ocean to catch fur-seals alongside the Russian Islands in the western part of that ocean.

It has been submitted by the United States Government that in any event the vessels would have made the same voyage; but of that contention no sufficient evidence has been given.

On the other hand it is shown by the agreements with the crews that the possibility of such a voyage was contemplated by the owners and the captains. It is admitted by counsel for Great Britain that no damage was actually suffered on the voyage by any of the three vessels. Further it is admitted

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that the catching of fur-seals on the coast of the Russian Islands was profitable, though a request by this Tribunal for some detailed information as to these profits has not been satisfied.

There has been adduced no evidence sufficient to establish that had there been no interference by the United States naval authorities the vessels would have made more or any profit from sea otter hunting in Behring Sea. It is admitted by the counsel for Great Britain that nothing is so uncertain as the profits of such a venture.

The amount of the demands is based merely on statements made by the interested parties themselves or on statistics and data which afford no sufficient evidence as to the sea otters caught by other British schooners, similarly equipped and manned, hunting during the same period and in the same localities as the three schooners in question intended to hunt.

In these circumstances, this Tribunal is only able to take into consideration the fact of the prohibition itself, by which in violation of the liberty of the high seas the vessels were interfered with in pursuing a lawful, and, it may be, profitable enterprise; but nobody can say whether that enterprise would have been more or less profitable than the one in which they actually engaged on the Russian coast or whether they would have encountered some mishap of the sea. In any case, the result was that the expenses incurred in engaging crews specially trained for this enterprise was unprofitable and wasted.

This Tribunal is of opinion that the following sums will be just and sufficient indemnities for each of the three vessels, viz: for the *Jessie,* $544 for her special expenses and $1,000 for the trouble occasioned by the illegal interference; for the *Thomas F. Bayard,* $750 for her special expenses and $1,000 for the trouble occasioned by the illegal interference; and for the *Pescawha,* $500 for her special expenses and $1,000 for the trouble occasioned by the illegal interference.

As to interest, there is no evidence that any claim was ever presented to the Government of the United States before being entered on the Schedule annexed to the Special Agreement, and according to the Terms of Submission, section four, interest may only be allowed from the date on which any claim has been brought to the notice of the defendant party.

FOR THESE REASONS

This Tribunal decides that the Government of the United States shall pay to the Government of His Britannic Majesty the sum of one thousand five hundred and forty-four dollars ($1,544) on behalf of the schooner *Jessie,* the sum of one thousand seven hundred and fifty dollars ($1,750) on behalf of the schooner *Thomas F. Bayard,* and the sum of one thousand five hundred dollars ($1,500) on behalf of the schooner *Pescawha,* in each case without interest.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 2, 1921.

C 40810

ENCLOSURE 12 IN No. 244

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

Award in the Matter of the *Kate*

CLAIM No. 28

Arbitrators:

HENRI FROMAGEOT,
SIR CHARLES FITZPATRICK,
CHANDLER P. ANDERSON.

British Memorial
filed September 1, 1913.

United States Answer
filed December 24, 1913.

Hearing of the case
March 16, 17, 18, 19, 20, 1914.

Decision given
December 9, 1921.

Counsel:
Great Britain,
SIR CHARLES HIBBERT TUPPER.
United States,
MR. J. REUBEN CLARK, JR.

This is a claim presented by His Britannic Majesty's Government for $4,044.75 and interest for damages for the seizure and detention of the ship, cargo, officers and men of the British schooner *Kate* by the United States steamer *Perry* on August 26, 1896.

The *Kate,* a schooner of 58.11 tons gross, was a British ship registered at the Port of Victoria, B.C.; her owners were Henry F. Bishop and Samuel Williams, native British subjects, and Otto F. Buckholz, a naturalized Canadian, having been born in Germany. By charter party dated December 20, 1895, the *Kate* was chartered for the full season of 1896 for a sealing voyage in the waters of the North Pacific Ocean and Behring Sea by Carl G. Stromgren, a naturalized Canadian, having been born in Sweden; Emil Ramlose, also a naturalized Canadian, having been born in Denmark, and James Cessford, a native Canadian. Under the terms of the charter party, the charterers had to provision and equip the vessel, and one-fifth of the entire catch of skins for the season was to be paid to the owners. (British Memorial, pp. 4, 21, 22.)

On January 15, 1896, the *Kate* left the Port of Victoria, B.C., and sailed on her sealing voyage in the North Pacific Ocean. She was manned by Stromgren as master, Ramlose as mate, and Cessford as second mate, and four seamen and twenty-five Indians (British Memorial, pp. 23, 24), and had twelve canoes (British Memorial, p. 9).

On August 23rd, an officer from the United States cutter *Rush* boarded the *Kate* and overhauled the skins. (British Memorial, pp. 3, 24.)

On August 26th, 1896, the *Kate,* while in Latitude 57° 33′ N., Longitude 172° 53′ W., was boarded by an officer from the United States Revenue Cutter *Perry,* and seized, and the following entry was made in her log book:

> Seized this day the British schr. *Kate* for having on board two (2) fur seal skins bearing evidence of having been shot in Behring Sea. (British Memorial, p. 25.)

At the same time the captain of the *Perry* gave the master of the *Kate* a document (British Memorial, p. 6), reading as follows:

> U.S. Revenue Cutter Service, Steamer *Perry,*
> Port, At Sea, Lt. 57.33 N., Long, 172.53 W.
>
> August 26, 1896.
>
> I, H. D. Smith, a captain of the Revenue Cutter Service of the United States, commanding the United States steamer *Perry,* declare that the British schooner *Kate* of Victoria, whereof Stromgren is master, was this 26th day of August, 1896, boarded by Lieutenant F.

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J. Haake, R.S.C., who reported to me that said vessel had contravened the provisions of the Behring Sea Award Act, 1894. The following evidence, found upon search, is relied upon to prove such violation of law:

The aforesaid British schooner *Kate* was found cruising within the area of the Award on the date given, namely, August 26, 1896, in Latitude 57.33 N., Longitude 172.53 W., from Greenwich, having on board two (2) fur seal skins bearing evidence of having been shot in the Behring Sea.

Having reason to believe, from the evidence cited, that the aforesaid British schooner *Kate* had contravened the Behring Sea Award Act, 1894, in the following particulars, to wit: In having on board two (2) fur seal skins bearing evidence of having been shot in Behring Sea in violation of said Act and Article 6 of the Regulations of the Paris Award, incorporated in said Behring Sea Award Act, 1894, I have this day seized the aforesaid British schooner *Kate,* her tackle and cargo, by authority of said Act and Orders in Council issued thereunder.

H. D. Smith,
Captain, R.S.C.,
Commanding.

The *Perry* took the *Kate* in tow and on August 29, 1896, arrived in Dutch Harbour at Unalaska, and a few hours later the master of the *Kate* was informed that she was released by order of the United States Commanding Officer of the Behring Sea Patrol, and the following entry was made in her log:

> Released this day the Br. Sch. *Kate* by order of Capt. C. L. Hooper, Commanding Behring Sea Patrol; she not having any guns on board.

The *Kate* remained at Unalaska August 30th, and while there the master of the *Kate* prepared and sent through the Commander of H.M.S. *Satelite* to Captain Hooper a protest in writing claiming compensation for all loss from the time the *Kate* was absent from the sealing grounds, until she arrived back again. (British Memorial, p. 26.)

On the following day, August 31, the weather being calm, the *Kate* was towed out from Unalaska by H.M.S. *Pheasant.* "On 3rd September, 1896, the sealing grounds having been reached" (British Memorial, p. 8, sec. 27), the *Kate* took 21 seals; on September 5th, 7 seals; on September 6th, 9 seals; on September 7th, 20 seals; on September 8th, in approximately the locality where she was seized by the *Perry* on August 26th, she took no seals, and on September 9th, she took 41 seals.

The Government of His Britannic Majesty, on behalf of the charterers and the crew of the schooner *Kate,* claim damages on account of the seizure of the said schooner, contending that it was illegal and without reasonable cause, or any justification whatsoever, and that even had the detention of the vessel been justified owing to circumstances showing guilt, she should have been delivered to the British naval officer at Unalaska, or in his absence taken to Victoria. (British Memorial, p. 11, 12.)

The United States Government, on the other hand, denies all liability; first, because its officers were acting on behalf of the British Government and not of the United States Government; second, because there was a *bona fide* belief that an infraction of the Behring Sea Award Act, 1894, had been committed; third, because the senior naval officer in command of the American fleet, in ordering the release of the *Kate,* did so as a matter of grace and favour, and the release of the vessel is not proof that the seizure was unjustifiable; and fourth, because there is no basis in law or in fact for the measure of damages. (United States Answer, p. 2.)

C 40812

I. As to the legality of the seizure and liability of the United States:

The authorities cited in the declaration of the captain of the *Perry* in making the seizure of the *Kate,* were article 6 of the Regulations of the Paris Award, and Behring Sea Award Act of 1894, and the Orders in Council issued thereunder.

Article 6 of the Regulations provides:

> The use of nets, firearms and explosives shall be forbidden in the fur seal fishing. This restriction shall not apply to shotguns when such fishing takes place outside of Behring's Sea during the season when it may be lawfully carried on. (United States Answer, p. 22.)

The Behring Sea Award Act of 1894 put into operation the Regulations of the Paris Award, and also provided in section 3, paragraph 3 thereof, that—

> An Order in Council under this Act may provide that such officers of the United States of America as are specified in the order may, in respect of offences under this Act, exercise the like powers under this Act as may be exercised by a commissioned officer of Her Majesty in relation to a British ship. (United States Answer, p. 28.)

The Order in Council of April 30, 1894, provided in section 1 thereof that—

> The commanding officer of any vessel belonging to the naval or revenue service of the United States of America, and appointed for the time being by the President of the United States for the purpose of carrying into effect the powers conferred by this article, the name of which vessel shall have been communicated by the President of the United States to Her Majesty as being a vessel so appointed as aforesaid, may, if duly commissioned and instructed by the President in that behalf, seize and detain any British vessel which has become liable to be forfeited to Her Majesty under the provisions of the recited Act, and may bring her for adjudication before any such British court of admiralty as is referred to in section 103 of the "Merchant Shipping Act, 1854," * * * or may deliver her to any such British officer as is mentioned in the said section for the purpose of being dealt with pursuant to the recited Act. (United States Answer, pp. 45, 46.)

The commanding officers of the United States Naval Forces in Behring Sea received confidential instructions in a circular to Commanding Officers, No. 22, dated July 24, 1894, in part as follows:

> Sealing vessels fallen in with after the 31st of July, in the Behring Sea, are to be carefully searched to see if there are any implements on board, not under seal, except spears, that could be used in fur-seal fishing.
>
> A number of skins are to be taken indiscriminately and examined to see if there are any marks of shot, as cheap firearms, to be thrown overboard with ammunition when escape is found to be impossible, may be carried. (United States Answer, Exhibit 7.)

By instructions from the United States Treasury Department, dated April 11, 1895, the Commander of the Behring Sea Fleet was directed—

> It has been charged heretofore, that vessels of the patrol fleet have not properly performed their duty in the matter of making search of sealing vessels fallen in with. * * * Should you find a skin on board a vessel that bears satisfactory evidence of having been shot within the Behring Sea, you will seize the vessel. * * * The search for skins, and the determination as to whether the animals were killed by spear or shot, is of equal importance with the discovery of

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firearms and the unlawful use of the same in Behring Sea, under the "Regulations governing vessels employed in fur-seal fishing during the season of 1895." (United States Answer, Exhibit 8.)

Any special instructions for the sealing season 1896 are not included in the evidence furnished in this case. The only evidence produced of the instructions for the season 1896 is a letter from the Secretary of State to the British Ambassador in Washington, dated April 14, 1896, in which, calling attention to the provision of the Order in Council of April 30, 1894, above quoted, it is stated—

> The President has designated the revenue steamers *Bear, Rush, Perry, Corwin, Grant* and *Wolcott* to cruise in the North Pacific Ocean and Behring Sea, including the waters of Alaska within the dominion of the United States, for the enforcement of the Acts of Congress approved April 6 and 24 and June 5, 1894, * * * during the season of 1896. (United States Answer, Exhibit 9.)

The fact that the *Kate* had among her catch two seal skins that presented the appearance of being shot, when neither guns nor ammunition, except powder for the signal gun, were found on board, did not seem to the Commander of the United States Behring Sea Fleet, when the *Kate* was brought to him at Unalaska, "proof of guilt sufficiently strong to justify sending the vessel to court," and he ordered her immediate release; but at the same time he commended the captain of the *Perry* for his strict "obedience to orders to 'seize any vessel having seal skins on board that appear to have been shot.'" (United States Answer, Exhibit 11.)

In the circumstances, while there is no question of the *bona fides* of the officer making the seizure, it is evident that his superior officer did not consider that there was reasonable ground for the seizure. It follows, therefore, that on the evidence presented here, it must be held that the seizure of the *Kate* was unjustifiable, and the United States Government is responsible for any damage resulting from this seizure as the case stands.

II. As to the measure of damages:

The estimated probable catch of the *Kate* during the period from August 26th to September 7th inclusive, is fixed by the claimants as 145 seal skins at a value of $7.55 each, amounting to $1,094.75. This estimate is based on the catch of the schooner *Dora Sieward,* which had sixteen canoes, while the *Kate* had twelve, being twelve-sixteenths of the 329 seal skins taken by the *Dora Sieward* during that period, less the 102 seal skins taken during the same period by the *Kate.*

A comparison of the catch of the *Kate* with the catch of the *Dora Sieward* shows that during the period between August 23rd and 26th inclusive, the *Kate* took 76 seals and the *Sieward* 166; and after the return of the *Kate* to the locality where she was seized, she took during the period between September 8th to 15th inclusive, 49 seals, and the *Sieward* 102. As measured by the *Sieward,* the efficiency of the *Kate* was somewhat higher after her return, following her seizure, than prior thereto, but the efficiency of the *Kate* was always less than one-half the efficiency of the *Sieward,* as shown by a comparison of their catches day by day. Therefore, as the claimants have asked that compensation for loss of catch for the period during which she was illegally prevented from sealing should be based on a comparison with the actual catch of the *Dora Sieward* during the same period, the claimants cannot complain if fifty per cent (50 per cent) of the catch of the *Dora Sieward* is taken as the probable catch lost by the *Kate.*

Inasmuch as the sealing operations of the *Kate* on August 26th were not disturbed, the last canoe not having come on board until 7 p.m. of that day, the total catch being 45 seals, compensation should be allowed for the period of August 27th to September 7th inclusive, based on one-half of the *Sieward's*

catch of 247 seals during that period, less the 57 seals taken by the *Kate* during that period, showing a loss of 67 seal skins, which at the price of $7.55 represents a loss of $508.05.

The Tribunal, therefore, considers that the damages for this detention should be fixed at $508.05 for her loss of profits, and $500 for the trouble occasioned by her illegal detention.

Inasmuch as the profits for the estimated catch of the *Kate* during the period of detention have been allowed, there was no pecuniary damages suffered on account of the detention of the officers and the crew.

As to interest:

The British Government in their oral argument admit that the 7 per cent interest claimed in their memorial must be reduced to 4 per cent in conformity with the provisions of the Terms of Submission.

It appears from a note addressed by the British Ambassador at Washington to the Secretary of State, dated February 15, 1897, that this was the first presentation to the Government of the United States of a claim for compensation in this case. (United States Answer, Exhibit 16.) Therefore, in accordance with the Terms of Submission, section IV, the Tribunal is of the opinion that interest should be allowed at 4 per cent on the $508.05 damages for loss of profits, from February 15, 1897, to April 26, 1912, the date of the confirmation of the schedule.

FOR THESE REASONS

The Tribunal decides that the United States Government shall pay to the Government of His Britannic Majesty, on behalf of the claimants, the sum of one thousand and eight dollars and five cents ($1,008.05), with interest at four per cent (4 per cent) on five hundred and eight dollars and five cents ($508.05) thereof, from February 15, 1897, to April 26, 1912.

The President of the Tribunal,

HENRI FROMAGEOT.

Washington, D.C.,
December 9, 1921.

No. 245.

From the Governor General to the Secretary of State for the Colonies

No. 489.

OTTAWA, September 1, 1922.

SIR,—I have the honour to forward herewith a cheque made payable to your order for the sum of $347.75, being the amount of the balance payable by the Canadian Government in connection with the expenses of the session of the Pecuniary Claims Convention Tribunal held at Washington, November-December, 1921.

I have, etc.,

L. H. DAVIES,
Deputy Governor General.

The Right Honourable
WINSTON S. CHURCHILL, P.C.,
Secretary of State for the Colonies.

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL.

No. 246.

From the Governor General to His Majesty's Ambassador at Washington

No. 8.

GOVERNMENT HOUSE,
OTTAWA, January 23, 1923.

SIR,—With reference to Your Excellency's despatch No. 110 of the 28th April last,[1] in regard to the claim of the Pottawatomie Indians, I have the honour to forward, herewith, two copies of a "Brief and Statement of Facts"[2] prepared by Mr. A. G. Chisholm, the counsel for the claimants, which have been received from the Department of Indian Affairs.

I also enclose Minutes of Meetings[2] of claimants at Christian Island, Manitoulin Island, Walpole Island, Kettle Point and Stoney Point, Muncey and Sarnia Reserves, in connection with Mr. Chisholm's employment as legal representative for claimants with the certificate of the Deputy Superintendent General of Indian Affairs attached. Mr. Chisholm states that he has also individual authorities signed by some 500 adult members of claimants which cover over twice that number of minors whose names are mentioned, all of which can be forwarded to Your Excellency if it is considered advisable.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR AUCKLAND C. GEDDES, G.C.M.G., K.C.B.

[1] No. 239
[2] Not printed.

No. 247.

From His Majesty's Ambassador at Washington to the Governor General

No. 37.

BRITISH EMBASSY,
WASHINGTON, February 7, 1923.

YOUR EXCELLENCY,—I have the honour to transmit to you, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To Department of State, Washington, February 2, 1923. (Sic.)	Pottawatomie Indians.

Reference—Ottawa despatch No. 8 of January 23rd, 1923.[1]

[1] No. 246

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ENCLOSURE IN No. 247

From His Majesty's Ambassador at Washington to the United States Secretary of State, Washington

No. 97.

BRITISH EMBASSY,
WASHINGTON, D.C., February 7, 1923.

SIR,—With reference to Mr. Chilton's note No. 531 of July 12th last and to previous correspondence, I have the honour to transmit to you herewith a Brief and Full Statement of Facts[1] in the matter of the claim of the descendants of the Pottawatomie Indians of Wisconsin, now residing in Canada, against the United States Government.

It will be seen that this statement, which has been prepared at the request of the Government of Canada, by the recognized legal representative of the Indians, Mr. Chisholm, goes very fully into the history of the claim, from the period immediately after the American war of Independence down to the present day.

I should be grateful if you would be so good as to bring this claim to the notice of the competent authorities of the United States Government and I trust that in the light of the information contained in the enclosed documents it may be found possible to prepare legislation with a view to a final settlement of this long-standing claim at an early date.

I have, etc.,
A. C. GEDDES.

The Honourable
CHARLES E. HUGHES,
Secretary of State of the United States,
Washington, D.C.

[1] Not printed.

No. 248.

From the Governor General to His Majesty's Ambassador at Washington

No. 22.

GOVERNMENT HOUSE,
OTTAWA, February 27, 1923.

SIR,—With further reference to my despatch No. 8 of the 23rd January,[1] regarding the claim of the Pottawatomie Indians, I have the honour to enclose, herewith, copies of a supplementary Brief[2] in the matter.

I have, etc.,
BYNG OF VIMY.

His Excellency
The Right Honourable
SIR AUCKLAND C. GEDDES, G.C.M.G., K.C.B.

[1] No. 246
[2] Not printed.

No. 249.

From His Majesty's Ambassador at Washington to the Governor General

No. 99.

BRITISH EMBASSY,
WASHINGTON, D.C., March 21, 1923.

MY LORD,—I have the honour to transmit to Your Excellency herewith copy of a letter which I have received from Messrs. Moyers & Consaul of this city, who desire to submit a Canadian hay claim to the British-American Pecuniary Claims Arbitration Commission. As the claim selected for submission as a test case to the Commission has apparently

already been filed with the Canadian Minister of Justice, I presume that the Dominion Government will, if they think fit, take the necessary steps through the Colonial Office to bring the claim to the attention of the Commission, and will inform Messrs. Moyers & Consaul accordingly.

It is understood that the Commission will hold a session at The Hague early in July next but the agenda for this session has already been completed. Unless, therefore, the Blain claim already appears on this agenda, it would seem that its consideration will have to be deferred to a subsequent session of the Commission.

I have, etc.,
A. C. GEDDES.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

ENCLOSURE IN No. 249

From Messrs. Moyers & Consaul, Washington, to His Majesty's Ambassador at Washington

LAW OFFICES OF MOYERS AND CONSAUL,
MILLS BUILDING,
SEVENTEENTH ST. AND PA. AVE.,
WASHINGTON, D.C., March 15, 1923.

His Excellency
The Right Honourable
SIR AUCKLAND GEDDES,
British Ambassador,
Washington, D.C.

SIR,—We have the honour to invite your attention to a matter about which we have had occasion to communicate with your Embassy on several occasions, namely, the claims of certain British subjects residing in Canada for refund of customs duty illegally collected by the United States on hay imported from Canada prior to 1882.

On December 26, 1912, and subsequent thereto, we placed in the hands of Hon. E. L. Newcombe, Deputy Minister of Justice of Canada, the necessary memorials in support of a number of these claims, which memorials were later filed by him with the American and British Pecuniary Claims Arbitration Commission created under the provisions of the convention signed at Washington, August 18, 1910, all of the claims in which memorials were presented having been included in the first schedule of claims agreed upon between Great Britain and the United States.

In view of the fact that all of these hay claims possess certain features in common it seemed to the best interest of all concerned to select one as a test case, and the claim of Magloire G. Blain was chosen for this purpose. This claim appears on the schedule above referred to and on December 26, 1912, the necessary copies of a Memorial were placed with Hon. E. L. Newcombe for filing. This particular claim was selected for test purposes because the facts of the case had been judicially determined by the United States Court of Claims and fully set forth in the findings of that court.

It is our understanding that the Arbitration Commission will sit during the spring or early summer of this year and the Canadian claimants naturally look to you to safeguard their interests by securing the inclusion of this test case of Blain in any list of claims agreed upon to be

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considered at the coming session. Up to the present time we have quieted their impatience at delay by explaining that the Commission had not been holding sessions because of the World War and conditions arising therefrom. They seem of the opinion now that they should not be subjected to further delay and we hope that your efforts will result in obtaining the relief they seek at this time.

Permit us to offer the suggestion that the facts of the Blain case are simple, and easily and quickly arrived at, and the claim would require very little of the time of the Commission. The determination of this claim would either make it useless to proceed with the remaining similar claims or establish a sufficient precedent to warrant bringing them to a hearing at a later date.

We are sending a copy of this letter to the Canadian Deputy Minister of Justice for his information.

Very respectfully,

MOYERS AND CONSAUL,
Attorneys for Magloire G. Blain and numerous other claimants.

No. 250.

From the Governor General to His Majesty's Ambassador at Washington

No. 34.

GOVERNMENT HOUSE,
OTTAWA, April 10, 1923.

SIR,—With reference to Your Excellency's despatch No. 99 of the 21st March,[1] regarding a communication received from Messrs. Moyers and Consaul as to the proposed submission of a Canadian hay claim to the Pecuniary Claims Arbitration Tribunal, I have the honour to inform Your Excellency that a copy of the letter from the firm in question enclosed in Your Excellency's despatch, had already reached the Deputy Minister of Justice, who is also Associate British Agent in this Arbitration. Mr. Newcombe replied that, while he had understood from Sir Cecil Hurst that arrangements were being made with the United States for sittings to be held in England or at The Hague next June for the purpose of disposing of a number of outstanding claims other than the Canadian claims, he thought it would be more convenient for the Canadian cases to be heard here or at Washington and that it was accordingly proposed to have sittings later for that purpose, which he suggested might be held early next year.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR AUCKLAND C. GEDDES, G.C.M.G., K.C.B.

[1] No. 249

C 40819 YY-1200-P

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL.

No. 251.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 214.

DOWNING STREET, May 10, 1923.

MY LORD,—With reference to Sir L. H. Davies' despatch No. 489 of the 1st of September last[1] and previous correspondence regarding the session of the Pecuniary Claims Arbitration Tribunal which was held at Washington in December, 1921, I have the honour to request Your Excellency to inform your Ministers that a meeting of the Tribunal has now been fixed for the 8th of October next.

2. The Secretary of State for Foreign Affairs will be glad if Sir Charles Fitzpatrick, the Canadian member of the Tribunal, can be informed accordingly.

I have, etc.,

DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 245

No. 252.

From the Governor General to the Secretary of State for the Colonies

No. 288.

GOVERNMENT HOUSE,
OTTAWA, June 1, 1923.

MY LORD DUKE,—With reference to Your Grace's despatch No. 214 of the 10th ultimo[1] regarding the next meeting of the Pecuniary Claims Arbitration Tribunal, which has been fixed for the 8th October next, my Ministers desire to be informed, for the information of Sir Charles Fitzpatrick, where this meeting is to take place, as Your Grace's despatch under reference does not mention the place of session.

I have, etc.,

BYNG OF VIMY.

The Right Honourable
The DUKE OF DEVONSHIRE, K.G.,
etc., etc., etc.,
Secretary of State for the Colonies.

[1] No. 251

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No. 253.

From the Governor General to His Majesty's Ambassador at Washington

Telegram.
43 A.

Ottawa, July 7, 1923.

Your despatch February 7th, No. 37[1] Pottawatomie Indians. My Ministers anxious to ascertain what progress has been made towards obtaining settlement of this claim.

BYNG.

[1] No. 247

No. 254.

From the Secretary of State for the Colonies to the Governor General

Telegram.

London, July 12, 1923.

Your despatch of June 1st, No. 288.[1] United States Government have pressed strongly that October latest possible date for Session and that as neither Fitzpatrick nor Anderson available then, new arbitrators should be appointed in their places for Session to be held that month. His Majesty's Government have accepted the proposal and suggested that Session should take place in London. Understand Fitzpatrick informed direct by British Agent. Session will be confined to claims in which British Government concerned.

DEVONSHIRE.

[1] No. 252

No. 255.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 353.

Downing Street, July 25, 1923.

My Lord,—With reference to my telegram of the 12th July,[1] regarding the date of the forthcoming Session of the Pecuniary Claims Arbitration Tribunal, I have the honour to request Your Excellency to inform your Ministers that the Secretary of State for Foreign Affairs has asked that Sir Charles Fitzpatrick might be informed that the reason which has compelled His Majesty's Government to concur in a meeting of the tribunal being held at a time when he is unable to attend, thereby necessitating the appointment of a new national arbitrator, has been the insistence of the United States Government that the forthcoming Session should not be postponed beyond October. The grounds for this insistence, the force of which His Majesty's Government have felt obliged to recognize, are that, in view of the work which had already been fixed for the forthcoming session of the Tribunal, and also of the subsequent work for which the two agents are obliged to arrange, a postponement beyond October could not but result in serious prejudice to the work of the Commission and in delaying the completion of the programme for next Session to what might prove an indefinite date.

2. It is with the greatest reluctance that His Majesty's Government have felt compelled to yield to the arguments in favour of holding the Session in October.

I have, etc.,
DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
Lord Byng of Vimy, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 254

This Document is the Property of the Canadian Government.

PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 256.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

Downing Street, August 16, 1923.

My Lord,—With reference to the Duke of Connaught's despatch No. 73 of the 11th of February, 1913,[1] and to Mr. Harcourt's confidential despatch of the 27th of June, 1914,[2] I have the honour to transmit to Your Excellency, for the consideration of your Ministers, the accompanying copy of a Note from the United States Chargé d'Affaires enclosing a copy of the memorial of Mr. John McIver regarding his claim against the Canadian Government for the refund of the sums paid by him in respect of certain mining claims.

11 July

I have, etc.,
DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
Lord Byng of Vimy, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 128
[2] No. 164

ENCLOSURE 1 IN No. 256

From the United States Chargé d'Affaires to the Secretary of State for Foreign Affairs

No. 857.

London, July 11, 1923.

My Lord,—I have the honour to forward herewith a copy of the memorial of Mr. John McIver, a citizen of the United States, setting forth a claim against the Canadian Government for the refund of the purchase price and fees paid to that Government on certain placer mining claims, which, after their sale, had been found to be in Alaskan instead of Canadian territory. I have the honour to request that the memorial and the accompanying evidence be submitted to the Dominion Government for consideration.

On the 3rd day of February, 1912, Mr. McIver presented this claim to the Department of State through his attorneys. It appears that Mr. McIver's attorneys had previously taken up the matter with the Canadian Government through the American Vice-Consul at Dawson, and that the Canadian Department of the Interior had offered to refund certain fees amounting to $261.15, but had declined to recognize the other items of Mr. McIver's claim. Mr. McIver refused to accept the payment of this amount for fear it would prejudice recovery of the remaining items. At the time Mr. McIver's claim was presented to this Department, negotiations were being conducted by representatives of the United States and Great Britain for a second schedule of claims for submission to the Arbitration Tribunal established under the Special Agreement between the two Governments signed August 18, 1910, and the

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United States expressed its desire to have the McIver claim included among the American claims on that schedule. Subsequently, during a conference at Washington between Sir Cecil J. B. Hurst, Agent for His Majesty's Government, and Mr. J. Reuben Clark of the American Agency, on May 6, 1914, in regard to the second schedule, Sir Cecil read a statement concerning the McIver claim, from which it appeared that the Canadian Government was willing to refund to Mr. McIver the amounts which it had collected from him with reference to his mining claims in American territory upon his establishing by evidence the expenditures which he had made. Mr. Clark thereupon informed Sir Cecil that if the Canadian Government were prepared properly to reimburse Mr. McIver, there would seem to be no need for submitting the claim to arbitration. The outbreak of the World War shortly thereafter interrupted the negotiations, and no further action has been taken in regard to the case.

In view of the fact that the general work of the arbitration has now been resumed and that negotiations for the completion of the second schedule may shortly be undertaken, the Department of State desires to know whether it will be possible to effect a satisfactory settlement of the McIver claim at this time without the necessity of submitting it to arbitration.

If the Dominion Government should be prepared to make a proper reimbursement of the payments shown to have been made in Mr. McIver's memorial, the Government of the United States will be in a position to withdraw the claim from those reserved for arbitration under the special agreement of August 18, 1910.

I have, etc.,

POST WHEELER,
Chargé d'Affaires *ad interim.*

The Most Honourable
The MARQUESS CURZON OF KEDLESTON, K.G.,
etc., etc., etc.

ENCLOSURE 2 IN No. 256

MEMORIAL OF JOHN MCIVER

The memorial of John McIver respectfully shows:

That John McIver is and was at all the times the acts herein set forth occurred, a naturalized citizen of the United States, that he was born at Lewis, Scotland, in the Kingdom of Great Britain and Ireland, on or about the 15th day of March, 1847; That he came to the United States on or about July 4th, 1872, and that he was naturalized on the 23rd day of May, 1893, by the County Court of Lawrence County, South Dakota; that he is now and has been since the 15th day of November, 1909, a resident of the City and County of San Francisco, State of California, United States of America, and that at the time the acts herein set forth occurred he was temporarily domiciled near Dawson, Yukon Territory, Dominion of Canada, but within territory included in the Territory of Alaska, United States of America.

That he makes claim in his own behalf by this memorial for the sum of seven thousand eight hundred and two and 35/100 ($7,802.35) dollars through the United States of America to the government of the Kingdom of Great Britain and Ireland for acts committed by officials of the said Dominion of Canada; That the facts and circumstances out of which this claim arises are as follows, to wit:

I

That on the 14th day of November, 1900, John McIver purchased certain placer mining claims, to the amount of one thousand seven hundred and fifty (1,750) feet and known as "1 to 7 below Discovery" on

Poker Creek, Forty Mile District, Yukon Territory, from the said Dominion of Canada and made final payment in the same on said date. That at the time the said John McIver so purchased his claim, the Dominion of Canada, through its officials, claiming that the said claims were within the territory and jurisdiction of the said Dominion, by threats and force did compel the said John McIver to acknowledge the jurisdiction of the said Dominion over these claims; that acting under such compulsion and because of the same and under protest John McIver purchased the said placer mining claims as aforesaid from the said Dominion for the sum of three hundred and five ($305.00) dollars and recorded certificates of purchase of the same with the Gold Commissioner of the Department of the Interior for Yukon Territory, an official of the said Dominion, at the further expense of one hundred and five ($105.00) dollars; which said purchase and recordation were acts required to be done by the laws of the said Dominion, by persons seeking to obtain the right to conduct placer mining within the said Dominion. That prior to said purchase said claims had been worked by citizens of the United States, but that on or about the year 1896 or 1897 the said Dominion had included the said claims within its domain by a private survey known as the "Olgovie Survey," and had by force driven off the said citizens of the United States who were engaged in working the same, and that no persons were thereafter permitted to locate or prospect the same until the same had been sold by the said Dominion at public auction. That the said John McIver purchased the said claims at such a public auction for the sums and at the times as set forth above.

II

That John McIver remained on the said placer claims working the same until about the 15th day of June, 1909, when by reason of ill health he was compelled to change his domicile to San Francisco in the United States of America.

III

That the exact location of the easterly boundary of Alaska as established by the convention between Great Britain and Russia of February 28/16, 1825, was for a long time thereafter undetermined and not marked by any survey or demarkation accepted by both Great Britain and the United States. That by an exchange of notes on October 20th, 1899, by Mr. Hay, Secretary of State, on behalf of the United States, and Mr. Tower, British Chargé at Washington, on behalf of Great Britain and Ireland and a modus vivendi and a provisional boundary was established in the vicinity of and including the said placer claims of John McIver in the said Dominion of Canada. That in this exchange of notes it was expressly stipulated:

First: That the arrangement was to be provisional merely and without prejudice to the claims of either party in the permanent adjustment of the international boundary.

Secondly: That citizens or subjects of either Great Britain or the United States found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

That on or about the 15th day of November, 1907, the international boundary between Alaska and the Dominion of Canada was officially surveyed and determined and demarked with suitable monuments sufficiently to determine that a portion of the said placer mining claims Nos. 1, 2, 3, 4, 5, 6 and 7 were and had been at all the times herein mentioned within the territory and under the jurisdiction of the United States, to wit: 650 feet of said claims, or claims Nos. 6 and 7 and part of No. 5.

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IV

That John McIver was compelled, by reason of the laws of the Dominion of Canada and under the compulsion and threats hereinbefore set forth, and under penalty of forfeiting all his right, title and interest to said claim, to do, in the excess of the amount of development work or so-called " Assessment Work " required by the laws of the United States, in order to hold title to the said placer mining claims of six hundred and fifty (650) feet, assessment or development work to the amount of seventy-two dollars and fifty cents ($72.50) per one hundred (100) feet of claim annually; which assessment or development work John McIver did during all the time from the date of his purported purchase of the said claims from the Dominion of Canada until the time that the said Dominion ceased to assume jurisdiction over the same, or a period of eight (8) years and which development or assessment work so done was in fact done solely by reason of the compulsion and threats aforesaid and under the protest of John McIver. That the excess assessment work so done by John McIver during the said eight (8) years was in the sum of three thousand seven hundred and seventy ($3,770.00) dollars.

V

That during the said period of eight (8) years at irregular periods, the exact times and amounts of which are by this petitioner unknown, John McIver paid grouping fees to the officials of the said Dominion of Canada to the amount of one ($1.00) dollar per claim or two and 50/100 ($2.50) dollars for said six hundred and fifty (650) feet, which fees were in excess of any fees charged by virtue of any law of the United States and which fee operated solely to the benefit of the said Dominion of Canada.

VI

That during this period of eight (8) years as aforesaid John McIver, working for himself and through his employees and agents removed from said six hundred and fifty (650) feet of claim found to be within the United States, gold dust of the average value of twenty-five hundred ($2,500.00) dollars per annum upon which there was assessed by the laws of the said Dominion a royalty tax of two and a half per cent (2½%) of said value. That the entire amount of the said royalty, to wit, five hundred ($500.00) dollars..... was paid by him in the following manner: that whenever employees were paid for services in gold dust by the said John McIver or merchandise was purchased and gold dust paid therefor by the said John McIver or deposits of gold dust made to his account in the bank an allowance above the actual value of the same, equal to two and a half per cent (2½%) was by law to be paid by said parties receiving same to the said Dominion; that the two and a half per cent (2½%) paid in excess of the actual value of such services or merchandise or gold dust deposited in the bank was in fact paid to the said Dominion and that in payment of the same the said employees and said sellers of merchandise and said banks were, for that purpose, acting in behalf of the said John McIver.

VII

That the witness fees or fees for certificate of work to the said six hundred and fifty (650) feet, being two and a half (2½) claims, paid under compulsion as above set forth, amounted to five ($5.00) dollars annually and that the total amount actually paid by John McIver from the date of the purchase of the said claims from the said Dominion to the date when the said Dominion ceased to claim the same, was twenty ($20.00) dollars, and fees for grants and renewals varying from fifteen ($15.00) dollars in 1901, 1902, 1906, 1907, and ten ($10.00) dollars allowed from 1903 to 1905 inclusive, amounting to one hundred ($100.00) dollars.

C 40825

VIII

That the license fee paid for the Grant for Placer Mining, paid to the Mining Recorder, and official acting under the Department of the Interior of the said Dominion was from seven and 50/100 ($7.50) dollars in 1903 and 1904, eight and 50/100 ($8.50) dollars in 1905, and at all other times ten ($10.00) dollars per annum, and that the total amount actually paid by the said Dominion amounted to seventy-three and 50/100 ($73.50) dollars.

IX

That John McIver is solely interested in the claim presented by this memorial; that he has received no part of the said sum though he has communicated with the officials of the said Dominion of Canada through Mr. Carlton Woodward, American Vice-Consul in charge at Dawson, Yukon Territory, said Dominion, nor has he received any assurance from him or any official of the said Dominion that the same would be paid, except as the same is made through communications from Honourable George Cole, American Consul at Dawson, Yukon Territory, attached hereto and made a part hereof as Exhibit " A."

X

That in March, 1902, John McIver sold claims Nos. 1, 2, 3, 4 and 5 to Jack McConnell, Willis Makin and another party whose name said John McIver does not remember, the said three purchasers sold the same to Peder Miller and Fred P. Durocher, on or before October 5th, 1907. That when the said international boundary line was demarked and a part of claim No. 5 included in the said six hundred and fifty (650) feet of claim was found to be within the United States as hereinbefore set forth, the said Peder Miller and Fred P. Durocher threatened to sue said John McIver at law for selling them said part of claim No. 5 as a claim located in Canada, when the same was in fact located in the United States, whereupon said John McIver did because of such threats repurchase for a valuable consideration said part of claim No. 5 found to be within the United States, together with all claim and right of said Peder Miller and Fred P. Durocher against the said Dominion of Canada arising out of said claim No. 5 and whereupon said John McIver became subrogated to all the rights and claims of said Peder Miller and Fred P. Duroche against said Dominion of Canada arising out of said claim No. 5 and as to that portion of this memorial arising out of said claim No. 5, claim is made by said John McIver successor in interest of said Peder Miller and Fred P. Duroche.

XI

That all the fees paid by the said John McIver are the fees regularly charged by the laws of the Dominion of Canada and were necessarily incurred in the operation of the said claim.

XII

That the said John McIver has been compelled to engage service of counsel and attorney in the collection of said claim in the preparation of this memorial and preparation of affidavits accompanying the same and for other services arising out of this and therefore asks attorney's fees in the sum of one thousand ($1,000.00) dollars.

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XIII

This claim is itemized in accordance with the facts hereinabove set forth, as follows:—

Purchase price (See Par. I).		
Purchase 1,750 feet—cost	$305 00	(A)
Recording	105 00	(B)
	$410 00	
650 feet in United States—650 of $410.00		$ 152 50
1,750		
Extra assessment work (See Par. IV).		
$72.50 per 100 yearly for eight years		
$72.50 x 650 x 8		3,770 00
100		
Grouping fees (2½ claims at $1.00 per year)—8 yrs. (See P. V).		20 00
Witness fees—eight years (See Par. VII) (C) (650 feet—2½ claims—$5.00 per year)		40 00
Grants and renewals as itemized (See Par. VII) (D)		100 00
License fee $7.50—$10.00 per yr. for 8 yrs. (See P. VIII) (E)		73 50
Royalty on gold taken out (See Par. VI) $2,500 at 2½% annually for 8 yrs. (F)		500 00
Total		$4,656 00
Interest 6 years 9 months at 7%		2,146 35
Attorney's fees		1,000 00
		$7,802 35

As this amount was paid annually from November, 1900, to November, 1908, in nearly equal instalments, interest may be computed from the intermediate date of November, 1904, to six (6) years and nine (9) months from date.

In support of this claim this memorial shows that the Dominion of Canada and the Kingdom of Great Britain and Ireland had notice of the claim of the United States to the territory within which this six hundred and fifty (650) feet of claim was located and of the fact that citizens thereof would claim relief for all damage suffered by the protest of citizens of the United States residing in the disputed territory made to the officials of the said Dominion and to the officials and government of the United States and widely published in the press of the country. That this protest was understood at least informally by the representatives of both Great Britain and the United States in the negotiations in regard to the disputed boundary which were being carried on during that period and that the rights of citizens of the United States were conserved and their right to relief against the offending party impliedly conceded by the terms of the notes exchanged between Mr. Hay and Mr. Tower on October 20th, 1899, and referred to hereafter.

That in the face of this protest, the Kingdom of Great Britain acted at its peril and hence subjected itself to liability for all the loss and inconvenience that might be occasioned to citizens of the United States located or about to locate in good faith, within the territory over which the said Dominion was exercising jurisdiction and which might thereafter prove to be the territory of the United States.

That in so assuming jurisdiction as aforesaid over a portion of the placer mining claim of John McIver, he was compelled to pay royalties and expend in fees and assessment work a sum in excess of the amount

required by the laws of the United States in whose jurisdiction the property actually was, to the amount of three thousand seven hundred and seventy ($3,770.00) dollars.

That this excess was of no benefit to the said John McIver and that the largest part of it directly and all of it, directly or indirectly, inured to the benefit of the Dominion of Canada.

That the record of much of the moneys claimed to be paid to the said Dominion is a matter of public record in the said Dominion and is therefore not set out more fully in this memorial.

Wherefore this memorial prays that the said John McIver be paid the sum of four thousand five hundred and forty-two ($4,542.00) dollars ..... with interest thereon from the 1st day of November, 1904, at seven (7%) per cent per annum until paid, and one thousand ($1,000.00) dollars for attorney's fees and other expenses necessarily incurred.

JOHN McIVER.

VECKI AND WYTHE,
Attorneys for John McIver,
721-4 Chronicle Bldg.,
San Francisco, Cal.

That in addition to the claim made by the foregoing memorial and supplemental thereto, the said John McIver asked for the sum of one hundred and sixty-eight ($168.00) dollars additional, with interest thereon from the said first day of November, 1904, at 7 per cent per annum, until paid. Said claim arising as follows:

That each year from and including the year 1901, to and including the year 1905, or for six (6) years, the said John McIver in paying the fees set forth in the foregoing memorial was obliged to go from the said Poker Creek to Dawson City or Forty Mile City in Yukon Territory, Dominion of Canada, and that the said trip occupied seven (7) days' more time than would have been required by the said John McIver should he have paid the same at the nearest office where the same would have been received in the United States, and that the said John McIver was compelled to expend four ($4.00) dollars per day necessary travelling expenses in making the said trip either to Dawson City or Forty Mile City, or twenty-eight ($28.00) dollars in excess of the sum which he would necessarily expend in paying the same dues at the nearest office in the United States where they would have been received, or his total damage for the six (6) years, during which such fees had by law to be paid at Dawson City or Forty Mile City, of one hundred and sixty-eight ($168.00) dollars.

State of California, }
City and County of San Francisco, } ss.

John McIver, being duly sworn, deposes and says:

That he is the John McIver referred to in the above memorial and in the supplemental claim appended thereto; that he has read both the said memorial and the said supplemental claim, and that the facts therein stated are true except as to those matters which are stated on information and belief, and as to those matters he believes it to be true.

JOHN McIVER.

Subscribed and sworn to before me this 27th day of July, 1911.

(Signed) J. D. BROWN,
Notary Public in and for the City and County of
San Francisco, State of California.
(Seal)

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ENCLOSURE 3 IN No. 256

MEMORIAL OF JOHN McIVER

Affidavit of John McIver.
Affidavit of Carl Hermanson.
Vouchers No. 22 and 23.
Certificate of naturalization.
Correspondence with American Consul at Dawson, Y.T.

State of California, } ss.
City and County of San Francisco. }

John McIver, being duly sworn, deposes and says:

I am the claimant in the accompanying memorial. I make this affidavit in support of the claim for royalties paid by me to the government of the Dominion of Canada in the amount of five hundred ($500.00) dollars as set forth in paragraph six (6) of my memorial. This claim is based upon the assumption that I paid royalty on twenty-five hundred ($2,500.00) dollars worth of gold every year. I did not keep any record of the amount of gold mined by me as there was no object in so doing, but during the entire time I employed at least one man to help me on my claim. The average wages for the season (a little more than three months) were at the rate of eight ($8.00) dollars per day or about seven hundred and fifty ($750.00) dollars. Besides paying my help seven hundred and fifty ($750.00) dollars I also took out not less than five hundred ($500.00) dollars' worth of gold for supplies for my own support and was enabled to cash in twelve hundred ($1,200.00) dollars to fourteen hundred ($1,400.00) dollars each year, as near as I can estimate.

Among miners no one but the miner, not even his employees, knows what a miner takes out of his claim. That is a subject never discussed. Consequently I am unable to present further corroboration of this claim, but it is a matter of common knowledge, supported by the accompanying affidavit of Carl Hermanson, that the cost of board in this territory is three ($3.00) dollars per day, one thousand and ninety-five ($1,095.00) dollars per year. Adding to this the cost of clothing, fuel, and incidental expenses which were very high in Alaska at this time. I believe that I am well within the truth when I allege I took out about one thousand nine hundred ($1,900) dollars yearly for my own account. During the eight (8) years for which claim is made I had no source of income except the said placer claims, and all the moneys expended by me for wages and for my own support were derived from said claim.

About 1906 as near as I can remember I learned that there was some likelihood that these claims would be surveyed out of the Dominion of Canada and so kept a record for my own satisfaction, which record is now lost, but I remember that I found that besides paying seven hundred and fifty ($750.00) dollars or more for help and over five hundred ($500.00) dollars for supplies for myself (purchased from travelling hucksters and others, on which an allowance was made for royalty), that I had taken out that year between twelve hundred ($1,200.00) dollars and fourteen hundred ($1,400.00) dollars additional. On all gold dust paid to my employees and to all others for services and supplies the royalty was allowed in excess.

In support of the said memorial I herewith offer twenty-three (23) vouchers, numbered from number one (1) to twenty-three (23) inclusive.

The said vouchers were received by me and I know of my own personal knowledge that each and every of the persons who signed the said vouchers was the proper person to sign said voucher, and was the person whose signature appears thereto, and that in each and every case where a voucher is signed by a public official that the person signing said voucher was acting at the time he signed the same as said official and that

each of said vouchers was received by me in consideration for the payment of the full amount which appears upon the face of said voucher.

That voucher No. 1 was introduced in support of item marked A in red in paragraph thirteen (13) of the said memorial.

Voucher No. 2 in support of item marked B.
Vouchers Nos. 3 to 9 in support of item marked C.
Vouchers Nos. 10 to 17 in support of item marked D.
Vouchers Nos. 18 to 21 in support of item marked E.

Affidavit of Carl Hermanson accompanying this memorial is introduced together with this affidavit in support of item marked F.

As evidence that claimant purchased said lands in 1900 as set forth in paragraph one (1) herein, voucher No. 22 is appended.

As evidence that claimant purchased for a valuable consideration the interest of Miller and Durocher as set forth in paragraph ten (10), voucher No. 23 is appended.

I also append my certificate of naturalization and correspondence with Canadian Government.

JOHN McIVER.

Subscribed and sworn to before me this 1st day of February, 1912.

HARRY P. TRICON, (?)
Notary Public for the City and County
of San Francisco, State of California.

(Seal)

My commission expires August 5, 1913.

City and County of San Francisco, }
State of California. }

I hereby certify that I am the Notary Public before whom the foregoing deposition and affidavit was taken; that I am not interested in the claim of John McIver or any part thereof, to which the said deposition and affidavit relates, nor am I the agent or attorney of any persons having such interest.

HARRY P. TRICON,
Notary Public.

Dated February 1, 1912.

Carl Hermanson, being first duly sworn, deposes and says:

That he is a resident of Glacier Creek, Yukon Territory, Dominion of Canada, and that he was such a resident during all the times herein mentioned; that within the years 1902 and 1909 he was acquainted with and was a neighbour to John McIver; that said John McIver had purchased claims numbered "1 to 7 below Discovery" on Poker Creek, in the Forty Mile district, prior to the said 1902; that the said claims are situated about six (6) miles from said Glacier Creek; that during all the times between 1902 and 1909 the said John McIver was engaged in working the said claims by placer mining; that the said deponent has no means of knowing the amount of gold secured by the said John McIver from the said claims; that said John McIver had in his employ during the said period one William P. Black for one season, and one Burdette Middleton for another season; that deponent knows of the employ of the said Middleton and Black by the said John McIver because the said Middleton and Black were neighbours of the said deponent; that your deponent does not know but believes that the said John McIver had in his employ at least one man every season during the said period between 1902 and 1909, and maybe before the said 1902, but as to that the deponent can not say as he was not acquainted with the said John McIver prior to that time.

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Deponent says that the average length of a season over which men are employed on Poker Creek was about three (3) months, and that the wages paid during the said season were five ($5.00) a day and keep, or eight ($8.00) per day without board; that the sum of three ($3.00) per day was a fair average expenditure for board by miners engaged as was the said John McIver in placer mining in that locality.

CARL A. HERMANSON.

Subscribed and sworn to before me this 16th day of August, 1911.

M. A. SISET,
A Commissioner for taking Affidavits
in and for the Yukon Territory.

Forty Mile.
Date June 8th, 1901. No. 752.
60

PLACER MINING CLAIM

Certificate in cases of partnership that annual expenditure may after recording claims, be made on any one of the claims affected by such partnership.

This is to certify that, in accordance with the provisions of Clause 39 of the Placer Mining Regulations, John McIver recorded owner of Creek Placer Mining Claims described as follows: Nos. 1, 2, 3, 4, 5, 6 and 7 below Discovery Poker Creek, having complied with the conditions required by said clause, in so far that they have filed a notice of intention to work the above claims in partnership, they may make the annual expenditure, required by each, on any of the mining locations aforementioned.

WM. HENRY WHITE,
Mining Recorder.

Voucher No. 22.

POKER CREEK, October 5, 1907.

Know all men that we the undersigned have this fifth day of October given to John McIver the privilege to locate in his own name all the ground that was surveyer from us of the Lower portion of claim No. 4 below Dis. on poker creek in to the American country.

PEDER MILLER.
FRED P. DUROCHER.

Voucher No. 23.

Final Certificate of Naturalization.

UNITED STATES OF AMERICA
CIRCUIT COURT

Eighth Judicial Circuit. State of South Dakota.

Be it remembered, that on the 23 day of May, in the year of our Lord one thousand eight hundred and ninety-three, personally appeared before the Honorable Chas. M. Thomas, Presiding Judge of the Circuit Court in and for the Eighth Judicial Circuit, state aforesaid, John McIver, an alien born, over the age of twenty-one years, and applied in open court to be admitted to become a naturalized citizen of the United States of America, pursuant to the several Acts of Congress heretofore passed on that subject. And the said John McIver, having thereupon produced to the Court record testimony showing that he had heretofore reported himself and filed declaration of his intention to become a citizen of the United States, according to the provisions of said several Acts of Congress, and the Court being satisfied, as well from the oath of the said John McIver as from the testimony of Cyrus H. Enos and Malcolm C. Campbell, who are known to be citizens of the United States, that the said John McIver has resided within the limits and under the jurisdiction of the United States for at least five years last past, and at least one year last past within the State of South Dakota, and that during the whole of that time he has behaved himself as a man of good moral character, attached to the principles contained in the Constitution of the United States, and well disposed to the good order, well being and happiness of the same, and two years and upwards having elapsed since the said John McIver reported himself and filed his declaration of intention as aforesaid.

It was ordered that the said John McIver be permitted to take oath to support the constitution of the United States and the usual oath whereby he renounced all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatever, and more particularly to Victoria Queen of Great Britain whereof he was heretofore a subject, which said oath having been administered to the said John McIver by the Clerk of said Court, it was ordered by the Court that the said John McIver be admitted to all and singular the rights, privileges, and immunities of a naturalized citizen of the United States, and that the same be certified by the Clerk of this Court, under the seal of said Court which is done accordingly.

CHAS. M. THOMAS,
Judge.

Attest:
R. H. DRISCOLL, *Clerk.*

State of South Dakota, } ss.
County of Lawrence. }

I, R. H. Driscoll, Clerk of the Circuit Court within and for the County of Lawrence, Eighth Judicial Circuit, State of South Dakota, certify the above to be a true transcript of the record as the same remains in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in Deadwood, S.D., this 23 day of May A.D. 1893.

R. H. DRISCOLL,
Clerk.

(Seal)

AMERICAN CONSULAR SERVICE,
DAWSON, Y.T., CANADA, January 27, 1911.

FREDERICK S. WYTHE, Esq.,
Attorney at Law,
317 Post Office Building,
San Francisco, Cal.

DEAR SIR,—In reply to your communication of December 30, 1910, relative to the claim of Mr. John McIver against the Government of Canada regarding a certain mining claim in the Forty Mile District, I beg to enclose a copy of the reply of the Commissioner of the Yukon Territory to a communication of mine regarding this matter, for your information.

When this office is further advised regarding this matter, I will communicate with you.

Yours truly,

CARLTON WOODWARD,
American Vice-Consul in Charge.

Enclosure herein stated.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

Enclosure.
(Copy.)

File No. 12697.
DAWSON, January 25, 1911.

SIR,—In reply to your letter of the 20th instant with reference to the claim of Mr. John McIver against the Government of Canada for compensation in respect to certain mining claims, I beg to say that I am communicating with the Department of the Interior regarding this matter and will advise you in due course.

In a report to me regarding this matter the Gold Commissioner states, inter alia, as follows:—

"Mr. McIver should be asked to establish in some satisfactory way the exact amount of royalty paid by him to the Comptroller of the Yukon Territory since the 1st of May, 1902, on gold recovered from said claims Nos. 6 and 7."

Perhaps Mr. McIver may be able to furnish this information.

I have, etc.,
"ALEXANDER HENDERSON,"
Commissioner.

G. CARLTON WOODWARD,
American Vice-Consul,
Dawson, Y.T.

E.E.S.

DEPARTMENT OF THE INTERIOR, CANADA

File No. 45,079 ML. & T.

OTTAWA, May 10, 1911.

SIR,—I beg to refer you to your letter of the 15th of March last, with respect to the application made by Mr. John McIver for a refund of the sum of $8,660.86, which he claims to have paid in connection with seven placer mining claims situated on Poker Creek in the Yukon Territory.

It would appear that in November, 1900, Mr. McIver purchased at public auction at Dawson seven placer mining claims designated Nos. 1, 2, 3, 4, 5, 6 and 7, situated on above creek, and that on the 25th of March, 1902, he assigned his right to claims Nos. 1, 2, 3, 4, and 5, from which date he would appear to have had no recorded interest in these claims. It would also appear that in the summer of 1907 the International Boundary was sufficiently completed to show that claims Nos. 6 and 7, which Mr. McIver retained, were west of that boundary, and for this reason the two claims in question were permitted to lapse in January, 1908.

Mr. McIver would appear to have sustained no loss whatever in respect of the five claims assigned by him, and any loss which he may have sustained was in connection with claims Nos. 6 and 7 only.

There would appear to be no doubt that Mr. McIver bought certain mining ground which subsequent surveys showed was not the property of the Crown, and he is therefore entitled to a refund of the proportionate purchase price of this tract. He would also appear to be entitled to a refund of the fees paid for grants, renewals and certificates of work issued in connection with these two claims, but there is nothing whatever to indicate the quantity of gold which Mr. McIver extracted from the two claims in question and upon which he paid royalty, so that it would be quite impossible for the Department to estimate the amount to be refunded to him.

No payment was made to this Department on account of witness fees, so that the sum of $45.00 for which Mr. McIver asks could not be

paid to him. Only the sum of $2.00 appears to have been paid for grouping these claims, and the same fee would have been collected even although claims Nos. 6 and 7 had not been included. Mr. McIver asks for a refund of $4,135.95 for extra assessment. It is assumed that this means a refund of the amount of the assessment work performed on these claims to entitle him to a yearly renewal. No such fund can be made to him. This work appears to consist of mining operations by which Mr. McIver claims to have recovered about $2,500.00 per annum from the ground. Mr. McIver asks for a refund of the sum of $90.00, being the license fee for nine years. It is assumed that he means a free miner's certificate, but since it was necessary for him to have a certificate in order to hold the other mining properties in which he was interested, he would not appear to be entitled to such a refund. He also claims interest amounting to $3,668.16. This of course cannot be allowed.

It would appear that Mr. McIver is entitled to the following refund:—

Proportionate purchase price of two claims	$ 87 15
Fees paid for grants, renewals and certificates of work from 1900 to 1908 in connection with the two claims	174 00
Total	$261 15

If Mr. McIver can establish in some satisfactory way the exact amount of royalty paid by him on the gold produced from these two claims since the first of May, 1902, his application for a refund of such royalty will receive due consideration. A refund, however, will be made of the above amount of $261.15.

Your obedient servant,

L. PERIERA,
Asst. Sec'y.

ALEXANDER HENDERSON, Esq., K.C.,
Commissioner of the Yukon Territory,
Dawson, Y.T.

(H)

AMERICAN CONSULAR SERVICE,
DAWSON, Y.T., CANADA, July 27, 1911.

Mr. JOHN MCIVER,
c/o Frederick S. Wythe, Esq.,
Attorney at law,
317 Post Office Building,
San Francisco, California.

DEAR SIR,—I herewith enclose you a copy of a letter from the Gold Commissioner's office at Dawson, which explains itself.

I am also enclosing you a blank receipt for your signature in case you desire to accept the settlement of the Dominion Government, and return the same to me and I will forward you the check which I hold. If you do not accept the settlement, please return blank receipt.

Very truly yours,

G. C. COLE,
Consul.

Enclosures:
Copy letter from Gold Commissioner.
Blank receipt.

W.L. Mackenzie King Papers
Memoranda & Notes

PUBLIC ARCHIVES
ARCHIVES PUBLIQUES
CANADA

Copy. File No. 12697.

No. 45079 M.L. & Y.)

DAWSON, Y.T., CANADA, July 25, 1911.

SIR,—Referring to the matter of the application of Mr. John McIver, for a refund of the sum of $8,660.86, which he claims to have paid in connection with certain placer mining claims situated on Poker Creek in the Yukon Territory, and referring to the correspondence which has passed between your office and the Commissioner of the Yukon Territory in that respect, I enclose herewith for delivery to Mr. McIver, Refund Cheque No. 10992 in his favour for the sum of $261.15, being a refund of the proportionate purchase price of placer mining claims Nos. 6 and 7 on said Poker Creek and of the fees paid for Renewal Grants and Certificates of Work in connection therewith.

I also enclose herewith for signature by Mr. McIver, Voucher Receipt No. 10992, which you will be kind enough to get signed by Mr. McIver in the presence of a witness who should also sign and to return to this office at your earliest convenience.

Your obedient servant,

F. X. GOSSELIN,
Gold Commissioner.

G. C. COLE, Esq.,
American Consul,
Dawson, Y.T.

N.B.—Please return to the Department of the Interior, Ottawa.

45097 M. Ley.

Refund
DOMINION LANDS
DEPARTMENT OF THE INTERIOR

No. 10992.

Received from the Minister of the Interior, the sum of two hundred and sixty-one 15/100 dollars, for proportionate purchase price of placer mining claims No. 6 and No. 7 on Poker Creek and fees paid for grants, renewals and certificates of work re said claims without prejudice as to items not mentioned in this receipt.

$261 15/100.

ENCLOSURE 4 IN No. 256
MEMORIAL OF JOHN MCIVER

Vouchers No. 1 to 21.

(A)
$244.00. *General Receipt* No. 2408.

(Stamp)
DEPARTMENT OF THE INTERIOR, YUKON,
DAWSON, Y.T., November 14, 1900.

District
Canada....

Received from John McIver the sum of two hundred and forty-four 00/100 dollars balance purchase of Government Placer Mining Claim Creek claims Nos. 1 to 7 inclusive Poker Creek (40 mile). Receipt No. 1933—$61.00.

R. A. HENDMAN.
Agent's Signature.

Voucher 1.

(B)
No. 591. DAWSON, Y.T., November 14, 1900.

(Stamp)
DEPARTMENT OF THE INTERIOR, YUKON,
$105.00. November 14, 1900.

District
Canada.

General Receipt
GOLD COMMISSIONER'S OFFICE

Received from John McIver the sum of one hundred and five and 00/100 dollars, for recording fees No. 1 to 7 inclusive Poker Creek (40 mile).

$.....

R. A. HENDMAN,
For Gold Commissioner.

Voucher 2.

(C)

(Stamp)

DEPARTMENT OF INTERIOR,
FORTY MILE, October 7, 1902.

Office, Canada. No. 4361.

Certificate of Work—Placer Mining Claim

This is to certify that an affidavit setting out a detailed statement of the work done on the claims known as Nos. six and seven below on Poker Creek since the first day of December, 1901, made by John McIver has this day been filed in my office and in pursuance with the Placer Mining Regulations I do now issue this Certificate of Work in respect of the above claim to January 14, 1903.

R. M. BLAIR,
Mining Recorder.

Voucher 3.

(Stamp)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER,
YUKON TERRITORY, CANADA, October 3, 1904.

Received from John McIver the sum of $24.00 for Certificate of Work and Renewal of Nos. 6 and 7 below Discovery on Poker Creek.

O. S. SINNIE,
Chief Clerk.

Voucher 4.

(Stamp)

OFFICE OF AGENT TO MINING RECORDER,
GLACER CREEK, October 14, 1905.

$4.00.

Interim Receipt

Received from John McIver four dollars for Certificate of Work for Creek Claims Nos. 6 and 7 below Discovery on Poker Creek.

A. DAWSON ALLEN,
For Gold Commissioner.

Voucher 8.

W.L. Mackenzie King Papers
Memoranda & Notes

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CANADA

C 40836

(C) (Stamp)

No. 19591.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER,
DAWSON, YUKON TERRITORY, CANADA, October 17, 1906.

Registered Documents—Placer

Received from John McIver two dollars for Rec. Ext. of Boundaries of Cl 6 Bel. Disc. on Poker Ck. so as to include Clm. No. 7 Bel. Disc. $2.00.

G. WYNN,
Agent.

Voucher 9.

No. 10827.

Certificate of Work—Placer Mining Claim

$4.00. (Stamp)

Agency, Y.T.

DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 8, 1904.

Office, Canada.

This is to certify that an affidavit setting out a detailed statement of the work done on Creek Placer Mining Claims Nos. six (6) and seven (7) below Discovery on Poker Creek since the first day of April, 1904, made by John McIver, has this day been filed in my office and in pursuance with the Mining Regulations I do now issue this Certificate of Work in respect of the above claim to 14th January, 1905.

R. M. BLAIR,
Mining Recorder.

Voucher 5.

162. No. 26028.

Certificate of Work—Placer Mining Claim

(Stamp)

Agency, Y.T.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER,
YUKON TERRITORY, CANADA, October 24, 1905.

This is to certify that an affidavit setting out a detailed statement of the work done on Creek Placer Mining Claim No. 6 below Dis. Poker Ck. since the first day of May, 1905, made by J. McIver has this day been filed in my office and in pursuance of the Mining Regulations I do now issue this Certificate of Work in respect of the above claim to January 14th, 1906.

N. G. MEMECY,
Mining Recorder.

Voucher 6.

(C) No. 26029.

Certificate of Work—Placer Mining Claim

164. (Stamp)

Agency, Y.T.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER,
YUKON TERRITORY, CANADA, October 24, 1905.

This is to certify that an affidavit setting out a detailed statement of the work done on Creek Placer Mining Claim No. 7 below Dis. Poker

C 40837

Creek, since the first day of May, 1905, made by John McIver has this day been filed in my office and in pursuance of the Mining Regulations I do now issue this Certificate of Work in respect of the above claim to January 14th, 1906.

G. A. MEWECY, (?)
Mining Recorder.

Voucher 7.

(D) Renewal Form 1.

No. 36114.

Grant for Placer Mining

DEPARTMENT OF THE INTERIOR,

(Stamp)

AGENCY, DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 7, 1902.

Office
Canada.

In consideration of the payment of thirty dollars, being the fee prescribed by clause 28 of the Mining Regulations for the Yukon District by John McIver of Forty Mile accompanying his application No. ..... dated 6th October, 1902, for a mining claim in Forty Mile District.

The Minister of the Interior hereby grants to the said John McIver for the term of one year the exclusive right of entry upon the claim being Nos. six and seven below Discovery on Poker Creek renewed to 14th January, 1904, for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which the royalty prescribed by the Regulations shall be paid.

The said John McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the claim is continuously and in good faith worked by the said John McIver or his associates.

The rights granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

R. M. BLAIR,
Mining Recorder.

Voucher 10.

No. 36136 Renewal Form 1.

Grant for Placer Mining

DEPARTMENT OF THE INTERIOR,

(Stamp)

AGENCY, DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 20, 1903.

Office
Canada R.M.B.

In consideration of the payment of twenty dollars, being the fee prescribed by clause 28 of the Mining Regulations for the Yukon District by John McIver, of Forty Mile accompanying his application No. ..... dated 20th October, 1903, for a Mining Claim in Mining Division of the Forty Mile District.

W.L. Mackenzie King Papers
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C 40838

The Minister of the Interior hereby grants to the said John McIver for the term of one year the exclusive right of entry upon the claims being Nos. six and seven (6 and 7) below Discovery on Poker Creek (Renewal), to 14th January, 1905, F.M.C. 67789, for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which, however, the royalty prescribed by the Regulations shall be paid.

The said John McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the claim is continuously and in good faith worked by the said John McIver or his associates.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

R. M. BLAIR,
Mining Recorder.

Voucher 11.
Renewal.

No. 36148. Renewal Form 1.

Grant for Placer Mining

DEPARTMENT OF THE INTERIOR,
(Stamp)
AGENCY, DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 8, 1904.

Office
Canada.
R.M.B.

In consideration of the payment of ten dollars, being the fee prescribed by clause 28 of the Mining Regulations for the Yukon District by John McIver of Forty Mile, Y.T., accompanying his application No. ..... dated 8th October, 1904, for a Mining Claim in Mining Division of the Forty Mile District.

The Minister of the Interior hereby grants to the said John McIver for the term of one year the exclusive right of entry upon the claim being No. seven (7) below Discovery on Poker Creek Renewal to 14th January, 1906, F.M.C. 67830 for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which, however, the royalty prescribed by the Regulations shall be paid.

The said John McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the claim is continuously and in good faith worked by the said John McIver or his associates.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

R. M. BLAIR,
Mining Recorder.

Voucher 12.
Renewal.

C 40839

(D)

No. 36147. Renewal Form I.

Grant for Placer Mining

DEPARTMENT OF THE INTERIOR
(Stamp)
DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 8, 1904.

Agency. Office
Canada.

R.M.B.—Ten—

In consideration of the payment of ten dollars, being the fee prescribed by clause 28 of the Mining Regulations for the Yukon District by John McIver of Forty Mile, Y.T., accompany his application No. ...., dated 8th October, 1904, for a mining claim in Mining Division of the Forty Mile District.

The Minister of the Interior hereby grants to the said John McIver for the term of one year the exclusive right of entry upon the claim being No. six (6) below Discovery on Poker Creek (Renewal), to 14 January, 1906, F.M.C. 67830, for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which, however, the royalty prescribed by the regulations shall be paid.

The said John McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the claim is continuously and in good faith worked by the said John McIver or his associates.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

R. M. BLAIR,
Mining Recorder.

Renewal.
Voucher 13.

Form I. No. 86202.

Grant for Placer Mining

164.

DEPARTMENT OF THE INTERIOR
(Stamp)

AGENCY, Y.T., DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER, October 25, 1905.

Yukon Territory, Canada.

In consideration of the payment of ten dollars, being the fee prescribed by clause 29 of the Mining Regulations for the Yukon Territory by J. McIver of Dawson, Y.T., accompany his application No. 86202 dated 25th October, 1905, for a mining claim in Poker Creek Mining Division of the Dawson District.

The Minister of the Interior hereby grants to the said J. McIver for the term of one year from the date hereof the exclusive right of entry upon the claim known as Creek Claim No. 7 below Discovery, Poker Creek, renewed to 14th January, 1907, F.M.C. No. 101783, for the miner-

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like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which the royalty prescribed by the regulations shall be paid. The said J. McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by said claim; and the said grant shall lapse and be forfeited unless the provisions of the Placer Mining Regulations are strictly complied with. J. E. B.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

File No. 12697.

J. E. BOLDEN,
Mining Recorder.

Voucher 14.

(D)
Form I. No. 86201.

Grant for Placer Mining

DEPARTMENT OF THE INTERIOR

162.

AGENCY, Y.T., DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER, October 25, 1905.

Yukon Territory, Canada.

In consideration of the payment of ten dollars, being the fee prescribed by clause 29 of the Mining Regulations for the Yukon Territory by J. McIver of Dawson, Y.T., accompanying his application No. 86201 dated 25th October, 1905, for a mining claim in Poker Creek Mining Division of the Dawson District.

The Minister of the Interior hereby grants to the said J. McIver for the term of one year from the date hereof the exclusive right of entry upon the claim known as Creek Claim No. 6 below Discovery of Poker Creek. Renewed to 14th January, 1907, F.M.C. No. 101783 for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom upon which, however, the royalty prescribed by the Regulations shall be paid.

The said J. McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said J. McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the provisions of the Mining Regulations are strictly complied with. J. E. B.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

File No. 12697.

J. E. BOLDEN,
Mining Recorder.

Voucher 15.

October 4, 1906.

Received from John McIver the sum of $17.00 for renewal of the claim No. 6 Below on Poker Creek and for the extension of boundaries.

S. MACFARLANE,
Mining Recorder.

Voucher 17.

(D)
58674. Form I.

Grant for Placer Mining

162.

DEPARTMENT OF THE INTERIOR

J.E.B.

AGENCY, DEPARTMENT OF INTERIOR,
OFFICE OF THE GOLD COMMISSIONER, October 17, 1906.

Yukon Territory, Canada.

In consideration of the payment of fifteen dollars, being the fee prescribed by Schedule D of the Mining Regulations for the Yukon District by John McIver of Dawson, Y.T., accompanying his application No. 58674 dated 17th October, 1906, for a mining claim in Poker Creek Mining Division of the Dawson District.

The Minister of the Interior hereby grants to the said John McIver for the term of one year from the date hereof the exclusive right of entry upon the claim No. 6 below Discovery, Poker Creek. Renewed to 14th January, 1908, for the miner-like working thereof and the construction of a residence thereon, and the exclusive right to all the proceeds realized therefrom, upon which, however, the royalty prescribed by the Regulations shall be paid.

The said John McIver shall be entitled to the use of so much of the water naturally flowing through or past said claim, and not already lawfully appropriated, as shall be necessary for the due working thereof, and to drain said claim free of charge.

This grant does not convey to the said John McIver any right of ownership in the soil covered by the said claim; and the said grant shall lapse and be forfeited unless the provisions of the Placer Mining Regulations are strictly complied with.

The rights hereby granted are those laid down in the aforesaid Mining Regulations, and no more, and are subject to all the provisions of the said Regulations, whether the same are expressed herein or not.

File 12679.

J. E. BOLDEN,
Mining Recorder.

Voucher 16.

(E) No. 67830.

DEPARTMENT OF THE INTERIOR

Date of Issue.

FORTY MILE, October 20, 1903.

Office
Canada.

DOMINION OF CANADA

Free Miner's Certificate

Place of Issue.

DEPARTMENT OF THE INTERIOR,
FORTY MILE, October 20, 1903.

Office
Canada.

Non-transferable. Valid for one year only.

This is to certify that John McIver of Forty Mile has paid me this day the sum of seven 50/100 dollars and is entitled to all the rights and privileges of a Free Miner, under any Mining Regulations of the Government of Canada, for One Year from the 12th day of November, 1903.

This Certificate shall also grant to the holder thereof the privileges

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of Fishing and Shooting, subject to the provisions of any Act which has been passed, or which may hereafter be passed for the protection of game and fish; also the privilege of Cutting Timber for actual necessities, for building houses, boats, and for general mining operations; such timber, however, to be for the exclusive use of the miner himself, but such permission shall not extend to timber which may have been heretofore or which may hereafter be granted to other persons or corporations.

Countersigned,
R. M. BLAIR.

To be Countersigned by the Gold Commissioner, Mining Recorder, or by an Officer or Agent of the Department of Interior.

JAS. A. HART,
Deputy of the Minister of the Interior.

Voucher 18.

(E) O L 67830. No. 101783.

DOMINION OF CANADA

Valid for one year only.

Free Miner's Certificate

Non-transferable

AGENCY, DAWSON, Y.T., DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER, October 3, 1904.

Yukon Territory, Canada.

This is to certify that John McIver of Dawson has paid me this day the sum of $7.50 and is entitled to all the rights and privileges of a Free Miner, under any Mining Regulations of the Government of Canada, for One Year from the 12th day of November, 1904.

This Certificate shall also grant to the holder thereof the privilege of Fishing and Shooting, subject to the provisions of any Act which has been passed, or which may hereafter be passed for the protection of game and fish; also the privilege of Cutting Timber for actual necessities, for building houses, boats, and for general mining operations; such timber, however, to be for the exclusive use of the miner himself, but such permission shall not extend to timber which may have been heretofore or which may hereafter be granted to other persons or corporations.

Countersigned,
A. HEND W N (?)

To be Countersigned by the Gold Commissioner, Mining Recorder, or by an Officer or Agent of the Department of Interior.

JAS. A. HART,
Deputy of the Minister of the Interior.

Voucher 19.

$20.00. Renewal No. 8158.

OFFICE OF AGENT TO MINING RECORDER,
PLACER CREEK, October 14, 1905.

Interim Receipt

Received from John McIver twenty dollars for grant to Creek Claims Nos. 6 and 7 below Discovery on Poker Creek.

A. DAWSON ALLEN,
Gold Commissioner.

Voucher 21.

(E) No. 107542.

DOMINION OF CANADA

Free Miner's Certificate

Non-transferable

Valid for one year only

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE GOLD COMMISSIONER, October 11, 1905.

Yukon Territory, Canada.

This is to certify that John McIver of Dawson has paid me this day the sum of eight 50/xx and is entitled to all the rights and privileges of a Free Miner under any Mining Regulations of the Government of Canada (GB) from 12 November, 1905, to 30 day of June, 1907.

This Certificate shall also grant to the holder thereof the privilege of Fishing and Shooting, subject to the provisions of any Act which has been passed, or which may hereafter be passed for the protection of game and fish; also the privilege of Cutting Timber for actual necessities, for building houses, boats, and for general mining operations; such timber, however, to be for the exclusive use of the miner himself, but such permission shall not extend to timber which may have been heretofore or which may hereafter be granted to other persons or corporations.

Countersigned,
L. G. BENNET.

To be Countersigned by the Gold Commissioner, Mining Recorder, or by an Officer or Agent of the Department of Interior.

JAS. A. HART,
Deputy of the Minister of the Interior.

Voucher No. 20.

No. 257.

From His Majesty's Ambassador at Washington to the Governor General

No. 339.

BRITISH EMBASSY,
WASHINGTON, D.C., September 8, 1923.

MY LORD,—With reference to Your Excellency's despatch No. 22 of February 27th last[1] and to previous correspondence regarding the claim of the Pottawatomie Indians of Wisconsin, now residing in Canada, against the United States, I have the honour to transmit to Your Excel-

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lency herewith copy of a memorandum which I have received from the Department of State from which it appears that the United States Government decline to accept liability in the matter. The State Department suggest, however, that the claim in question should be settled by arbitration under the terms of the special agreement concluded between Great Britain and the United States on August 18th, 1910.

As Your Excellency is doubtless aware, the work of the Pecuniary Claims Arbitration has recently been revived and a session of the tribunal is to be held in London on October 15th next. I have no information in regard to the claims which will be included in the second schedule to be dealt with at a subsequent session of the arbitration tribunal, but Your Excellency may feel disposed to enquire of His Majesty's Government as to the possibility of including the claim of the Pottawatomie Indians therein, since this would appear to afford the only possibility of reaching a settlement in the matter.

I have, etc.,

(Sd.) H. G. CHILTON.

His Excellency
The Lord Byng of Vimy, C.G.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 248

ENCLOSURE IN No. 257

From the United States Acting Secretary of State, Washington, to His Majesty's Chargé d'Affaires, Washington

Department of State,
Washington.

The Acting Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Great Britain, and, with reference to Mr. Chilton's note No. 682 of August 13, 1923, regarding the claim of the Pottawatomie Indians residing in Canada, against the United States Government, has the honour to state that this Government does not perceive from the briefs prepared by Mr. Chisholm the grounds on which the complaints of these Indians may be considered to be the basis of an international reclamation by the British Government against the Government of the United States. It may be observed, however, that it appears that when the negotiation of the so-called second schedule for arbitration under the Special Agreement concluded August 18, 1910, was formerly under consideration, this case was suggested by the British Government as one that might be incorporated into the schedule. It would therefore seem that, since the question whether a second schedule shall be framed may be taken up in the near future, the work of the arbitration having been revived, a proper disposition of the case might be then again considered in connection with the question of the propriety of having the case submitted to arbitration as one in which the diplomatic interposition of the British Government is warranted under international law and practice. The Department does not feel that, in the light of such presentation as has been made of this case, it is in a position to take steps looking to the enactment of legislation for the settlement of the claim.

Department of State,
Washington, September 1, 1923.

No. 258.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 435.

Downing Street, September 13, 1923.

Fr. Chief Deskaheh
1st August, 1923
To-do-6th Sept.

My Lord,—I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copies of correspondence with Chief Deskaheh relative to the claim of the Cayuga Indians against the United States Government.

I have, etc.,

DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
Lord Byng of Vimy, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

ENCLOSURE 1 IN No. 258

From Chief Deskaheh to the Secretary of State for Foreign Affairs

London, August 1, 1923.

Sir,—The undersigned is deputized by the Cayuga Nation to secure information relating to the pecuniary claim now pending under arbitration, prosecuted by the Imperial Government against the United States of America, for the benefit as alleged of the Cayuga nation. The Cayugas are interested to be informed on the following questions:—

If the claim is allowed and paid, will the monies come, in the first instance, to the hands of the Imperial Government, and if so, what disposition will be made of them; will the Imperial Government pay them over directly to the Cayuga nation or turn them over to the Government of the Dominion of Canada?

If so turned over, what in the view of the Imperial Government would be the duty of the Dominion Government in respect to the disposition of the funds? How could the Cayuga nation obtain the fund if turned over to the Dominion Government in case the latter should refuse to turn it over to the Cayugas?

Would the fund be properly chargeable in the view of the Imperial Government with any expenses attendant on the recovery, and if so, with expenses of what general nature?

Further, the reasons for asking these questions are that since the submission of that claim the Cayugas have received no information concerning it, and applications made by them to the Dominion Indian Office for that purpose have been fruitless; furthermore, the Dominion Indian Office has since then in the treatment of the Six Nations' funds in its hands used them as it has pleased, ignoring the rights of the beneficial owners. Furthermore, the Dominion Indian Office has taken monies from those Six Nations' funds to pay certain alleged expenses connected with the prosecution of the Cayuga claim.

At the time of the submission of the claim to arbitration the Cayugas did not suppose it necessary to ask for assurances covering these points and none were offered.

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C 40846

The Cayugas wish, therefore, at this time to be advised in respect to the position of the Imperial Government thereon.

I remain, etc.,

DESKAHEH,
Cayuga Chief and Deputy.

Address:
Care Mrs. S. Robertson-Matheson,
Glendevon-by-Dollar,
Scotland.

The Honourable
The Secretary of State for Foreign Affairs,
Foreign Office, London.

ENCLOSURE 2 IN No. 258

From the Secretary of State for Foreign Affairs to Chief Deskaheh

FOREIGN OFFICE, S.W.1, September 6, 1923.

SIR,—I am directed by the Secretary of State for Foreign Affairs to acknowledge the receipt of your letter of August 1st, and to inform you that all enquiries connected with the pecuniary claim dealt with in your letter should be addressed to the Canadian Government.

I am, etc.,

G. R. WARNER.

CHIEF DESKAHEH,
c/o Mrs. Robertson-Matheson,
Glendevon-by-Dollar,
Scotland.

C 40847
VJ-1200-P

This Document is the Property of the Canadian Government.

PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 259.

From the Governor General to His Majesty's Chargé d'Affaires at Washington

No. 146.

GOVERNMENT HOUSE,
OTTAWA, October 15, 1923.

SIR,—With reference to your despatch of the 8th ultimo, No. 339,[1] regarding the claim of the Pottawatomie Indians, I have the honour to inform you that Mr. A. G. Chisholm, the legal representative of these Indians, is proceeding to Washington this week to discuss with the State Department a reference of the case of these Indians to the Court of Claims. It appears that, if it were possible to follow this course, it might avoid the question whether the complaint of the Pottawatomies residing in Canada could be considered as the basis of an international reclamation.

My Government will be grateful if you will accord Mr. Chisholm such co-operation and assistance with the United States Departments as may be possible.

I have, etc.,

BYNG OF VIMY.

His Majesty's Chargé d'Affaires,
British Embassy,
Washington.

[1] No. 257.

No. 260.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 496.

DOWNING STREET, October 18, 1923.

MY LORD,—With reference to my despatch No. 435 of the 13th of September,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a further letter from Chief Deskaheh regarding the claim of the Cayuga Indians against the United States Government.

12th September, 1923.

I have, etc.,

DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.C.,
etc., etc., etc.

[1] No. 258.

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ENCLOSURE IN No. 260

From Chief Deskaheh to the Under-Secretary of State for Foreign Affairs

SIX NATION BUREAU (Temporary),
HOTEL DES FAMILLES,
GENEVA, September 12, 1923.

SIR,—Acknowledging due receipt of the letter from the Foreign Office of September 6th I have to reply that the advice that I should address the questions asked to the Canadian Government I cannot accept as just or sound. The only warrant for presentation of the pecuniary claim of my people for arbitration by the Imperial Government was its obligation undertaken by treaty to protect the Six Nations. The Dominion of Canada was a stranger to that transaction. I am forced to conclude from the failure of the Foreign Office to answer the enquiries I made and which it alone can answer, that it refuses so to do and that if collected by the Imperial Government these moneys would be turned over to the Dominion Government, one which is now misappropriating and withholding trust funds of the Six Nations heretofore turned over to it by the Imperial Government. It will be my unpleasant duty to advise the Council of the Cayuga Nation accordingly for its information and action.

I am, etc.,

DESKAHEH.

The Hon. Under-Secretary of State,
Foreign Office,
London.

No. 261.

From His Majesty's Ambassador at Washington to the Governor General

No. 391.
Immediate.

BRITISH EMBASSY,
WASHINGTON, October 22, 1923.

MY LORD,—With reference to Your Excellency's despatch No. 146 of the 15th instant,[1] I have the honour to inform Your Excellency that I did not fail to make arrangements for Mr. A. G. Chisholm to discuss with the competent officials of the Department of State the question of submitting the claim of the Pottawatomie Indians against the United States Government to the Court of Claims, and that on the 19th instant, this proposal formed the subject of a conversation between Mr. Chisholm and Mr. Vallance, of the Solicitor's Department. It was also discussed informally between Mr. Vallance and a member of my staff.

From these conversations it transpired that:

(1) The United States Government were anxious to be informed officially of the suggestion made by Mr. Chisholm under the authority of the Dominion Government.

(2) That although the United States Government might be disposed to agree to the submission of the Indians' case to the Court of Claims, they considered it very doubtful whether it would be possible to obtain the necessary permission from Congress while the Eisenberg case —relating to certain anthracite coal lands in Canada—remained unsettled.

As regards (1), in order to expedite the consideration of the matter, I embodied the suggestion in a note addressed to the Secretary of State,

copy of which is enclosed herewith. With regard to (2), I am of opinion that the Eisenberg case will shortly form the subject of an official communication from the United States Government. Although I am not acquainted with the facts of the case, I understand that the United States Government desire that the Eisenberg claim to certain anthracite areas in Canada should be dealt with in the Canadian courts.

I have, etc.,

H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
Governor General of Canada,
Ottawa.

[1] No. 259.

ENCLOSURE IN No. 261

From His Majesty's Ambassador at Washington to the United States Secretary of State, Washington

No. 899.

Immediate.

BRITISH EMBASSY,
WASHINGTON, D.C., October 20, 1923.

SIR,—With reference to the note verbale which Mr. Phillips was so good as to address to me on September 1st last regarding the claim of the Pottawatomie Indians of Wisconsin now residing in Canada against the United States, I have the honour to inform you that I am in receipt of a communication from His Excellency the Governor General of Canada relative to this matter.

The Dominion Government are of opinion that if it were possible to refer this case to the Court of Claims the question of its being submitted to arbitration under the special agreement concluded between Great Britain and the United States on August 18th, 1918, might be avoided, and in these circumstances, Mr. A. G. Chisholm, the recognized legal representative of the Indians in the matter of their claim has recently undertaken informal conversations with officials of the Department of State with a view to exploring the feasibility of adopting the course described above.

I have the honour to request that you will be so good as to furnish me in due course with an expression of the views of the United States Government on the suggestion put forward by the Government of Canada.

I have, etc.,

H. G. CHILTON.

The Honourable
CHARLES E. HUGHES,
Secretary of State of the United States,
Washington, D.C.

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No. 262.

From the Governor General to the Secretary of State for the Colonies

Confidential.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, October 27, 1923.

MY LORD DUKE,—With reference to your Confidential Despatch of the 16th August last,[1] regarding the claim of Mr. John McIver, I have the honour to enclose, herewith, a copy of a memorandum prepared in the Department of the Interior indicating the position of that Department in regard to the extent to which it is willing to entertain this claim.

I have, etc.,

BYNG OF VIMY.

The Right Honourable
The DUKE OF DEVONSHIRE, K.G.,
etc., etc., etc.,
Secretary of State for the Colonies.

[1] No. 256.

ENCLOSURE IN No. 262

DEPARTMENT OF THE INTERIOR,
OTTAWA, October 8, 1923.

The Deputy Minister of the Interior:

Memorandum

Your Reference 5272, below, is a communication from the Deputy Minister of Justice, submitting the memorial of John McIver with request to certain placer mining property supposed to be in the Yukon Territory, but which on final establishment of the International Boundary was found to be in the United States.

Mr. Newcombe asks that each item of the claim be separately set out with a full explanation containing all information which is available, so that he may be able to advise as to the proper disposition to be made of the claim.

It would appear that a request has been made that this claim be included in the second schedule of claims to be submitted to the Arbitration Tribunal, established under the special agreement entered into by the respective Governments, dated the 18th August, 1910. It is pointed out that if the Dominion Government is prepared to make proper reimbursements to Mr. McIver, the Government of the United States will be in a position to withdraw the claim from the schedule.

The records of the Department show that in November, 1900, Mr. McIver purchased from the Canadian Government at public auction held at Dawson seven placer mining claims, designated Nos. 1, 2, 3, 4, 5, 6 and 7, situated on Poker Creek, all of which property was supposed to be in the Yukon Territory. Payment for this property was made of the sum of $305, and grants were issued for the claims, bearing date the 14th January, 1901. The International Boundary between that portion of the said Territory and the United States was not finally established until the summer of 1907, when it was found that claims Nos. 6 and 7, and a portion of claim No. 5 were situated west of this boundary, and, therefore, in Alaska.

Mr. McIver asked for compensation on account of loss which he sustained by the purchase of mining claims which were not the property

C 40851

of the Crown, and he furnished an itemized list of the claims so submitted, as follows:—

I

Purchase price of 1,750 feet	$305 00
Recording seven claims	105 00
Total	$410 00
Refund on account of 650 feet of this property being in the United States	$152 50

Attached hereto is a copy of an affidavit made by Mr. Fred P. Durocher to the effect that only about one hundred feet of Claim No. 5 was found to lie west of the international boundary. The fee for recording a placer mining claim was $15, so that payment of this fee was necessary in connection with each of the five claims, even although one of them, as was subsequently shown, was not of the full size. The same fee was exacted for a fractional claim as for a full claim, so that Mr. McIver is only entitled to a refund of the fee paid for Claims Nos. 6 and 7, and the statement should be amended as follows:—

Purchase price of 1,750 feet	$305 00
Recording seven claims	105 00
Total	$410 00
Overpayment on account of 600 feet of this property being in the United States	$104 57
Entry fee for two claims	30 00
Total	$134 57

III

The position of the international boundary between that part of the Yukon Territory and Alaska was finally established during the summer of 1907, which showed that Claims Nos. 6 and 7 were situated west of that boundary, and for that reason these claims were permitted to lapse on the 14th January, 1908.

IV

Mr. McIver states that in addition to the representation work required under the provisions of his grant he was required by the laws of the United States to perform assessment work to the value of $72.50 for each one hundred feet during each year on the portion of these claims which were subsequently found to be in the United States, and he, therefore, claims a refund of $3,770.

The assessment work referred to comprised the development of the property by mining and the recovery of gold, and as Mr. McIver subsequently claims in section VI of this memorial to have recovered each year from this portion of his property gold to the value of about $2,500, it will be observed that this assessment work for which he desires payment was the work which he performed in recovering the gold, and not special work performed to meet the requirements of the mining regulations of the United States. In any case, as the portion of the claims in the United States was only 600 feet, the annual assessment work would amount to $435, or $3,480 for eight years, and the work which he performed in the recovery each year of $2,500 worth of gold was more than sufficient to satisfy this assessment work of $435 annually, and no special or additional assessment work appears to have been necessary to satisfy the requirements of the United States' mining laws.

V

Mr. McIver claims grouping fees on two and one-half claims at $1 a year, amounting to $20. The records show that the only grouping fee paid in connection with Claims Nos. 6 and 7 on Poker Creek was the

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sum of $2, being Registered Document No. 752, recorded against both claims. This fee was paid only once. It was not necessary to pay it more than once so long as the group remained the same.

VI

Mr. McIver claims royalty on gold mined, amounting to $2,500 each year, at 2½ per cent per annum, which, for eight years, would amount to $500.

Up to the 1st May, 1902, royalty on gold mined in the Yukon Territory was collected from the claim owners, and the books of the Gold Commissioner at Dawson do not show that any royalty was paid on gold mined from these claims up to that date. Under the regulations no royalty was collected on the first five thousand dollars' worth of gold produced from a claim, so that in any case Mr. McIver would not be required to pay royalty on the gold claimed to have been mined prior to the 1st May, 1902. Since that date royalty has been collected by means of an export tax of 2½ per cent on gold taken out of the Yukon Territory. If the gold was not exported no tax was paid, and if it was used as currency the royalty was paid by the person who might export the gold, which in the large majority of cases was not the miner. There are no means of determining whether the gold taken from Claims 6 and 7 on Poker Creek was exported, or by whom, and the Department would scarcely be justified in accepting Mr. McIver's unsupported statement in this respect. If the gold was exported through Alaska, in which it was produced, and was not reported to the Gold Commissioner's office at Dawson, of course no export tax was collected. These claims were recorded on the 14th January, 1901, and the international boundary was finally established in the summer of 1907. That would be a period of less than seven years. Up to the 1st May, 1902, it is obvious that no royalty was paid on the gold produced from these claims, as Mr. McIver does not claim production up to the amount of the exemption, and no record of payment appears. This would reduce the period for which royalty might be paid to somewhat less than six years at $2,500 production a year, or $15,000 in all, the royalty on which would amount to $375, and no evidence has been submitted that even such amount was paid.

VII

Mr. McIver submits a claim for payments made on account of witness fees, as follows:—

650 feet, being two and one-half claims at $5 a year....$20 00

Prior to the 1st August, 1906, the regulations required the owner of placer mining claims to file evidence, supported by the affidavit of two reliable and disinterested witnesses, showing the amount of work done on the claim. The miners usually acted as witnesses for one another under this provision of the regulations, without making any charge for services. Mr. McIver claims to have paid witnesses for such services, so that by doing so his witnesses ceased to be disinterested, as required by the regulations. As the regulation requiring the evidence of development to be supported by disinterested witnesses was rescinded on the 1st August, 1906, the period was only six years, and not eight years, as stated in the memorial, and there was no necessity, under the regulations, for making this payment, and in practice there would appear to have been no reason why it should have been made.

Mr. McIver also submits a claim of $100 for fees for grants and renewals. Under the regulations the fee for the removal of a placer mining claim was $15 up to the 5th May, 1903, when it was reduced to $10, and the fee for recording a certificate of work each year was $2. Mr. McIver appears to have paid the following fees for the renewal of

placer mining claims Nos. 6 and 7, and for the recording of certificates of work in connection therewith, the grants issued on the 14th January, 1901, having already been accounted for:—

		Renewal	Certificate of Work
For the year	1902	$ 30 00	$ 4 00
" "	1903	30 00	4 00
" "	1904	20 00	4 00
" "	1905	20 00	4 00
" "	1906	20 00	4 00
Total		$120 00	$20 00

That is, Mr. McIver paid for two renewals at the rate of $15 for each claim, and three renewals at the rate of $10 for each claim, amounting to $120, and he paid for the five certificates of work issued in his favour $20, or $140 in all, instead of $100, as mentioned in the memorial.

VIII

Mr. McIver claims that payment was made for license fee $7.50 and $10 a year for eight years, amounting to $73.50. It is assumed that the fees referred to were paid for free miner's certificates. Prior to the 5th May, 1903, the fee for a free miner's certificate was $10. On the date mentioned it was reduced to $7.50. On the 7th October, 1905, it was reduced to $5, and on the 1st August, 1906, it was abolished. Therefore, the fee paid for such certificate in 1901 and 1902 was $10 for each year, but since Mr. McIver was the owner of Claims Nos. 1, 2, 3, 4 and 5 on Poker Creek, up to the 25th March, 1902, certificates were necessary in connection with these five claims. In May, 1903, the fee was reduced to $7.50, so that in the years 1902 and 1903 the free miner's certificate cost $10; in the years 1904 and 1905 it cost $7.50 for each year; and in 1906 the fee was $5, so that if Mr. McIver can show that he held no mining property in the Yukon Territory during these five years he would be entitled to a refund of $40.

IX

On the 25th July, 1911, a cheque for the sum of $261.15 in favour of Mr. McIver was sent to Mr. G. C. Cole, American Consul at Dawson, for delivery, being a refund of the amount which the Department appeared to have received from Mr. McIver in connection with Placer Mining Claims Nos. 6 and 7 on Poker Creek, but this cheque was refused and returned to the Department.

X

On the 25th March, 1902, Mr. McIver assigned to Messrs. Meckin, Bergerson and McConnell all his interest in Claims 1, 2, 3, 4 and 5, already referred to, and there is nothing to indicate that Mr. McIver had any further interest in these claims, or acquired any interest therein.

XI

The fees set out in this memorandum are the fees which were provided by the regulations in force at the time.

XII

There is nothing on file in the Department except the statement made by Mr. McIver to indicate that he incurred legal expenses, or the amount thereof.

Mr. McIver acquired by purchase from the Crown certain placer mining property, a portion of which was subsequently shown to be in the

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United States, and the records of the Department appear to indicate that payment was made by him of the following amounts in connection with the portion of this property lying to the west of the international boundary, and might, therefore, be refunded to him:—

Purchase price	$104 57
Grants	30 00
Renewals	120 00
Certificates of work	20 00
Grouping fee	2 00
Free miner's certificates	40 00
Total	$316 57

If Mr. McIver can furnish evidence of the amount paid to the Crown as royalty on gold taken from the portion of his property subsequently found to have been in the United States, I think a refund might also be made to him of the amount so paid.

Respectfully submitted,

H. H. ROWATT.

CANADA
Yukon Territory,
To Wit.

In the matter of Placer Mining Claims formerly known as Creek Claims Nos. 6 and 7 below Discovery on Poker Creek (a tributary of Walker's Fork, which flows into the Fortymile River from its right limit some distance above the International Boundary line between Alaska and Yukon Territories).

I, the undersigned, Frederick P. Durocher, of Dawson, Yukon Territory, Miner..... do solemnly declare,—

At the time of the survey of the boundary line between Alaska and the Yukon Territories during the summer of 1907, by the International survey party, I was residing on said Poker Creek at Creek Claim No. 4 below Discovery, and I am aware that it was found by the said survey party that the two claims in question and also about 100 feet of the lower part of the claim then known as No. 5, were situated on the American side of the said Boundary Line, in the Territory of Alaska.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of The Canada Evidence Act, 1893.

FRED P. DUROCHER.

Declared before me at Dawson, in the Yukon Territory, this 2nd day of December, A.D. 1909.

F. X. GOSSELIN,
A Commissioner for taking Affidavits in and for the Yukon Territory.

No. 263.

From the Governor General to His Majesty's Chargé d'Affaires at Washington

No. 151.

GOVERNMENT HOUSE,
OTTAWA, November 6, 1923.

SIR,—With reference to previous correspondence regarding the claim of the Pottawatomie Indians against the United States Government, I have the honour to enclose, herewith, duly certified copies of resolutions[1] passed by claimant Pottawatomies on the Reserve at Chippewa Hill and Parry Island, in regard to the employment of Mr. Andrew G. Chisholm, K.C., as their legal representative in connection with the claim, which the Department of Indian Affairs desires should be forwarded to you.

I have, etc.,

BYNG OF VIMY.

His Majesty's Chargé d'Affaires,
British Embassy,
Washington.

[1] Not printed.

No. 264.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 430.

BRITISH EMBASSY,
WASHINGTON, D.C., December 5, 1923.

MY LORD,—In my despatch No. 391 of October 22nd last[1] regarding certain discussions between Mr. A. G. Chisholm, of London, Ontario, and the competent officials of the Department of State in connection with the claim of the Pottawatomie Indians against the United States Government, I expressed the opinion that the so-called "Eisenberg" case, relating to certain anthracite lands in Canada, would shortly form the subject of an official communication from the United States Government.

I now have the honour to transmit to Your Excellency herewith copy of a note from the Secretary of State from which it appears that before reaching any definite decision as to the submission of the claim of the Pottawatomie Indians to the United States Court of Claims, the United States Government are desirous of ascertaining whether the Dominion Government will agree to the "Eisenberg" case being determined by the Canadian courts.

I have, etc.,

H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 261.

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C 40856

ENCLOSURE IN No. 264

From the United States Secretary of State to His Majesty's Chargé d'Affaires at Washington

DEPARTMENT OF STATE,
WASHINGTON, December 3, 1923.

SIR,—I have the honour to acknowledge the receipt of your note No. 899 dated October 20, 1923, concerning the claim of the Pottawatomie Indians of Wisconsin, now residing in Canada, against the United States. You state that the Dominion Government are of the opinion that if it were possible to refer this case to the United States Court of Claims the question of its being submitted to arbitration under the Special Agreement concluded between Great Britain and the United States on August 18, 1910, might be avoided. You request an expression of the views of this Government on the suggestion put forward by the Government of Canada.

I have the honour to refer to this Department's note verbale of September 1, 1923, in which it was stated that this Government was not prepared to admit that this case was of such a character that the diplomatic interposition of the British Government was warranted under international law and practice. Without in any way waiving this objection, I may state that this Government has given very careful consideration to your suggestion that this claim be referred to the United States Court of Claims. Your attention is invited to the provisions of Section 155 of the Judicial Code of the United States dealing with suits by aliens in the Court of Claims. This section reads as follows:—

> Sec. 155. Aliens who are citizens or subjects of any government which accords to citizens of the United States the right to prosecute claims against such government in its courts, shall have the privilege of prosecuting claims against the United States in the Court of Claims, whereof such court, by reason of their subject matter and character, might take jurisdiction. (36 Stat. L. 1139.)

It will be observed that even if it were assumed that the Pottawatomie Indians might be considered to be entitled to the protection of the British Government, before bringing suit in the Court of Claims it will be important to find that the Canadian Government accords to citizens of the United States the right to prosecute claims against the Canadian Government in Canadian courts. It is not clear, however, that Canadian legislation accords to citizens of the United States the right to prosecute claims against the Canadian Government in its courts. Reference is made in this connection to Chapter 25 of the Statutes of Canada, 1923, 13-14 George V, 169, entitled "An Act to Amend the Petition of Right" (Assented to June 13, 1923), which reads as follows:—

"His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

"1. The Petition of Right Act, Chapter 142 of The Revised Statutes, 1906, is hereby amended by adding thereto the following as section fourteen thereof:—

"14. (1) In the case of any petition of right as to which the Governor General has heretofore granted or may hereafter grant his fiat that right be done, and whether or not the petition has been or is filed in the Exchequer Court of Canada, and at any stage of the proceedings in the said court, the Governor General in Council may upon the report of the Minister of Justice withdraw and revoke his fiat, if the Minister reports that the granting of the fiat was induced by misrepresentation, concealment or

C 40857

non-disclosure on the part of the petitioner of any material fact, which, in the Minister's opinion, should have been truly stated or disclosed for the Minister's information in the consideration of the petition.

"(2) A copy of any order in council revoking or withdrawing the Governor General's fiat upon any petition of right as aforesaid, certified by the Clerk of the Privy Council, may be filed in the Exchequer Court, and thereupon the petition shall abate, and all further proceedings in the action shall be and be deemed to have been, by the revocation or withdrawal of the fiat, perpetually stayed."

It is understood that this legislation has been invoked by the Canadian Government to dispose of claims of American citizens pending in a Canadian court. A petition of right was filed on June 23, 1922, by the Hawaiian Trust Company, Limited, and Bertha K. Isenberg, Executor and Executrix of the Last Will and Testament of the late Daniel Paul Rice Isenberg, of Honolulu, Hawaii, in relation to certain Canadian coal mining grants or leases. On the recommendation of the Government of Canada, His Excellency the Governor General granted a fiat in the matter of this Petition of Right on or about November 20, 1922. It was understood that this action made it possible to have the claim dealt with by the Exchequer Court of Canada on its merits, and such a judicial examination of the claim was favoured by this Government.

However, after the passage of the Act to Amend the Petition of Right Act (assented to June 13, 1923), it is understood that a Committee of the Privy Council adopted a Minute which was approved by His Excellency the Governor General on June 25, 1923, whereby consent to further proceedings upon the Petition of Right filed in this case was withdrawn, and the fiat which had previously been granted to the Executors of the Isenberg Estate was revoked.

Under the circumstances, I shall be grateful if you will be so good as to cause this matter to be investigated with a view to ascertaining why a determination in the Canadian courts of the claim against the Canadian Government was denied in this case, and whether reciprocity with respect to claims of this character may be expected by the United States from Canada owing to the enactment of the Act of June 13, 1923, and proceedings taken under it.

Accept, etc.,

CHARLES E. HUGHES.

Mr. HENRY GETTY CHILTON,
Chargé d'Affaires ad interim of Great Britain.

No. 265.

From the Governor General to His Majesty's Chargé d'Affaires at Washington

No. 3.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, January 4, 1924.

SIR,—With reference to your despatch No. 430 of the 5th December[1] in regard to the suggestion that the claim of the Pottawatomie Indians against the United States Government should be referred for adjudication to the United States Court of Claims, forwarding a copy of a communication from the United States Secretary of State in which he raised the question of the withdrawal by the Canadian Government of a fiat granted to the executors of the Isenberg estate, American citizens,

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upon a petition of right, and enquired whether reciprocity in regard to such claims might be expected by the United States, I have the honour to enclose, herewith, a copy of a memorandum of the Deputy Minister of Justice fully explaining the action taken by the Government in the Isenberg case and intimating that in Canada the right to petition the Crown in such cases is open alike to alien and to British subject depending only upon fiat or permission of the Crown, which in practice is granted or withheld upon considerations of perfect equality as between subject and alien.

I have, etc.,

BYNG OF VIMY.

His Majesty's Chargé d'Affaires,
British Embassy,
Washington.

[1] No. 264.

ENCLOSURE IN No. 265

DEPARTMENT OF JUSTICE, CANADA,
OTTAWA, December 18, 1923.

Memorandum for the Under-Secretary of State for External Affairs

The undersigned has had under consideration despatch of 5th instant from Mr. Chilton, Chargé d'Affaires of His Majesty's Embassy at Washington, transmitting copy of a note from the Secretary of State of the United States, of 3rd instant, referring to the claim against the United States of the Pottawatomie Indians of Wisconsin, now residing in Canada, which it was suggested on behalf of this Government should be referred for adjudication to the United States Court of Claims. It is said that the Government of the United States has given very careful consideration of this suggestion, but it would appear that a possible obstacle is found in Section 155 of the Judicial Code of the United States, which provides that

> "Aliens who are citizens or subjects of any government which accords to citizens of the United States the right to prosecute claims against such Government in its courts, shall have the privilege of prosecuting claims against the United States in the Court of Claims";

thus admitting alien claims to the jurisdiction of the court only conditionally; and therefore enquiry is made as to whether the Government of Canada accords to citizens of the United States the right to prosecute claims against the Government of Canada in the Dominion courts. Mr. Hughes states that it is not clear that Canadian legislation does accord to citizens of the United States the right so to prosecute their claims, and he refers to the recent Act, Chapter 25 of 1923, amending the Petition of Right Act. This is a statute of one section whereby the Governor in Council is authorized to revoke his fiat upon a petition of right when the Minister of Justice reports that the granting of the fiat was induced by misrepresentation, concealment or non-disclosure on the part of the petitioner of any material fact which, in the Minister's opinion, should have been truly stated or disclosed for his information when considering the petition. It is thus merely an enabling Act, if not declaratory, and it applies indifferently whether the petitioner be a British subject or an alien. Indeed the language in itself appears to suggest no reason for doubt as to the justiciable quality of an alien claim; the doubt which Mr. Hughes entertains appears rather to have arisen from the fact that the authority expressed to be conferred by the Act was exercised by the Governor in Council with respect to the petition of right of the Hawaiian

Trust Company, Limited, and Bertha K. Isenberg, executor and executrix of the last will and testament of the late Daniel Paul Rice Isenberg, deceased; the suppliant company being a corporation existing under the laws of the United States, and the other suppliant being the widow and executrix of the testator, who was a citizen of the United States.

It may be said at once that the nationality of the suppliants was a mere accident of the situation; it did not in anywise influence the action of the Government in withdrawing the fiat.

It is a constitutional principle, both in the United Kingdom and in His Majesty's Dominions, that the Crown is not to be impleaded without its consent; and authority exists, under the Revised Statutes, both in the Petition of Right Act, chapter 142, and in the Exchequer Court Act, chapter 140, section 38, for the submission to the Exchequer Court of claims against the Government of Canada, by the consent of that Government. The claims of aliens stand upon precisely the same footing as those of His Majesty's subjects; their claims are submitted to the jurisdiction, heard and determined, not in consideration of any right of privilege accorded reciprocally to British subjects by the State of which the alien suppliant is a national, but *ex debito justitiae;* and, while of course the Crown may grant or refuse its fiat, either to British subject or alien, at its absolute discretion, a fiat is in practice granted, as a matter of invariable grace by the Crown, to put into due course of investigation any proper question raised upon a petition of right, irrespective of the suppliant's nationality. There is, however, neither for British subject nor alien, any absolute right of action against the King, such as every subject has against a fellow-subject, by suing out a writ; the prerogative is recognized and remains. In like manner it is understood that the jurisdiction of the United States Court of Claims itself, with relation to claims, whether of citizens of the United States or aliens, depends upon reference to the court, either by an executive department, or by one of the House of Congress; and it was recognized by the Supreme Court of the United States, in Beers *vs.* Arkansas, 20 How 529, that "it is an established principle of jurisprudence in all civilized nations that the Sovereign cannot be sued in its own courts, or in any court, without its consent or permission." It is of course for the Government and judicial tribunals of the United States to interpret the meaning of Section 155 of the Judicial Code of the United States; but if this section, when it speaks of any foreign government according to citizens of the United States the right to prosecute claims against that government, is to be read subject to the well-known constitutional qualification which imports the necessity of the Sovereign's consent, then the enquiry submitted is answered in the affirmative, without an accent of uncertainty; in any case, the right to petition is open alike to alien and to British subject, depending only upon fiat or permission of the Crown, which in practice is granted or withheld upon considerations of perfect equality as between subject and alien.

With regard to the case of Isenberg, the procedure in which appears to have suggested the enquiry which Mr. Hughes submits, it may be observed that the suppliants, although citizens of the United States, obtained their fiat in due course in accordance with the uniform practice above described. Pleadings were delivered; the cause came to issue, and the law officers were engaged in preparation for trial, when abruptly it was discovered, by reason of enquiry conducted by a Senate Committee, that the petition was being maintained by one William Murdock in consideration of a large share of the proceeds of the property which he was to receive if successful, under the terms of a huckstering agreement. Neither the agreement nor the relations between the nominal suppliants and Murdock were disclosed previously to the fiat and pleadings; and when the case came to be considered in Parliament, after the Senate enquiry, it was thought advisable to introduce legislation affirming gen-

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erally the power of the Governor in Council to withdraw a fiat which had been granted by reason of any material misrepresentation or undue concealment of facts in the obtaining of it. It was considered questionable that this right existed in Canada in the absence of legislation, although a corresponding power had been affirmed in the United States, both by State and Federal tribunals. In consequence the statute in question of 1923 was enacted; and, following that, by Order in Council the fiat of the Isenberg petition was revoked.

It seems obvious enough that the Government ought not to be bound by a fiat obtained upon an inadequate statement or by suppression of material facts, and the policy of the Department of Justice with respect to petitions of right presented and maintained for the benefit of champertors whose interest was disclosed had been formulated and sanctioned, long before the Isenberg leases were issued, by deliberate refusal to fiat such a petition. The ordinary defendant in a champertous action has his remedy, for he is impleaded without his consent; the Sovereign, if he consent, is without a remedy; maintenance moreover is an offence both at common law and by statute; therefore it was considered undesirable and inexpedient that the Crown should consent to the prosecution of such an action, and so it was determined that fiat upon the petition should be refused. It was but a corollary to this that a fiat granted, as in Isenberg's case, without disclosure of the unlawful agreement should be instantly withdrawn.

Finally it may be observed that relatively the greater interest represented by the Isenberg petition, having regard to the arrangements evidenced by the agreement, was that of Murdock, who was to direct, bear the costs and participate generously in the fruits of the litigation, and who, so far as the undersigned has been able to ascertain, is probably not a citizen of the United States.

E. L. NEWCOMBE,
Deputy Minister of Justice.

JJ-1200-P
C 40861

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 266.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, January 5, 1924.

MY LORD,—With reference to Your Excellency's Confidential despatch of the 27th of October last[1] regarding the claim of Mr. John McIver, I have the honour to request you to inform your Ministers that Sir Cecil Hurst, British Agent on the Anglo-American Pecuniary Claims Arbitration Tribunal finds that the United States Agent is unwilling to take up the consideration of a second schedule of claims until all the cases in the first schedule have been disposed of. It is, in fact, probable that the United States Government will attempt to secure the abandonment of all claims not included in the first schedule, and thus to avoid—as it has always been their intention to do, if possible—the arbitration of the British claims in connection with the Philippine Customs.

2. In the circumstances the Secretary of State for Foreign Affairs would suggest, for the consideration of your Ministers, that it would be advisable to hold over the question of the McIver claim for the present.

I have, etc.,

DEVONSHIRE.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 262.

No. 267.

From His Majesty's Ambassador at Washington to the Governor General

No. 4.

BRITISH EMBASSY,
WASHINGTON, D.C., January 10, 1924.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 3 of the 4th instant[1] regarding reciprocity of treatment in the matter of claims of Canadians and Americans against the United States Government and the Dominion Government respectively, in which you enclosed a copy of a memorandum from the Deputy Minister of Justice explaining the action taken by the Dominion Government in the Isenberg case and intimating that in Canada the right to petition the Crown in such cases is open alike to aliens and to British subjects, and that the permission of the Crown to be petitioned in this manner is granted or withheld upon considerations of perfect equality as between aliens and British subjects.

As it appears to me that this assurance effectively disposes of Mr. Hughes' fears that if the United States Government were to agree to the submission of the claim of the Pottawatomie Indians to the United States Court of Claims they would be according to Canadian subjects a privilege

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not enjoyed by United States citizens in Canada, I should be glad to learn whether the Dominion Government desire me so to inform the United States Government, and to invite them to allow the claim to be submitted to the United States court in question.

In this event, I venture to suggest that I may be authorized to communicate to the United States Government, in the form of an enclosure to my note, a copy of the memorandum transmitted with Your Excellency's despatch under acknowledgment. The memorandum in question may be described as a legal exposition of the attitude of the Dominion Government in the Isenberg case, and I think that the arguments contained therein would carry greater weight with the authorities concerned if the memorandum were brought to their notice in its original form rather than if it were transposed and embodied in a note from His Majesty's Embassy.

I have, etc.,

A. C. GEDDES.

His Excellency
LORD BYNG OF VIMY, G.C.B.,
etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 265.

No. 268.

From the Governor General to His Majesty's Ambassador at Washington

No. 11.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, January 22, 1924.

SIR,—With reference to Your Excellency's despatch No. 4 of the 10th instant,[1] on the subject of the claim of the Pottawatomie Indians, in which enquiry was made whether the Canadian Government desired that the United States Government should be invited to refer this claim to the United States Court of Claims, and in that event, whether the memorandum of the Deputy Minister of Justice, a copy of which was enclosed in my despatch No. 3 of the 4th instant,[2] might be communicated to the United States Government in its original form, I have the honour to inform Your Excellency that my Government consider that it would be desirable that the United States Government should be invited so to refer the claim of the Pottawatomie Indians, and that copy of the memorandum of the Deputy Minister of Justice in its original form should be transmitted to the United States Government.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR AUCKLAND GEDDES, G.C.M.G., K.C.B.

[1] No. 267.
[2] No. 265.

No. 269.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 38.

BRITISH EMBASSY,
WASHINGTON, January 29, 1924.

MY LORD,—I have the honour to transmit to your Excellency, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,

H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To Department of State, dated January 29th, 1924.	Claim of the Pottawatomie Indians against the United States Government.

Reference—Canada despatch No. 11 of January 22nd, 1924.[1]

[1] No. 268.

ENCLOSURE IN No. 269

From His Majesty's Chargé d'Affaires at Washington to the United States Secretary of State, Washington

No. 79.

BRITISH EMBASSY,
WASHINGTON, January 29, 1924.

SIR,—With reference to the note which you were so good as to address to me on December 3rd last, regarding the claim of the Pottawatomie Indians of Wisconsin, now residing in Canada, against the United States Government, in which you also raised the question of the withdrawal by the Government of Canada of a fiat granted to the executors of the Isenberg estate, I have the honour to transmit to you herewith a copy of a memorandum, communicated to me by His Excellency the Governor General of Canada, which was addressed to the Under Secretary of State for External Affairs by the Deputy Minister of Justice on December 18th last. This memorandum explains the action taken by the Dominion Government in the matter of the Isenberg claim, and intimates that in Canada, the right to petition the Crown in such cases is open alike to aliens and to British subjects, and that the permission of the Crown to be petitioned in this matter is granted or withheld upon considerations of perfect equality as between aliens and British subjects.

The Dominion Government of Canada trust that the above explanation will serve effectively to dispose of the fear that, if the United States Government were to agree to the submission of the claim of the Pottawatomie Indians to the United States Court of Claims, they would be according to Canadian subjects a privilege not enjoyed by United States citizens in the Dominion, and Lord Byng of Vimy desires me to express the hope that the Government of the United States will now be disposed to agree to the claim of the Pottawatomie Indians being referred to the Court of Claims for decision.

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I should be glad to receive at an early date an expression of the views of the United States Government on this matter for communication to His Excellency the Governor General of Canada.

I have, etc.,

H. G. CHILTON.

The Honourable
CHARLES E. HUGHES,
Secretary of State for the United States,
Washington, D.C.

YY-1200-P

C 40865

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 270.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 136.

DOWNING STREET, March 25, 1924.

18th Feby., 1924. Table.

MY LORD,—I have the honour to transmit to Your Excellency, to be laid before your Ministers, a copy of a telegram from His Majesty's *Chargé d'Affaires* at Washington, relative to the payment of awards made by the American and British Pecuniary Claims Arbitration Tribunal.

2. Your Ministers will observe that the United States Government are prepared to recommend to Congress the payment of awards against the United States provided that, if Congress make the necessary appropriations, His Majesty's Government will agree to the payment of similar awards made against them.

3. A table showing the indebtedness of His Majesty's Government and of the Government of Canada to the United States Government and vice versa is enclosed herewith.

4. I should be glad to learn, by telegraph, the views of the Government of Canada on this matter.

I have, etc.,

J. H. THOMAS.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

ENCLOSURE 1 IN No. 270

From His Majesty's Chargé d'Affaires at Washington to the Foreign Office

WASHINGTON, February 18, 1924.

No. 60 (R).

Sir A. Geddes despatch No. 763.
Payment of awards in pecuniary claims arbitration.

I learn from United States Government that they are prepared to recommend to Congress payment of awards heretofore made against the United States on the understanding that similar awards against His Majesty's Government will be paid in case Congress makes necessary appropriations.

Action vis-a-vis Congress must be taken at an early date and Secretary of State would, therefore, be glad to learn as soon as possible whether His Majesty's Government will give required assurances.

Copy of note by bag.

CHILTON.

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ENCLOSURE 2 IN No. 270

HIS MAJESTY'S GOVERNMENT TO PAY TO UNITED STATES GOVERNMENT

Claim			
G. R. Burt	£10,000	0	0
J. B. Williams	150	0	0
Isaac M. Brower		1	0
Union Bridge	750	0	0
Total	£10,900	1	0

CANADIAN GOVERNMENT TO PAY TO UNITED STATES GOVERNMENT

Tattler	$ 630 00
F. Gerring, Jr.	9,000 00
Total	$9,630 00

TOTAL INDEBTEDNESS OF BRITISH EMPIRE TO UNITED STATES GOVERNMENT

£10,900 1 0 and $9,630.00

UNITED STATES GOVERNMENT TO PAY TO HIS MAJESTY'S GOVERNMENT

H. J. R. Hemming		$2,500 00
Newchwang	£3,176 3 6	
Sidra	2,168 3 8	
Eastry	1,167 19 6	
Lindisfarne	45 14 11	
Total	£6,558 1 7	$2,500 00

UNITED STATES GOVERNMENT TO PAY TO CANADIAN GOVERNMENT

Claim	
Canadienne	$ 1,933 79
Great N. W. Telegraph Co.	827 58
Coquitlam	62,586 66
Favourite	4,997 01
Wanderer	2,004 41
Kate	1,316 89
Jessie, Bayard, Pescawha	4,794 00
Lord Nelson	23,646 00
Total	$102,086 34

TOTAL INDEBTEDNESS OF UNITED STATES GOVERNMENT TO BRITISH EMPIRE

£6,558 1 7 and $104,586.34

C 40867

No. 271.

From the Governor General to His Majesty's Ambassador at Washington

No. 59.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, April 16, 1924.

SIR,—I have the honour to state that information has been received by my Government to the effect that on the 10th January, 1924, a Bill (S. 1907) was introduced into the Senate of the United States by Senator Owen, entitled "A Bill for the payment to certain members of the Wisconsin Band of Pottawatomie Indians of their share of the proceeds of sale of tribal lands," special reference being made to those Pottawatomie Indians residing in the Dominion of Canada. The Bill, which authorized the payment of a sum of $1,517,226.87 to the said Indians, referred further to an alleged contract made by the Indians and their attorneys in regard to an amount to be paid the latter.

The Department of Indian Affairs considers it important to see a copy of the contract referred to and I shall be grateful if Your Excellency will procure a copy, if possible.

It would be useful also to know the prospects of the Bill being enacted into legislation and whether it would be possible in any way to safeguard the payment of the money so that any portion accruing to Canadian Indians might be distributed by the proper officers of the Canadian Government.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

No. 272.

From the Assistant Under-Secretary of State for External Affairs to the Governor General's Secretary

Urgent.

OTTAWA, April 25, 1924.

SIR,—With reference to the telegram to His Excellency from the Secretary of State for the Colonies, dated the 3rd December last,[1] on the subject of the Pecuniary Claims Arbitration, in which it was intimated that by arrangement between Sir Cecil Hurst, the British Agent, and Mr. F. A. Nielsen, the United States Agent, the Answer of the Canadian Government in the case of the "R. T. Roy" is to be filed at the State Department by the 1st of May and the Reply, if any, at the British Embassy by the 15th of September, I have the honour to point out that according to the Rules of Procedure, Nos. 23 and 24 of Chapter 3, "twenty-eight copies of all pleadings, and of further evidence under Rule 19, if any, shall be delivered at the Office of the Tribunal. Of these copies, two shall be filed in the Office of the Tribunal, and twenty shall be forwarded forthwith to the agent of the other party, with a note specifying the date on which the document was filed, and two shall be at the disposal of each member of the Tribunal"; and that by Rule 25 of

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Chapter 4, it is provided that " the originals of all documents and other proofs brought forward in support of or in answer to a claim, shall, so far as possible, be filed in the office of the Tribunal, in order that they may be open to the inspection of the members of the Tribunal, and of the other party."

The Answer of this Government to the United States memorial is being printed by the agent of the Justice Department in Toronto, Mr. C. C. Robinson, who will despatch thirty of the printed copies to His Majesty's Embassy at Washington within a day or two, to be filed in accordance with the above rules, and transmitted, herewith, are the original documents and proofs, which consist of the affidavits of Alexander Gordon Duncan, James Martel, William Dobson and William J. Stewart; also two original charts of Lake Huron, which are very important documents in the case.

I am to request that His Excellency may be humbly moved immediately to transmit these original affidavits and charts to His Majesty's Ambassador at Washington with a request that steps may be taken for their filing and delivery in accordance with the rules above cited.

No information has been received by the Government as to the arrangements at Washington with respect to the office of the Tribunal, but previously to the war when proceedings in the arbitration were carried on at Washington there was a Secretary of the Tribunal, who had charge of the original papers, and it is believed that there still exists some provision for the custody of original documents. Mr. Nielsen, the United States Agent, would probably give the Embassy information about this, but if there is any doubt about the matter, it would be preferable that the original affidavits and charts should be kept at the Embassy as it will be important at the hearing to refer to these papers, and they should not by any means be lost or meet with any accident.

In case, through unavoidable delay, the papers should not reach the Embassy by the first proximo, it is not anticipated that the United States Agent would wish to take any advantage of the delay.

I have, etc.,

W. H. WALKER,
Assistant Under-Secretary of State for External Affairs.

The Governor General's Secretary,
Ottawa.

[1] *From the Secretary of State for the Colonies to the Governor General*

Telegram.

LONDON, December 3, 1923.

Following the Newcombe from Hurst, British Agent, Pecuniary Claims Arbitration.

It is proposed to hold Session at Washington for proceeding with Canadian cases beginning about January 15th, 1925, to be followed by Session for English cases. Earlier date is not compatible with the time required for the filing of outstanding pleadings. Have agreed with Neilsen to recommend the following dates for pleadings in Canadian cases. Roy answers to be filed at the State Department by May 1st and reply, if any, at the British Embassy, Washington, by September 15th. Hay claim answers at the British Embassy by April 1st and replies, if any, by July 15th. Hay claims in which memorials already filed to be treated as test cases and should have proof of fact of decision to govern others of first schedule of Hay claims. Negotiations as to second schedule of claims and as to any modification of existing arrangements to stand over for the present. Please telegraph whether you agree as to dates of filing of pleadings and of session.

DEVONSHIRE.

C 40869

No. 273.

From the Governor General to His Majesty's Ambassador at Washington

No. 63.

CANADA, GOVERNMENT HOUSE,
OTTAWA, April 25, 1924.

25th April.

SIR,—I have the honour to transmit, herewith, for Your Excellency's consideration, a copy of a letter[1] from the Department of the Secretary of State for External Affairs covering certain documents for filing and delivery in the case of the *R. T. Roy*, under the Pecuniary Claims Arbitration.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

[1] No. 272.

No. 274.

From His Majesty's Ambassador at Washington to the Governor General

No. 163.

BRITISH EMBASSY,
WASHINGTON, April 26, 1924.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 59 of the 16th instant,[1] and to inform you that Senator Owen's bill (S. 1907), providing for the payment of certain moneys to the Pottawatomie Indians of Wisconsin now residing in Canada, is still under consideration by the Senate Committee on Indian Affairs, and that there would seem to be but small possibility of its passage. On the 10th instant Senator Owen introduced a resolution (S. Res. 205) copies of which are enclosed herein, providing that Bill S. 1907 be submitted, together with all accompanying papers, etc., to the United States Court of Claims. I have ascertained from Mr. Vallance of the Solicitors' Department of the Department of State, who, as Your Excellency is already aware, has been dealing with this claim for some months past, that the resolution in question may be agreed to by the Senate. In the meantime, the Chairman of the Senate Committee on Indian Affairs has been informed that the Government of Canada are interested in this matter.

With regard to the desire of the Dominion Government to be furnished with a copy of the contract referred to in the Bill S. 1907, I regret to state that my endeavours to obtain a copy of this document have so far proved unsuccessful, a member of my staff having been informed verbally by an official of the Department of State that the question was one of some difficulty in view of the Bill being in Committee. Further enquiries are being made, however, the result of which I shall not fail to communicate to Your Excellency in due course.

I am of opinion that the introduction of S. 1907 came about through a personal appeal to Senator Owen by Messrs. Kappler and Merillat, the

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local firm of attorneys mentioned in Sir Auckland Geddes' despatch No. 23 of February 1st, 1922.[2] In this connection it is significant that the competent officials of the Department of State were unaware, until their attention had been drawn to the matter by His Majesty's Embassy, that any such Bill as S. 1907 had even been introduced by Senator Owen.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Lord Byng of Vimy, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 271.
[2] No. 234.

ENCLOSURE IN No. 274

68th Congress—1st Session

S. Res. 205

IN THE SENATE OF THE UNITED STATES

April 7 (calendar day, April 9), 1924.

Mr. Owen submitted the following resolution, which was referred to the Committee on Claims.

April 10, 1924.

The Committee on Claims discharged, and referred to the Committee on Indians Affairs.

Resolution

Resolved, That the bill (S. 1907) entitled "A bill for the payment to certain members of the Wisconsin Band of Pottawatomie Indians of their share of proceeds of sale of tribal lands," now pending in the Senate, together with all the accompanying papers, be, and the same hereby is, referred to the Court of Claims in pursuance of the provisions of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; and the said court shall proceed with the same in accordance with the provisions of such Act and report to the Senate in accordance therewith.

No. 275.

From His Majesty's Ambassador at Washington to the Governor General

No. 164.

British Embassy,
Washington, April 28, 1924.

My Lord,—With reference to Mr. Chilton's despatch No. 38 of January 29th last,[1] and my despatch No. 163 of the 26th instant,[2] I have the honour to transmit to Your Excellency herewith copy of a note from the United States Government containing certain enquiries regarding the status of the Pottawatomie Indians of Wisconsin and of the grounds upon which the Dominion Government feel called upon to support the claim of these Indians against the United States Government.

I should be glad to learn in due course what reply I should make to this communication.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Lord Byng of Vimy, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 269.
[2] No. 274.

C 40871

ENCLOSURE IN No. 275

From the United States Secretary of State to His Majesty's Ambassador at Washington

Department of State,
Washington, April 18, 1924.

Excellency,—I have the honour to acknowledge the receipt of Mr. Chilton's note No. 79 dated January 29, 1924, dealing with the claim of the Pottawatomie Indians of Wisconsin, now residing in Canada, against the United States Government. Mr. Chilton enclosed a memorandum prepared by the Canadian Deputy Minister of Justice dealing with the withdrawal by the Government of Canada of a fiat granted to the executors of the Isenberg estate.

Before taking any further action in this matter, I should be glad to be informed as to the precise grounds on which the Government of Great Britain feels warranted in intervening in behalf of these Indians. The Department is not clear as to the position of the British Government respecting the status of the Indians at the present time, their status at the time when the occurrences took place on which the claims are based, and the general principles of law on which the claims are predicted.

Accept, etc.,
Charles E. Hughes.

His Excellency
The Right Honourable
Sir Esme Howard,
Appointed Ambassador of Great Britain.

No. 276.

From the Governor General to His Majesty's Ambassador at Washington

No. 66.

Canada, Government House,
Ottawa, April 29, 1924.

Sir,—With reference to my despatch No. 63 of the 25th April,[1] regarding the Pecuniary Claims Arbitration, I have the honour to forward, herewith, thirty copies of the printed memorial of the claim of Lillie Rowe Hewson, et al, twenty-eight of which should, pursuant to the rules, be delivered at the office of the Tribunal for distribution by the officer of the Tribunal as required. I enclose, also, the following original documents:—

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(1) Certified copy under seal of the Court of Claims of stipulation entered into between the Assistant Attorney General and Messrs. Moyers and Consaul, covering the Treasury report filed in the Court of Claims in the case of Charles Sylvester Rowe;
(2) Certified copy under seal of the Court of Claims of stipulation entered into between the Assistant Attorney General and Messrs. Moyers and Consaul, covering the Treasury report filed in the Court of Claims in the case of William Burland and Company;
(3) Affidavit of Claude B. Jameson;
(4) Affidavit of Willis Chamberlin Rowe;
(5) Affidavit of Mrs. Cornelia E. Buchner;

these latter to be filed in the Office of the Tribunal.

My Government will be grateful if these memorials and original documents may be deposited at the office of the Tribunal as required. I understand that the time limit for the delivery of the papers expires on the 1st May next.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

[1] No. 273.

No. 277.

From the Governor General to His Majesty's Ambassador at Washington

No. 68.

CANADA, GOVERNMENT HOUSE,
OTTAWA, April 30, 1924.

SIR,—With reference to my despatches, No. 63[1] and No. 66,[2] of the 25th and 29th instant, respectively, forwarding papers in connection with certain claims presented under the Pecuniary Claims Convention between His Majesty and the United States, I have the honour to forward, herewith, twenty-eight copies of the printed Memorial in the case of the Gosselin Hay Claim, together with a file of documents comprising a typewritten copy of the Memorial, a statement of claim with the affidavit of the claimant, a certificate of birth evidencing nationality, statements of imports of hay and duties paid and photostat copies of statements and receipts issued to the claimant by the Customs Agent at the Port of St. Albans, Vermont.

My Government will be grateful if these may be deposited at the earliest possible opportunity at the office of the Tribunal in like manner as were the papers referred to in the despatches cited above.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

[1] No. 273.
[2] No. 276.

No. 278.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.

No. 44.

WASHINGTON, May 1, 1924.

Your despatch No. 63.[1] No copies of the Canadian answer in the R. T. Roy claim have yet been received here. It is important they should be sent as soon as possible, as American Agent states he cannot agree to a delay of more than a few days. He knows nothing of the Lillie Rowe Hewson hay claim, memorials of which were forwarded in your despatch No. 66.[2] I should be glad to learn urgently under what arrangements this claim is being filed.

HOWARD.

[1] No. 273.
[2] No. 276.

No. 279.

From the Governor General to His Majesty's Ambassador at Washington
Telegram.

OTTAWA, May 2, 1924.

51 A.

R. T. Roy and Lillie Rowe Hewson Claims.

Information has been received that 30 printed copies of the Answer in the first case were despatched from Toronto to Your Excellency on or about the 28th ultimo, and have presumably reached the Embassy before now.

The claim described as the Lillie Rowe Hewson hay claim is represented in the schedule to the Pecuniary Claims Agreement of the 18th August, 1910, by the name of Charles S. Rowe, surviving partner. It is a scheduled claim, as is also the Gosselin hay claim represented in the schedule under the name of Joseph Jean Baptiste Gosselin.

It is believed that it is consistent with the regulations and any subsequent arrangement that these papers should be delivered or deposited in accordance with the rules. It is not understood what the objection of the United States Agent can be, but should he be unwilling to receive the documents it is desired that they may be kept at the Embassy with a note of the fact.

BYNG.

No. 280.

From the Governor General to His Majesty's Ambassador at Washington

Telegram.
54 A.

OTTAWA, May 3, 1924.

Pecuniary Claims Arbitration. Information has been received from agent of Mr. Newcombe in Toronto that 30 copies of Answer in the case of R. T. Roy were sent to Washington directed to His Majesty's Embassy April 30th, by Canadian National Express prepaid and should by this time have been received.

BYNG.

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No. 281.

From His Majesty's Ambassador at Washington to the Governor General

No. 181.

BRITISH EMBASSY,
WASHINGTON, May 9, 1924.

MY LORD,—I have the honour to transmit to Your Lordship, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To Frederick Nielsen, Esq., Department of State, dated May 5th, 1924. To Foreign Office, dated May 9th, 1924.	Schedule of claims to be dealt with under Pecuniary Claims Arbitration.

Reference: Washington telegram No. 44 of May 1st, 1924.[1]

[1] No. 278.

ENCLOSURE 1 IN No. 281

From His Majesty's Ambassador at Washington to the Secretary of State for Foreign Affairs

No. 764.

BRITISH EMBASSY,
WASHINGTON, May 9, 1924.

SIR,—With reference to my telegram No. 140 of the 1st instant, regarding the Pecuniary Claims Arbitration, I have the honour to transmit to you, herewith, copy of a letter which I caused to be addressed to the American Agent in connection with the filing of the Canadian Answer in the R. T. Roy case and the British memorials in the two hay claims of Lillie Rowe Hewson et al, and the Hon. J. J. B. Gosselin. Six copies each of the above-mentioned documents are enclosed under separate cover for the use of the British agent, the British Arbitrator, and the American Arbitrator, who is understood to be residing in Paris.

While it appears that the Hewson and Gosselin hay claims are not included in the schedule of cases to be dealt with at the forthcoming session of the Tribunal—(See Foreign Office despatch No. 48 of January 9th last, A 7431/38/45)—Mr. Nielsen agreed to the filing of the two memorials in question and declared that he would explain his attitude in regard thereto when acknowledging the receipt of the documents named. No such acknowledgment has yet been received from Mr. Nielsen, but copies thereof will be communicated to you as soon as possible, as well as to His Excellency the Governor General of Canada.

I have, etc.,
ESME HOWARD.

The Rt. Hon. JAMES RAMSAY MACDONALD, M.P.,
etc., etc., etc.

ENCLOSURE 2 IN No. 281

From Mr. G. H. Thompson, Secretary, British Embassy, Washington, to Mr. F. Nielsen, United States Agent

BRITISH EMBASSY,
WASHINGTON, May 5, 1924.

MY DEAR MR. NEILSEN,—With reference to our recent conversations in regard to the forthcoming schedule of claims to be dealt with under the Pecuniary Claims Arbitration, I transmit to you herewith twenty-two copies of the Canadian memorial in the "R. T. Roy" case, together with certain original documents and proofs which consist of the affidavits of Alexander Gordon Duncan, James Martel, William Dobson and W. J. Stewart; also two original charts of Lake Huron, which are regarded by the Dominion Government as two very important documents in this case. Copies of the memorial are being communicated direct to the American arbitrator and his British colleagues as well as Sir Cecil Hurst. I much regret the delay in filing this memorial which, as you are aware, should have taken place on the 1st instant, but the documents appear to have been delayed in transit.

I am also sending under separate cover twenty-two copies of the printed memorial of the claim of Lillie Rowe Hewson et al, together with the following original documents referring to this case:—

(1) Certified copy under seal of the Court of Claims of stipulation entered into between the Assistant Attorney General and Messrs. Moyers and Consaul, covering the Treasury report filed in the Court of Claims in the case of Charles Sylvester Rowe.
(2) Certified copy under seal of the Court of Claims of stipulation entered into between the Assistant Attorney General and Messrs. Moyers and Consaul, covering the Treasury report filed in the Court of Claims in the case of William Burland and Company.
(3) Affidavit of Claude B. Jameson.
(4) Affidavit of Willis Chamberlin Rowe.
(5) Affidavit of Mrs. Cornelia E. Buchner.

I further transmit, at the request of the Canadian Government, twenty-two copies of the printed memorial in the case of the Gosselin hay claim, together with a file of documents comprising a typewritten copy of the memorial, a statement of the claim with the affidavit of the claimant, a certificate of birth, evidencing nationality, statements of imports of hay and duties paid, and photostat copies of statements and receipts issued to the claimant by the Customs agent at the Port of St. Albans, Vermont.

Copies of the memorials mentioned above are also being communicated to the Foreign Office for distribution to the Arbitrators. The original documents specified will, I assume, be left in your safe custody until some decision is reached in connection with the hearing of these claims.

Very sincerely yours,
G. H. THOMPSON.

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No. 282.

From His Majesty's Ambassador at Washington to the Governor General

No. 192.

BRITISH EMBASSY,
WASHINGTON, May 16, 1924.

MY LORD,—I have the honour to transmit to Your Lordship, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,

H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To the Foreign Office dated May 15th, 1924, with enclosure.	Schedule of claims to be dealt with under Pecuniary Claims Arbitration.

Reference: Washington despatch No. 181 dated May 9th, 1924.[1]

[1] No. 281.

ENCLOSURE 1 IN No. 282

From His Majesty's Ambassador at Washington to the Secretary of State for Foreign Affairs

No. 803.

BRITISH EMBASSY,
WASHINGTON, May 15, 1924.

SIR,—With reference to the last paragraph of my despatch No. 764 of the 9th instant, I have the honour to transmit to you herewith copy of a letter from Mr. Frederick Nielsen, acknowledging the receipt of the Canadian Answer in the "R. T. Roy" case and the British Memorials in the two claims of Lillie Rowe Hewson et al and the Hon. J. J. B. Gosselin.

I have, etc.,

ESME HOWARD.

The Rt. Hon. JAMES RAMSAY MACDONALD, M.P.,
etc., etc., etc.

ENCLOSURE 2 IN No. 282

From Mr. F. Nielsen, United States Agent in Pecuniary Claims Arbitration, to Mr. G. H. Thompson, Secretary, British Embassy, Washington

AMERICAN AND BRITISH CLAIMS ARBITRATION

Offices of the Agent and Counsel of the United States
WASHINGTON, May 10, 1924.

Mr. G. H. THOMPSON,
Second Secretary, British Embassy,
Washington, D.C.

DEAR MR. THOMPSON,—I have received your communication of May 5, 1924, transmitting papers in the R. T. Roy case and in certain of the so-called Canadian Hay cases.

I note your observation regarding a brief delay in filing an Answer in the Roy case. The inconsequential delay of a few days in this small case has occasioned me no inconvenience whatever.

I observe that you state that copies of the British Answer in the Roy case will be sent the American arbitrator and his British colleague. It seems to me that a practical course of procedure, which I thought we had about agreed upon, would be for each side that files a pleading to see to it that copies reach all the arbitrators. I have been proceeding according to that plan, and I presume that you or Sir Cecil will see to it that copies of your pleading in the Roy case reach M. Fromageot. I shall not send any to him.

With respect to the papers filed in the Hay cases, I may observe that, as you evidently are aware, no arrangement has been made with regard to the trial at the next session of the Tribunal of hay claims other than those in which the Memorials were filed some years ago. I assume that it is intended that those cases shall be heard as test cases. Furthermore, I think it unlikely that we would have time at the next session to try any other hay cases. In any event, in the absence of any arrangement relating to the pleadings recently sent me in cases of this character, I shall not file any Answers, at least not in the near future.

Very sincerely yours,

FRED'K NIELSEN,
Agent for the United States.

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 283.

From the Governor General to His Majesty's Ambassador at Washington

No. 94.

CANADA, GOVERNMENT HOUSE,
OTTAWA, June 19, 1924.

SIR,—With reference to previous correspondence regarding the Pecuniary Claims Arbitration with the United States, I have the honour to inform you that Messrs. Moyers and Consaul of Washington, who are acting for Magloire G. Blain, Peter Anderson, Nathaniel Bachelor and Pierre Bourgeois in connection with the so-called hay claims, have submitted to the Associate British Agent their reply to the Answer recently pleaded by Mr. Nielsen on behalf of the United States.

Mr. Newcombe has approved this reply and, as the time for delivery is short, has suggested to Messrs. Moyers and Consaul that they should have it printed and should hand the requisite number of copies to Your Excellency for delivery in accordance with the rules.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

No. 284.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, June 26, 1924.

My despatch dated January 5th. Confidential.[1] United States Ambassador has referred further to question of the claim of John McIver. If Ministers see no objection, it is proposed to reply that, after due consideration, His Majesty's Government regret this claim can only be dealt with in connection with negotiations for a second schedule of claims for decision by the Pecuniary Claims Arbitration Tribunal. Please telegraph reply.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 266.

No. 285.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, July 2, 1924.

Your telegram June 26th[1] on the subject of the McIver claim, in connection with the Pecuniary Claims Arbitration with the United States, my Ministers state that while this claim is at present the subject

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of negotiations between the Department of the Interior and the legal representative of the McIver estate which may possibly result in its settlement, when there would be no necessity of including it in the list of pecuniary claims to be referred to arbitration, there would appear to be no objection to the proposed reply as set out in your telegram referred to above.

GOVERNOR GENERAL.

[1] No. 284.

No. 286.

From His Majesty's Ambassador at Washington to the Governor General

No. 327.

BRITISH EMBASSY,
MANCHESTER, Mass., August 20, 1924.

MY LORD,—Your Excellency will recollect that in your despatch No. 59 of April 16th last[1] I was informed of the desire of the Canadian Government to be furnished with a copy of the alleged contract between the Pottawatomie Indians of Wisconsin and the Washington legal firm of Kappler and Merillat in regard to the claim of the former against the United States Government, and that in the second paragraph of my despatch No. 163 of April 26th[2] I mentioned that difficulties were being encountered in obtaining a copy of this document from the Department of State.

I now have the honour to transmit to Your Excellency herewith copy of a note from the United States Government enclosing a copy of the contract in question.

I have, etc.,

(For H.M. Ambassador)

H. W. BROOKS.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 271.
[2] No. 274.

ENCLOSURE 1 IN No. 286

From the Acting United States Secretary of State to His Majesty's Ambassador at Washington

DEPARTMENT OF STATE,
WASHINGTON, August 12, 1924.

EXCELLENCY,—I have the honour to refer to Mr. Chilton's Note No. 531 dated July 12, 1922, and subsequent correspondence, with regard to the claim of the firm of attorneys named Messrs. Kappler and Merillat to represent the Pottawatomie Indians in their claim against the United States Government. In April last, Mr. Thompson of your Embassy informally requested copies of the contracts which these attorneys claim had been executed with the Pottawatomie Indians. In compliance with his request, I now enclose copies of these contracts, received from Mr.

Merillat. The communication from Mr. Merillat transmitting the copies of the contracts enclosed contains the following statements respecting the circumstances under which they were negotiated:—

"I went to Canada and there negotiated a contract dated October 26, 1921. A copy of the same was transmitted to the Canadian Department of Indian Affairs.

"Subsequently, it was claimed that the Indians present did not represent the Canadian Pottawatomies as a whole and thereafter the Canadian Pottawatomie Indians, on their own initiative held a meeting on August 23, 1922, cancelled the Chisholm contract and made a supplemental contract or agreement with myself and Mr. Kappler.

"Neither Mr. Kappler nor myself nor any representatives of us was present at this meeting.

"A renewed claim being made in the interest of Mr. Chisholm that this second meeting had not been duly called, the Canadian Pottawatomie Indians notified the Canadian Department of Indian Affairs that they purposed to hold another meeting and had issued a call for a general assemblage of representatives of all bands of the Canadian Pottawatomie Indians to be held at the Saugeen Indian Reserve October 18, 1923.

"The meeting was attended by Mr. Thomas a Stout, Indian Agent at the Saugeen Indian Reserve, and the Indians ratified and confirmed the termination of contract relations with Mr. A. G. Chisholm and ratified and confirmed their contract made employing Kappler and Merillat as their attorneys.

"Neither Mr. Kappler nor myself nor any representative of us was present at this meeting.

"The papers executed constitute our right to be authorized representatives of the Canadian members of the Wisconsin Band of the Pottawatomie Tribe of Indians and pursuant to the authority granted as herein set forth we are representing these Indians."

Accept, etc.,

JOSEPH C. GREW,
Acting Secretary.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
Ambassador of Great Britain.

ENCLOSURE 2 IN No. 286

KNOW ALL MEN BY THESE PRESENTS: That this contract is made by and between the Canadian members of the Wisconsin Band of the Pottawatomie Tribe of Indians, acting through a Committee or Delegation composed of John B. Kewakeshig, David Kagonegona, Ben Kewakeshig and Mr. James A. Chapman, who were duly authorized to execute this contract by a Resolution adopted at a meeting of Canadian Pottawatomies held at Cape Croker, Canada, on the 26th day of October, 1921, pursuant to a call issued for the purpose, a copy of the Resolution passed at said meeting being attached hereto, the residence of said delegates or committee above named being at the Chippewa Hill Agency, in the Province of Ontario, Canada, party of the first part, and Charles H. Merillat and Charles J. Kappler, whose residence each is in the city of Washington, District of Columbia, and the occupation of each of whom is that of attorney at law, parties of the second part.

The purpose for which this contract is made is to secure the services of the parties of the second part as attorneys at law for the Canadian members of the Wisconsin Band of the Pottawatomie Tribe of Indians.

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The special thing or things to be done under this contract by the parties of the second part is to represent the Canadian members of the Wisconsin Band of the Pottawatomie Tribe of Indians as attorneys before the Executive Departments and the Congress of the United States at Washington, the Executive Departments and the courts of the United States, and elsewhere if occasion may arise, in the matter of a claim known as the claim of the Pottawatomie Band of Indians of Wisconsin in the United States and Canada against the Government of the United States, for moneys claimed to be due by reason of the Government of the United States declaring a forfeiture of the annuities and moneys due those of the Pottawatomie tribe who did not remove to Iowa or Kansas arising under the Treaty of September 26, 1833, and Act of Congress approved June 25, 1864.

This contract is to run for ten years from its date.

The fee to be paid to the parties of the second part in full for their services under the contract shall be as follows: An amount equal to fifteen per centum of such sum or sums as the parties of the second part may recover from the Government of the United States in payment or liquidation of said Pottawatomie claim. It is especially understood and agreed that no payment shall be made to Kappler and Merillat, parties of the second part on account of this contract, except out of the recovery, if any, from the United States on account of said Pottawatomie claim, and that if nothing be recovered then the parties of the second part shall not be entitled to receive anything whatsoever.

This contract is made by virtue of and under authority of the resolutions passed by the Canadian members of the Wisconsin Band of Pottawatomie Indians attached hereto, the parties of the first part hereby giving to said attorneys full power and authority in the premises to do and perform all things whatsoever that may be necessary and lawful in the defence, protection and conservation of the rights of said Canadian Pottawatomies and to sign and execute all papers that may be required on behalf of them, hereby ratifying and confirming all the lawful acts of said attorneys done in pursuance of the authority of this contract.

The parties of the second part hereby accept the employment herein set forth and provided for on the terms and conditions herein set forth, and agree that they will to the best of their ability do and perform the services stipulated and required by this contract.

Witness our hands and seals this 26th day of October, A.D. 1921, and executed in quadruplicate.

JOHN B. KEWAKESHIG (Seal).
DAVID KAGONEGONIA (Seal).
BEN KEWAKESHIG (Seal).
Parties of the First Part.

KAPPLER AND MERILLAT
by Chas. H. Merillat,
Charles J. Kappler,
Charles H. Merillat.
Parties of the Second Part.

I, Ben Kewakeshig, do hereby certify that the above contract was executed before me on the 26th day of October, 1921, by John B. Kewakeshig, David Kegonegona and Ben Kewakeshig as a Committee or Delegation appointed by a meeting of the Canadian members of the Wisconsin Band of Pottawatomie Indians held at Canada, on the 26th day of October, 1921, for that purpose, that the course and extent of the authority claimed by the said contracting parties was and is a resolution passed by the Canadian Pottawatomie Indians at a meeting of them held at Cape Croker, Canada, on the 26th day of October, A.D. 1921.

BEN KEWAKESHIG (Seal).

C 40882

Resolved, By the Pottawatomies of Ontario, assembled at Cape Croker, Province of Ontario, Canada, this 26th day of October, 1921, that the contract between the Pottawatomies and A. D. Chisholm, an attorney of London, Ontario, be and the same hereby is cancelled.

Resolved further, That Kappler & Merillat, Attorneys at Law, of Washington, D.C., United States of America, be employed as attorneys to represent the Canadian Pottawatomies in their claim against the United States of America. The pay of the attorneys shall be 15 per cent of whatever they win for the Canadian Pottawatomies. The Pottawatomies shall not pay anything or be liable for any expense except out of the moneys they win or recover from the United States. We appoint John B. Kewakeshig the Chairman of this meeting, and David Kagonegona of Cape Croker and Ben Kewakeshig of Chippewa Hill and James A. Chapman of Port Elgin to sign a contract between the Pottawatomies of Canada and Kappler and Merillat of Washington, D.C.

JOHN B. KEWAKESHIG,
Chairman of Council Meeting.

BEN KEWAKESHIG,
Secretary of Council Meeting.

I, Ben Kewakeshig of Chippewa Hill do hereby certify that I was elected Secretary of the council of the Pottawatomies of Canada held at Cape Croker in the province of Ontario, Canada, on the 26th day of October, 1921; that said council was attended by Pottawatomies from Chippewa Hill, Cape Croker, Kettle Point, Sarnia, Walpole Island, Muncy, Christian Island, Parry Sound, Wihwemikonsing; that John B. Kewakeshig was elected Chairman of the Council and that the above and foregoing resolution was duly and regularly adopted by said council meeting and that the signature of Ben Kewakeshig is his genuine signature and was authorized by said Council meeting to be affixed to said resolution.

BEN KEWAKESHIG,
Secretary of Council Meeting of Pottawatomie Indians of Canada held at Cape Croker on the 26th day of October, A.D. 1921.

DISTRICT OF COLUMBIA, SS:

I, Frederick L. Siddons, a Justice of the Supreme Court of the District of Columbia, said court being a court of record, do hereby officially certify that the aforesaid agreement was executed in my presence at Washington, District of Columbia, on the 11th day of January, 1922, by Charles H. Merillat and Charles J. Kappler, and that the interested parties thereto, as stated to me at the time and place of execution, are members of the Wisconsin Band of Pottawatomie Indians residing in the Dominion of Canada, and who by resolution of a council of said Indians held at Cape Croker on the 25th day of October, 1921, appointed a committee composed of John B. Kewakeshig, David Kegonegona, Ben Kewakeshig, and James A. Chapman, to execute said agreement on one part, and Charles H. Merillat and Charles J. Kappler, Attorneys at Law, residing at Washington, D.C., on the other part, said Charles H. Merillat and said Charles J. Kappler being personally before me at the time of execution of the same and being personally well known to me; and that the source and extent of authority claimed for making the said agreement

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is contained in cetain resolutions passed by said Indians at Cape Croker, Canada, on the 26th day of October, 1921, a copy of which is attached to said agreement.

In Witness Whereof, I have hereunto set my hand and official seal at Washington, District of Columbia, this 11th day of January, A.D. 1922.

FREDK. L. SIDDONS,
Justice, Supreme Court, D.C.

(Seal)

No. 287.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.
No. 94.

MANCHESTER, Mass., September 16, 1924.

Your despatch No. 63 of April 25th last.[1] American Agent has filed reply of United States in R. T. Roy claim under Pecuniary Claims Arbitration. Are any copies of this reply required by Mr. Newcombe, forty-eight have been received.

HOWARD.

[1] No. 273.

No. 288.

From the Governor General to His Majesty's Ambassador at Washington

OTTAWA, September 19, 1924.

Telegram.
114 A.

R. T. Roy Claim.

Mr. Newcombe would be glad to receive 20 copies of Reply of United States, referred to in your telegram September 16th.[1]

BYNG.

[1] No. 287.

No. 289.

From the Assistant Deputy Minister of Justice to the Under-Secretary of State for External Affairs

OTTAWA, September 18, 1924.

MEMORANDUM FOR THE UNDER-SECRETARY OF STATE FOR EXTERNAL AFFAIRS

Re: Pottawatomie Indians of Wisconsin now residing in Canada, against the United States Government

With reference to the despatch of the Secretary of State of the United States, dated 18th April last,[1] addressed to the British Ambassador at Washington, referred by you to the Minister of Justice, in which a request is made for information as to the precise grounds upon which the Government of Great Britain feels warranted in intervening on behalf of those Indians, and affirming that the Department of State was not clear as to the position of the British Government respecting the status of the Indians at the present time, and status at the time when the occurrence took place on which the claims are based, and the general principles

of law on which the claims are predicated, the undersigned begs to submit that the above-mentioned Indians, descendants of those who migrated to Canada between 1835 and 1840, were born in Canada and are therefore British subjects and under the administration and protection of the Canadian Government in virtue of the provisions of the British North America Act 1867 and the Indian legislation of Canada; that the basis of their claim is fully set forth in a memorial of the Pottawatomie Indians of Wisconsin asking for consideration of their claims for their proportionate shares of the tribal annuities, interest on trust funds and other moneys and estate of the Pottawatomie Nation of Indians addressed to the Senate and House of Representatives of the United States in Congress assembled, which memorial is Document No. 185, 57th Congress, 2nd Session, and is to be found in Senate Documents, Vol. 18. The claim of the Indians as the memorial shows was based on a treaty known as the Chicago Treaty and dated September 26th, 1833, whereby the chiefs and head men of the United Nation of Chippewa, Ottawa and Pottawatomie Indians ceded to the United States all of their lands along the western shore of Lake Michigan and extending down into the northern part of Illinois in consideration of certain money payments and a reservation west of the Mississippi river. The memorialists further declared that they based their claim on the broad ground of their right as members of the tribe to share according to their numbers in the tribal estate in whatever form it had existed for the years covered by the claim, and that such right was preserved to them by an Act of Congress on June 25th, 1864 (13 Stat. 172). Acting upon the petition of the Indians, Congress by an Act approved 21st June, 1906 (34 Stat. L. 382), directed the Secretary of the Department of the Interior to cause an investigation to be made of the claims of the memorialists as follows:—

"1. Showing on the best information now obtainable what number of said Indians continued to reside in the State of Wisconsin after the treaty of September 26, 1833.

"2. Their proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong, in which the claimant Indians have not shared.

"3. The amount of such moneys retained in the Treasury of the United States to the credit of the claimant Indians as directed by the provision of the Act of Congress approved June 25, 1864; if none have been so retained, the amount that should have been annually so retained under said law.

"4. Showing, also, what disposition has been made of the annuities, trust funds, and other moneys of said tribe;

"5. With the amounts and the status of any now remaining to their credit in the Treasury or otherwise.

"6. He will also cause an enrollment to be made of said Pottawatomie Indians;"

and to report thereon to Congress in the beginning of the next session thereof. The investigation was duly made and the report of the same is contained in House Documents, Vol. 105, Document No. 830, 60th Congress, 1st Session. The report finds the total of the proportionate shares of the Wisconsin Pottawatomies to be $1,964,565.87. With this report were submitted two reports of Mr. W. M. Wooster, clerk in the Department of Indian Affairs, instructed to make an enrollment of the Wisconsin Pottawatomies and their descendants in Wisconsin, Michigan and Canada as provided for by the said Act of Congress. The total number enrolled was 2,007 Indians, 457 of whom resided in Wisconsin and Michigan, and 1,550 in Canada, at the time the reports were made, in 1907. Of the above amount the share allotted to the Indians and their descendants residing in Wisconsin and Michigan was the sum of $447,339.00. This sum was appropriated by Congress for the benefit of the 457 Indians

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then living in the States of Wisconsin and Michigan. The share of the Pottawatomie Indians and their descendants residing in Canada would therefore be $1,517,226.87. The Canadian Government therefore submits for the consideration of the Government of the United States that the claim presented on behalf of the Pottawatomie Indians who migrated to Canada and their descendants, is supported in right and justice equally with that of the Pottawatomies residing in Wisconsin and Michigan and their descendants who remained in those States and whose claim has been recognized and paid by the Government of the United States, and should, it is humbly submitted, receive the like favourable treatment.

In this connection the undersigned begs to direct attention to the case of the New York Indians vs. the United States, reported in 40 Court of Claims Reports, 448, as to which the Court was given jurisdiction to hear the claim by virtue of a Statute of Congress, Chap. 52, Vol. 27, Statutes at Large, page 426. The claim of those Indians was based on the Treaty of Buffalo Creek, dated June 15th, 1838. That Statute provided among other things that the Statute of Limitations should not be pleaded as a bar to recovery in said case. During the course of the judgment it was stated that the Oneidas of Ontario were domiciled and living in New York in 1838 and were then parties to and beneficiaries under the Treaty, and in 1842 moved across the border into Canada, and the Court affirmed that it did not lie in the mouth of the defendants, the United States, to say that the Oneidas in Canada had forfeited their right to recover, and that the other Oneidas could not be heard to say that they were entitled to both their own and the other's damages, and that from an equitable point of view they did more to carry out the policy of the United States by removing from the State of New York than any of the Indians who were represented in the Court in that case. The Court further declared that it was settled by the decree of the Supreme Court of the United States that those Indians had acquired in 1838 an undivided estate in the western lands; that after the decision of the Supreme Court it could not be said that the United States declared a forfeiture against them either because they removed to Canada or because they failed to remove west of the Mississippi, and the Court then asks, "How then could their title be divested with no act of forfeiture on the part of the United States?"; and then the statement is made that the jurisdictional Act made no exception between Indians residing in Canada and those residing in the United States and that it gave all a remedy for all the proceeds for all the lands granted to them *in praesenti* by the Treaty; that the effect of the Statute was to allow all of the Indians to recover for all of the land sold and that the Court could neither say that a portion of the Indians may recover for all of such lands nor say that the land of some of these Indians had in some indescribable way become forfeited to the United States, nor that some Indians who were parties to the Treaty of Buffalo Creek were not to be admitted within the jurisdiction of the Court. The Court made a decree in favour of the claimants including the Oneidas residing in Canada and eventually all the Indians were paid the moneys found to be due to them.

The undersigned is unable to distinguish in principle the rights of the Pottawatomie Indians and their descendants who resided in Canada from those of the Oneida Indians and their descendants who also resided in Canada at the time the claim was made, and submits that they are at least entitled to be afforded upon legal and benevolent grounds the like legislative and judicial remedies.

W. STUART EDWARDS,
Asst. D.M.J.

[1] Enclosure in No. 275.

No. 290.

From His Majesty's Ambassador at Washington to the Governor General

BRITISH EMBASSY,
WASHINGTON, September 25, 1924.

YOUR EXCELLENCY,—I have the honour to transmit to you, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,

(For the Ambassador)

W. THOMSON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
Agent of United States Government.	Reply in the matter of the R. T. Roy Arbitration Claim. Reference Sir Esme Howard's telegram No. 94 of September 16th, 1924.)[1] (The maps accompanying the Reply have been transmitted to the Foreign Office.)

[1] No. 287.

No. 291.

From the Governor General to His Majesty's Ambassador at Washington

No. 146.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, October 3, 1924.

SIR,—With reference to Your Excellency's despatch No. 164 of the 28th April last,[1] regarding the claim of the Canadian Pottawatomie Indians, I have the honour to transmit, herewith, a copy of a Memorandum[2] prepared in the Department of Justice showing the grounds which the Dominion Government consider warrant support of the claim of these Indians against the United States Government.

My Government will be grateful if Your Excellency will communicate the purport of this Memorandum to the United States Government.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
SIR ESME HOWARD, G.C.M.G., K.C.B., C.V.O.,
H.B.M. Ambassador at Washington.

[1] No. 275.
[2] No. 289.

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WITH THE COMPLIMENTS OF THE

UNDER SECRETARY OF STATE FOR EXTERNAL AFFAIRS

OTTAWA, 16 Feb. 1925

FEB 16 Recd

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 292.

From His Majesty's Ambassador at Washington to the Governor General

378.

BRITISH EMBASSY,
WASHINGTON, October 8, 1924.

MY LORD,—I have the honour to transmit to Your Lordship, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To the Department of State, Washington, D.C., October 8, 1924.	Claim of the Pottawatomie Indians.

Reference: Ottawa despatch No. 146 of October 3rd, 1924 [1]

[1] No. 291.

ENCLOSURE IN No. 292

From His Majesty's Ambassador at Washington to the United States Secretary of State

No. 915.

BRITISH EMBASSY,
WASHINGTON, D.C., October 8, 1924.

SIR,—I have the honour to refer to the note which you were so good as to address to me on April 18th last regarding the outstanding claim against the United States Government of the Pottawatomie Indians of Wisconsin now residing in Canada and to inform you of the receipt of a communication from Lord Byng of Vimy setting forth the facts which have moved the Dominion Government to support the claim of the Indians in question.

The above-mentioned Indians, descendants of those who migrated to Canada between 1835 and 1840, were born in Canada and are therefore British subjects and under the administration and protection of the Canadian Government in virtue of the provisions of the British North American Act, 1867, and the Indian legislation of Canada. The basis of their claim is fully set forth in a memorial of the Pottawatomie Indians of Wisconsin asking for consideration of their claims for their proportionate shares of the tribal annuities, interest on trust funds and other moneys and estate of the Pottawatomie nation of Indians addressed to the Senate and House of Representatives of the United States in Congress assembled, which memorial is Document No. 185, 57th Congress,

FEB 16 Recd

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2nd Session, and is to be found in Senate Documents, Vol. 18. The claim of the Indians, as the memorial shows, was based on a treaty known as the Chicago Treaty and dated September 26th, 1833, whereby the chiefs and head men of the United Nation of Chippewa, Ottawa and Pottawatomie Indians ceded to the United States all of their lands along the western shore of Lake Michigan and extending down into the northern part of Illinois in consideration of certain money payments and a reservation west of the Mississippi river. The memorialists further declared that they based their claim on the broad ground of their right as members of the tribe to share according to their numbers in the tribal estate in whatever form it had existed for the years covered by the claim, and that such right was preserved to them by an Act of Congress on June 25th, 1864 (13 Stat. 172). Acting upon the petition of the Indians, Congress by an Act approved 21st June, 1906 (34 Stat. L. 382), directed the Secretary of the Department of the Interior to cause an investigation to be made of the claims of the memorialists as follows:—

> "1. Showing on the best information now obtainable what number of said Indians continued to reside in the State of Wisconsin after the treaty of September 26, 1833.
>
> 2. Their proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong, in which the claimant Indians have not shared.
>
> 3. The amount of such moneys retained in the Treasury of the United States to the credit of the claimant Indians as directed by the provision of the Act of Congress approved June 25, 1864; if none have been so retained, the amount that should have been annually so retained under said law.
>
> 4. Showing, also, what disposition has been made of the annuities; trust funds, and other moneys of said tribe.
>
> 5. With the amounts and the status of any now remaining to their credit in the Treasury or otherwise.
>
> 6. He will also cause an enrolment to be made of said Pottawatomie Indians";

and to report thereon to Congress in the beginning of the next Session thereof. The investigation was duly made and the report of the same is contained in House Documents, Vol. 103, Document No. 830, 60th Congress, 1st Session. The report finds the total of the proportionate shares of the Wisconsin Pottawatomies to be $1,964,505.87. With this report were submitted two reports of Mr. W. M. Wooster, clerk in the Department of Indian Affairs, who had been instructed to make an enrolment of the Wisconsin Pottawatomies and their descendants in Wisconsin, Michigan and Canada as provided for by the said Act of Congress. The total number enrolled was 2,007 Indians, 457 of whom resided in Wisconsin and Michigan, and 1,550 in Canada, at the time the reports were made, in 1907. Of the above amount the share allotted to the Indians and their descendants residing in Wisconsin and Michigan was the sum of $447,339. This sum was appropriated by Congress for the benefit of the 457 Indians then living in the States of Wisconsin and Michigan. The share of the Pottawatomie Indians and their descendants residing in Canada would therefore be $1,517,226.87. The Canadian Government therefore are of opinion that the claim presented on behalf of the Pottawatomie Indians who migrated to Canada, and their descendants, is supported in right and justice equally with that of the Pottawatomies residing in Wisconsin and Michigan and their descendants who remained in those states, and whose claim has been recognized and paid by the Government of the United States, and should receive the like favourable treatment.

In this connection I would draw attention to the case of the New York Indians vs. the United States, reported in 40 Court of Claims Reports, 448, as to which the court was given jurisdiction to hear the

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claim by virtue of a Statute of Congress, Chap. 52, Vol. 27, Statutes at Large, page 426. The claim of those Indians was based on the Treaty of Buffalo Creek, dated June 15th, 1838. That Statute provided among other things that the Statute of Limitations should not be pleaded as a bar to recovery in said case. During the course of the judgment it was stated that the Oneidas of Ontario were domiciled and living in New York in 1838 and were then parties to and beneficiaries under the Treaty, and in 1842 moved across the border into Canada, and the Court affirmed that it did not lie in the mouth of the defendants, the United States, to say that the Oneidas in Canada had forfeited their right to recover, and that the other Oneidas could not be heard to say that they were entitled to both their own and the other's damages, and that from an equitable point of view they did more to carry out the policy of the United States by removing from the State of New York than any of the Indians who were represented in the Court in that case. The Court further declared that it was settled by the decree of the Supreme Court of the United States that those Indians had acquired in 1838 an undivided estate in the western lands; that after the decision of the Supreme Court it could not be said that the United States declared a forfeiture against them either because they removed to Canada or because they failed to remove west of the Mississippi, and the Court then asks, "How then could their title be divested with no act of forfeiture on the part of the United States?"; the statement is then made that the jurisdictional Act made no exception between Indians residing in Canada and those residing in the United States and that it gave all a remedy for all the proceeds for all the lands granted to them *in prassenti* by the Treaty; further, that the effect of the Statute was to allow all of the Indians to recover for all of the land sold and that the Court could neither say that a portion of the Indians may recover for all of such lands nor say that the land of some of these Indians had in some indescribable way become forfeited to the United States, nor that some Indians who were parties to the Treaty of Buffalo Creek were not to be admitted within the jurisdiction of the Court. The Court made a decree in favour of the claimants, including the Oneidas residing in Canada, and eventually all the Indians were paid the moneys found to be due to them.

The Dominion Government are unable to distinguish in principle the rights of the Pottawatomie Indians and their descendants who resided in Canada from those of the Oneida Indians and their descendants who also resided in Canada at the time the claim was made, and feel that they are at least entitled to be afforded upon legal and benevolent grounds the like legislative and judicial remedies.

I trust that in the light of the above considerations the appropriate authorities of the United States Government will be disposed to take early steps to effect a settlement of this long outstanding claim.

I have, etc.,
ESME HOWARD.

The Honourable
CHARLES E. HUGHES,
Secretary of State of the United States,
Washington, D.C.

No. 293.

From the Acting Under-Secretary of State for External Affairs to the Governor General's Secretary

OTTAWA, October 15, 1924.

SIR,—With reference to the telegram to His Excellency from the Secretary of State for the Colonies, dated the 12th September last,[1] pressing for a reply to his previous despatch No. 136 of the 25th of March,

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1924,[2] relative to the payment of awards made by the Pecuniary Claims Arbitration Tribunal, I have the honour to state that the Canadian Government concurs in the proposal that provision should be made by the respective legislative authorities of the High Contracting Governments for the immediate payment of the awards, and I am to request that His Excellency may be humbly moved so to inform Mr. Secretary Thomas by telegraph, with an intimation, however, that it is unable to regard the F. Gerring, Jr., claim as the subject of any award or liability, and that full particulars of their attitude as regards this case will be included in a following despatch.

In such despatch I am to request that it may be represented that while the Government acquiesces in the general principle of the proposal submitted in the Colonial Office despatch of the 25th of March, it is observed that in the table showing the indebtedness of the Canadian Government to the Government of the United States enclosed therein, there erroneously appears the item "F. Gerring, Jr., $9,000." It might be pointed out that the proposal is for the payment of the awards for and against, and there is no award in the Gerring case under the provisions of the treaty. It is true that the case was heard and that the Tribunal did on 1st May, 1914, hand down a note in the following terms:—

"The Tribunal considering that an amicable settlement of the case has been arrived at by the Governments concerned, according to which the Canadian Government is disposed to place at the disposal of the United States Government a sum of $9,000, to be employed in blotting out the recollection by the American citizen affected of an incident which on its side the Government of the United States will regard henceforth as finally and from every point of view closed and settled.

"Decides that the said settlement shall be put on the record of this Tribunal, and shall be complied with by the Governments in conformity therewith."

Afterwards the Deputy Minister of Justice, who was also Associate British Agent, received a letter of 11th December, 1914, from Mr. William W. Bride, Counsel in Charge and Acting Joint Secretary on the part of the United States, informing him that the President of the Tribunal had requested that there should be a concurrence in the above conclusion, and that Mr. Lansing, who was at the time of the aforesaid decision, the agent of the United States, had accepted the award, but that communications which had been addressed to Mr. Hurst, who was the British Agent, and to the British Embassy, in an endeavour to procure concurrence on the part of His Majesty's Government, had been without result, and Mr. Bride inquired whether it would in these circumstances be proper that this concurrence should be entered by the Associate British Agent in view of the fact that the claim was one against the Government of Canada. Mr. Newcombe answered on 2nd December, 1914, stating that although certainly disposed to comply with a request of the President of the Tribunal, he regretted that he found it quite impossible, in the absence of explanation, to concur in the so-called award either as to the narrative or the conclusion. No explanation has since been forthcoming. Certainly there was no settlement or agreement between the high contracting powers such as that expressed in the note of the Tribunal upon which the direction to pay is founded; neither was there any evidence of such a settlement submitted. Apparently the decision was intended to disclose the terms upon which in the view of the Tribunal the controversy might be amicably adjusted and to form the basis of the invitation for concurrence which subsequently proceeded from the Tribunal and from the United States Acting Joint Secretary.

The Canadian Government is not and never was party to the suggested settlement; and, as has been stated, the United States Acting Joint Secretary was informed so long ago as December, 1914, that the

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Associate British Agent on behalf of Canada would not concur. It maintains this attitude of non-concurrence, and therefore, while quite agreeable to the project of immediate provision for payment of the awards on both sides, cannot in the present circumstances regard the Gerring claim as the subject of any award or liability.

It suggests therefore that in the further negotiations the case of the Gerring should be eliminated, and that it may be spoken to if necessary when the Tribunal reassembles.

I have, etc.,
W. H. WALKER,
Acting Under-Secretary of State for External Affairs.

The Governor General's Secretary,
Ottawa.

[1] Not printed.
[2] No. 270.

No. 294.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, October 16, 1924.

Your telegram of September 12th[1] and your despatch of March 25th, No. 136,[2] Pecuniary Claims Arbitration Tribunal. Canadian Government concurs in the proposal that provision should be made by the respective legislative authorities of the High Contracting Governments for the immediate payment of the awards. Canadian Government intimates, however, that it is unable to regard the F. Gerring Jr. claim as the subject of any award or liability, and that full particulars of their attitude as regards this case will be included in despatch following by next mail.

GOVERNOR GENERAL.

[1] Not printed.
[2] No. 270.

No. 295.

From the Governor General to the Secretary of State for the Colonies

No. 439.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, October 21, 1924.

15th October.

SIR,—With reference to your telegram of the 12th September last[1] and my telegram of the 16th instant,[2] relative to the payment of awards made by the Pecuniary Claims Arbitration Tribunal, I have the honour to transmit, herewith, a copy of a letter from the Department of the Secretary of State for External Affairs[3] setting forth the views of my Government.

It was upon the first paragraph of this letter that my telegram of the 16th instant was based.

I have, etc.,
BYNG OF VIMY.

The Right Honourable
JAMES H. THOMAS, M.P.,
Secretary of State for the Colonies.

[1] Not printed.
[2] No. 294.
[3] No. 293.

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No. 296.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, November 14, 1924.

Your despatch dated October 22nd, 1912, No. 571,[1] and previous correspondence regarding Pecuniary Claims Tribunal. United States Government are pressing for increase of 20 dollars a day in the remuneration for arbitration for the period during which compensation already agreed is paid, on the grounds that the present remuneration is altogether insufficient, having regard to (i) changed conditions, (ii) fee paid on similar occasions, such as recent United States of America and Norway arbitration and United States of America and Mexico Boundary arbitration, (iii) nature and volume of work to be performed at the next Session. In view of the importance attached by the United States Government to this proposal, His Majesty's Government are prepared to agree, subject to the concurrence of your Government. As the United States Government are pressing for very early decision, I should be glad to learn by telegraph whether your Ministers agree. Despatch follows by mail.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 93.

No. 297.

From the Secretary of State for the Colonies to the Governor General

Canada.

Confidential.

DOWNING STREET, November 25, 1924.

Fr. U.S. Amb.: 15th May
To U.S. Amb.: 8th July
Fr. U.S. Amb.: 8th Sept.
Conversation between P.M. & U.S. Amb. 23rd September.

MY LORD,—With reference to my telegram of the 14th November[1] I have the honour to transmit to Your Excellency, for the consideration of your Ministers, the accompanying copies of correspondence relating to the proposal of the United States Government that the remuneration granted to the Arbitrators under the Pecuniary Claims Convention should be increased by twenty dollars a day.

2. It will be seen from the Foreign Office Note of 8th July that, at first, it was the view of His Majesty's Government that the proposed increase was unnecessary. In view, however, of the importance attached to the matter by the United States Government, His Majesty's Government do not think it expedient to maintain their original attitude. They trust that your Government will concur in the increase in remuneration suggested by Mr. Kellogg.

3. In this connection I would refer to the following correspondence on the subject of the arrangements made in 1911-12 with regard to the remuneration of the Arbitrators.

Telegram to Governor General, 18th February, 1911.[2]
Despatch from Governor General No. 150, 22nd March, 1911.[3]
Despatch to Governor General No. 356, 16th May, 1911.[4]
Despatch from Governor General No. 387, 27th June, 1911.[5]
Despatch to Governor General No. 607, 31st August, 1912.[6]
Despatch from Governor General No. 571, 22nd October, 1912.[7]

I have, etc.,
L. S. AMERY,

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 296.
[2] No. 5, Page 226, Vol. I.
[3] No. 18, Page 248, Vol. I.
[4] No. 45, Page 290, Vol. I.
[5] No. 64, Page 297, Vol. I.
[6] No. 82.
[7] No. 93.

ENCLOSURE 1 IN No. 297

From the United States Ambassador to the Secretary of State for Foreign Affairs

EMBASSY OF THE UNITED STATES OF AMERICA,
LONDON, May 15, 1924.

MY DEAR MR. MACDONALD,—In addition to our conversation in relation to the compensation of the arbitrators under the Treaty of 1910, I am leaving with you three complete copies of the instruction which I received from the Secretary of State, as a memorandum for your assistance.

Sincerely yours,
FRANK B. KELLOGG.

The Right Honourable
J. RAMSAY MACDONALD,
etc., etc., etc.

ENCLOSURE 2 IN No. 297

MEMORANDUM

By an exchange of notes which took place in 1912, the Government of Great Britain and the Government of the United States agreed that the honorarium of each of the arbitrators under the Special Agreement concluded August 18, 1910, should be fixed at $1,200 per month during the sessions of the Tribunal. A proposal that compensation be fixed at that rate was submitted in a note under date of July 19, 1912, received by the Department of State from the British Embassy at Washington, and was agreed to in a communication addressed to the Embassy by the Department of State under date of July 27, 1912. The United States Government now desires to propose to His Majesty's Government that a moderate increase be made in the compensation of the arbitrators, and suggests that an additional sum of $20 per day for the period during which the compensation already agreed upon is paid be allowed to each arbitrator.

The Department of State is of the opinion that considerations of fairness to the arbitrators and still more important considerations in respect of the proper conduct of international arbitration make it desirable that this increased compensation should be paid. The original basis of compensation was fixed on the theory that the arbitrators would serve continuously, so that their compensation would be reasonably adequate for the services rendered, and would not be, as it now unfortunately is, purely nominal. Moreover, conditions have of course greatly changed since the work of the arbitration was interrupted by the outbreak of war. The present rate of compensation can scarcely more than cover the expenses to which the arbitrators are put in attending a session of the Tribunal. Undoubtedly the interest which arbitrators have in international affairs is the controlling motive in prompting them to serve, but it is hardly to be expected that they will make considerable sacrifices to act as arbitrators, unless some compensation is given them at least in a measure commensurate with the importance and dignity of the work performed.

When it became necessary to reorganize the Tribunal for the last session which it held, it was possible for the United States to designate an arbitrator who was temporarily residing abroad, having for the time being detached himself from his professional activities, and for the British Government to name an arbitrator resident in London, where the Tribunal met. The Agent of the United States has informed the Department of

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State that the British Agent expressed himself as doubtful that it would be possible for Monsieur Fromageot, the President of the Tribunal, to serve at a session to be held in Washington in view of the onerous character of his duties in the Foreign Office at Paris. The Secretary of State considers that it would be most unfortunate should it be necessary to replace Monsieur Fromageot during the last stages of the work of the arbitration, in view particularly of the fact that two changes in the personnel of the Tribunal were made necessary by the withdrawal of two of the originally appointed members. The pending arbitration is one phase of a system by which the two Governments have so fortunately for more than a century settled by judicial methods differences which diplomacy has failed to solve. The Tribunal has up to date decided about thirty-five cases, in a considerable majority of which the British Government have been fortunate enough to obtain favourable decisions. Other important and difficult cases remain to be arbitrated. Numerous interesting international precedents will be established by this Tribunal organized by the two Governments which have taken a leading role in international arbitration. The British Government are of course aware of the high qualifications of ability and character possessed by Monsieur Fromageot. His designation as umpire was proposed by the British Government in a note addressed to Secretary of State Knox by Ambassador Bryce under date of May 26, 1911, and the proposal was renewed in a communication of August 11, 1911. The two Governments joined in making representations to him and to the French Government with a view to obtaining his services. It may be possible that, although Monsieur Fromageot might find it inconvenient to serve further on the Tribunal, he might be prompted to make the necessary sacrifice if his remuneration were slightly increased. The American Government, therefore, hopes that His Majesty's Government will concur in its proposal, and will join in representations looking to his retention similar to those made in connection with his selection, should he show a disposition to retire. The suggestions made above with respect to proper compensation apply of course generally to all of the three arbitrators. It may be mentioned that in relation to the arbitration of a single case between the United States and Norway, which took place recently, the Norwegian Government suggested that each of the arbitrators be paid $15,000. It was agreed that they should be paid $10,000 and allowed a sum for expenses. The Tribunal was in session for a little more than a month. In the arbitration of another case, the so-called Chamizal Boundary dispute between the United States and Mexico, the distinguished Canadian lawyer who served on the Arbitral Tribunal, requested compensation in the amount of $25,000, and an allowance for certain expenses. He was given $15,000 and a sum to cover expenses. The Tribunal was in session for about a month. The share of each Government in the increased compensation for the arbitrators in the pending arbitration would probably be merely a sum of about $2,000.

American Embassy,
London, May 15th, 1924.

ENCLOSURE 3 IN No. 297

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
July 8, 1924.

YOUR EXCELLENCY,—With reference to the memorandum which Your Excellency was good enough to communicate to me on the 15th May concerning an increase in the compensation of the arbitrators under the official agreement concluded between the United States Government

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and His Majesty's Government on August 18th, 1910, I have the honour to inform you that it does not appear to His Majesty's Government that any increase is at present necessary.

2. So far as His Majesty's Government are aware the President of the Tribunal, Monsieur Fromageot, has shown no dissatisfaction with the remuneration which he at present receives. So far as concerns the British arbitrator and the British agents hitherto employed (excluding Mr. Mitchell Innes, who acted as British arbitrator during the recent short session of the Tribunal in London), the only function of the remuneration is to cover expenses, since hitherto these members of the Tribunal have all been in the receipt of official salaries and have continued to draw these emoluments during the period of their service on the Tribunal. The remuneration now given appears to His Majesty's Government to be amply sufficient for this purpose of covering expenses, £250 since it amounts to some two hundred and fifty pounds per month with £250 an additional two hundred and fifty pounds representing compensation for the labour involved in reading up the papers in the claims to be decided at the session of the Tribunal.

3. In these circumstances I regret that His Majesty's Government do not see their way to fall in with the proposal of the United States Government.

I have, etc.
(in the absence of the Secretary of State),
G. R. WARNER.

His Excellency
The Honourable
FRANK B. KELLOGG,
etc., etc., etc.

ENCLOSURE 4 IN No. 297

From the United States Ambassador to the Secretary of State for Foreign Affairs

LONDON, September 8, 1924.

SIR,—I have the honour to acknowledge the receipt of the communication addressed to me by the Foreign Office under date of July 8, 1924, in which I was informed that His Majesty's Government do not see their way clear to concur in the proposal, which under instructions from my Government I submitted to you. with regard to a moderate increase in the compensation of the arbitrator under the special agreement concluded August 18, 1910.

In the light of the reasons communicated to me why His Majesty's Government do not find my Government's proposal acceptable, I am instructed to request your consideration of certain further suggestions in relation to this matter.

It is stated in the note under acknowledgment that so far as His Majesty's Government are aware M. Fromageot has shown no dissatisfaction with the remuneration which he at present receives, and that so far as concerns the British arbitrator and the British agents hitherto employed (excluding Mr. Mitchell Innes) the only function of the remuneration is to cover expenses, since these hitherto members of the Tribunal have all been in the receipt of official salaries and have continued to draw these emoluments during the period of their service on the Tribunal. It is added that the remuneration now given appears to His Majesty's Government to be amply sufficient for the purpose of covering expenses.

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It was not the purpose of my Government to raise any question with regard to the compensation of agents, since that is obviously a matter for each Government to determine for itself. The same is true with regard to any compensation that may be paid to an arbitrator of either Government for services other than those in connection with the work of the Tribunal. The Treaty does not, of course, forbid either party from designating a government official as arbitrator, but any compensation which such arbitrator might receive for his official duties can hardly, under the existing arrangement between the two Governments, be considered to be compensation for his services as arbitrator which is paid by the two Governments in equal shares for services rendered in behalf of both of them. The United States has at no time during the pending arbitration designated as an arbitrator a person occupying an official position in the Government.

My Government, of course, does not consider that it is a matter of any concern to it whether or not M. Fromageot while serving as arbitrator receives compensation from his Government. If he does, such compensation is not remuneration to him from the two Governments, parties to the Agreement of August 18th, 1910, for services rendered to them.

No representations have been made to the Government of the United States by M. Fromageot, or by any other member of the Tribunal, as to dissatisfaction with the remuneration at present paid. It is unlikely that any of them would be disposed to make such representations, since conformably to general practice the initiative in fixing compensation is taken by the parties to an arbitration. While the remuneration now given may be adequate to cover expenses, my Government considers it to be undesirable as well as improper, that persons performing important duties as arbitrators should be asked to serve without compensation. Such a course is surely not in accordance with the general practice among nations and seems to be particularly objectionable on the part of our two Governments which have always been extremely solicitous to obtain the services of well-qualified arbitrators. It may be mentioned in this connection that in the Newfoundland Fisheries Arbitration of 1910, each of the five members of the Arbitral Tribunal, among whom was Sir Charles Fitzpatrick, who has also served on the Tribunal in the pending arbitration, received $15,000 in addition to expenses, so that the compensation paid to these arbitrators for services covering a period approximately the same as that required of the arbitrators in connection with the last session of the Tribunal in the pending arbitration was about five times that paid to them. My Government is apprehensive that, considering the nature and volume of the work planned for the next session of the Tribunal, and the change in conditions existing when the work of the arbitration began, a very unfortunate situation may arise in which it will be necessary to obtain other arbitrators, because those now serving may consider the present compensation altogether inadequate. Furthermore, my Government is of the opinion that such compensation could not be properly offered to other qualified persons.

My Government has not designated a Government official to act as arbitrator in the pending arbitration and of course the President of the Tribunal is not an official of either Government. If the British Government should again designate one of their officials to act as arbitrator and consider that his compensation while he is relieved of his regular official duties plus the compensation paid him as arbitrator should properly be regarded as his compensation for his services as arbitrator, perhaps an understanding could be reached whereby the American arbitrator could receive from my Government an additional sum such as has been suggested that in its opinion would make his compensation measurably adequate for the services performed, and whereby the two Governments would in equal shares pay the President of the Tribunal a moderate increase. The sum would, of course, be an insignificant one for each Government.

Among the approximately one hundred cases which it is hoped to dispose of at the next session is one in which the pleadings alone embrace ten volumes. A proper disposition of this case, and of certain others perhaps, would seem to my Government to be worth the compensation which under the present arrangement is to be paid to arbitrators for dealing with all the pending cases.

My Government would be glad if His Majesty's Government would give this matter further consideration in the light of the proposal and suggestions contained in this communication.

I have, etc.
(for the Ambassador),
FREDERICK A. STERLING,
Counsellor of Embassy.

The Right Honourable
J. RAMSAY MACDONALD,
etc., etc., etc.,
Foreign Office, S.W.

ENCLOSURE 5 IN No. 297

EXTRACT from conversation between the Prime Minister and the American Ambassador at No. 10 Downing Street at 9.30 a.m., on Tuesday, September 23rd.

He also raised the question of allowances for members of the British-American Arbitration Committee. When the Committee met in Europe he thought that the allowances paid were sufficient, but they have decided that their next meeting must be held in Washington, and Mr. Hughes' strong conviction is that the members will be very seriously injured financially unless an extra allowance is granted to them. The American suggestion is that each member should receive 20 dollars per day extra. He had received a letter from the Foreign Office deprecating the proposal, but Mr. Hughes felt so keenly about it that he had ventured to raise it again and to ask for my personal examination of the case.

No. 298.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, December 1, 1924.

Telegram from your Government to the British Agent, Pecuniary Claims Commission, requesting postponement of the "Cayuga" case, was communicated to the United States Government but message has now been received from the United States Agent expressing dissatisfaction at the proposed delay, as he fears arbitration may be so drawn out as to compel approach to Congress for further appropriation, since the present appropriation lapses July 1st next. Secretary of State for Foreign Affairs observes that His Majesty's Government are pledged by the arrangement made last year (see message to Newcombe communicated in Secretary of State's telegram of December 3rd, 1923) to a session of considerable duration to open at Washington early next year, and intended to complete the hearing of all cases contained in the first schedule, and that request for delay in connection with the "Cayuga" claim embarrassing, especially in view of the fact that the printed pleadings in this case were delivered 11 years ago. He would propose, however, to endeavour to meet the situation by suggesting to the United States Government that the session should begin February 15th instead of January 15th, cases

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affecting His Majesty's Government being dealt with first instead of second, and Canadian cases second. As each group of cases expected to take about a month, this would give two extra months to your Government and one to the Newfoundland Government, which also desires extension of time. If this is accepted, it is thought the "Cayuga" claim should be taken first in the Canadian group, Webster claim being taken last of the British claims, since both raise the point as to the interpretation of the provisions of the 1853 Convention, barring claims arising before the coming into force of that Convention. I should be glad to learn by telegraph whether your Government concurs in these proposals.

British Agent is communicating with Sir Charles Fitzpatrick regarding the arrangements for the Washington session.

Unfortunately the French Government cannot spare the services of Fromageot to act as umpire during this session. It has been suggested to the United States Ambassador that, as in 1911 (see my telegram dated February 18th of that year) Governments concerned should agree in a name to be recommended to be national arbitrator for appointment as umpire under Article 3, 1910 Convention.

Secretary of State for Foreign Affairs is also anxious for urgent reply to my telegram dated November 14th[1] regarding Arbitrator, as to which the United States Ambassador continues to make enquiries.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 296.

No. 299.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, December 2, 1924.

To U.S. Amb. 25th November.
Fr. U.S. Amb. 19th Nov.

MY LORD,—With reference to my telegram of the 1st December,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copies of correspondence with the United States Ambassador regarding certain questions arising in connection with the forthcoming session of the Pecuniary Claims Arbitration Tribunal.

2. As regards the last paragraph of the note to the United States Ambassador of the 25th November the Secretary of State for Foreign Affairs has explained to me that the reasons which influenced him in suggesting that the question of payment of the awards already made should stand over were first, that if there is a reasonable chance of completing the whole work of the schedule of claims by May next with the prospect of being able to arrange for the abandonment on either side of any second schedule of claims, the step at which the final award will be drawn up will be reached without undue delay; and secondly that postponement is desirable owing to the question as to the validity of the Gorring award raised in your despatch No. 439 of the 21st October.[2]

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 298.
[2] No. 295.

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ENCLOSURE 1 IN No. 299

From the United States Ambassador to the Secretary of State for Foreign Affairs

MEMORANDUM

Referring to previous correspondence concerning the services of Mr. Fromageot as President of the British-American Arbitration Tribunal, established under the Treaty of 1910, the American Government is advised that Mr. Fromageot has withdrawn from the pending arbitration, the French Premier having stated that his services cannot be spared. In view of the high regard which both Governments entertain for Mr. Fromageot, the American Ambassador inquires whether His Majesty's Government consider that it would be advisable to seek by joint action to retain his services if it should be practicable to do so, by dividing up the work scheduled for the coming session into two sessions, one of which might be held at Paris.

The Ambassador would also like to be informed at the earliest possible moment of the name of the British Arbitrator, it being understood that Mr. Mitchell-Innes has been replaced or will be replaced, so that if no new arrangements are to be made with a view to retaining the services of Mr. Fromageot, the American Arbitrator may, jointly with the British Arbitrator, name a new umpire, in conformity with Article 3 of the Arbitral Agreement of 1910.

The Ambassador respectfully suggests the very urgent necessity of immediate action, in view of the time required for making a selection, if necessary, the probable difficulty of obtaining a new umpire, and the necessity of affording him time in which to examine extremely voluminous documents which from time to time have been filed with the Arbitrators before chosen. It is understood that the next meeting is to be held in Washington on January 10, 1925.

The Ambassador also suggests that it is very important that the compensation of these Arbitrators should be increased, a subject which has already been taken up with the Foreign Office, and which the Ambassador is explaining to-day more in detail to the Secretary of State for Foreign Affairs.

London, November 19, 1924.

ENCLOSURE 2 IN No. 299

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
November 25, 1924.

YOUR EXCELLENCY,—I have the honour to acknowledge the receipt of Your Excellency's memorandum dated November 19th, regarding certain questions arising in connection with the forthcoming session of the British American Pecuniary Claims Arbitration Tribunal.

2. With regard to your enquiry whether it would appear advisable to seek to retain the services of Monsieur Fromageot as President of the Tribunal and in order to do so to divide the work of the coming session into two sessions, one of which might be held at Paris, I beg leave to state that I am advised that no great advantage would ensue from such a division of the work of the Tribunal. It is necessary that cases in which the Newfoundland and Canadian Governments are concerned should be dealt with on the American continent. The Canadian claim of the Cayuga Indians raises a point as to the interpretation of the treaty of 1853; the

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same point arises in connection with the Webster claim in which His Majesty's Government is concerned. The result is that some three-quarters of the work of the Tribunal must in any case be dealt with at a session in America and that only one-quarter could be dealt with at a session in Paris. Three-quarters of the work would therefore fall to be dealt with under a new President and only a quarter under Monsieur Fromageot. It is important to secure for the three-quarters of the work to be dealt with in America the services of a man of as wide experience as possible and there would seem to be a better prospect of doing so if there is a substantial volume of work to do. For this reason I consider to my regret that it would be best to abandon any attempt to secure the services of Monsieur Fromageot and to agree to nominate a new president who should deal with the whole work of the session.

3. I beg leave to suggest that the United States Government should join with His Majesty's Government in sending to the Minister for Foreign Affairs in Paris a very cordial expression of thanks for the services which Monsieur Fromageot has rendered to the Tribunal in presiding over its sittings in the sessions of 1913, 1914 and 1923.

4. The appointment of Sir C. Fitzpatrick as British arbitrator still holds good. I am making enquiries as to whether he will be available for the ensuing session. I have the honour further to inform you that no reply has yet been received from the Canadian Government regarding the proposal to increase the remuneration of the arbitrators but that a further urgent request is being made for an early expression of their views, of which I shall not fail to inform you immediately on their receipt.

5. With regard to the proposal for the immediate payment of the awards already made by the Tribunal, I beg leave to suggest that, in view of the arrangements proposed at to-day's interview for a session in the early months of 1925 which will, it is hoped, complete the work in connection with the cases listed in the first schedule to the Pecuniary Claims Convention and in view further of the possibility that it may not be necessary to arrange a second schedule of claims, it would seem preferable to let the question of an interim payment to the claimants stand over for the present in the hope that the final award contemplated by article 8 of the Convention may be made within a comparatively short space of time. Action on these lines would not prevent either government if it thought it desirable to do so, from advancing the sums awarded in cases where they felt it wise to do so.

I have, etc.,
(For the Secretary of State)
G. R. WARNER.

His Excellency
The Honourable FRANK B. KELLOGG,
etc., etc., etc.

No. 300.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, December 3, 1924.

Your telegram 14th November,[1] Pecuniary Claims Tribunal. Canadian Government acquiesces in the proposal.

GOVERNOR GENERAL.

[1] No. 296.

No. 301.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, December 4, 1924.

28th November Memorandum

MY LORD,—With reference to my telegram of the 1st of December,[1] I have the honour to transmit to Your Excellency to be laid before your Ministers the accompanying copy of a note to the United States Ambassador forwarding a memorandum on the procedure suggested for adoption with regard to the future work of the Pecuniary Claims Arbitration Tribunal.

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 298.

ENCLOSURE 1 IN No. 301

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
November 28, 1924.

YOUR EXCELLENCY,—I have the honour to refer Your Excellency to previous correspondence with regard to a session of the Anglo-American Pecuniary Claims Arbitration Tribunal to be held in Washington early next year, and to the conversation which you were good enough to have on November 25th with Sir C. Hurst and Mr. Vansittart at this office. I have the honour to enclose herewith a memorandum indicating the procedure which I am advised it might be well to adopt with regard to the future work of the Tribunal. The concurrence of the Governments of Canada and Newfoundland in these proposals is being sought, and if they seem appropriate to you I should be glad if you could ascertain whether they would prove acceptable to the United States Government.

I have, etc.
(For the Secretary of State),
G. R. WARNER.

His Excellency
The Honourable FRANK B. KELLOGG,
etc., etc., etc.

ENCLOSURE 2 IN No. 301

MEMORANDUM

1. The Canadian Government have asked whether it would be possible to postpone the hearing of the Cayuga case as the conduct of the Canadian claims must now be undertaken by new counsel in view of Mr. Newcombe's appointment as a judge in the Supreme Court of Canada.

2. The Newfoundland Government have failed to prepare their answers in the Newfoundland fishing cases in time for their delivery on the right date and have intimated a desire to return to the idea of an informal meeting for the friendly discussion of these claims, which it had been proposed should take place at St. Johns last May.

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3. On the other hand the Agent for the United States has explained that delay would be inconvenient to the United States Government as it would necessitate a fresh appropriation by Congress.

4. The proposal for a preliminary meeting at St. Johns to discuss the United States claims against Newfoundland does not now appear to be feasible. As the American Memorials have been filed it would not be possible to discuss the claims upon the informal basis which had been suggested. His Majesty's Government are, therefore, pressing the Newfoundland Government to undertake without delay the preparation of the Newfoundland answers in these claims.

5. It is suggested that the arrangement by which a prolonged session is to be held in the early part of 1925 for the completion of the claims in the first schedule to the Convention should stand.

6. To meet any difficulties that may now confront the Canadian and Newfoundland Governments, it is sugested that the Tribunal should meet on February 15 instead of January 15, and that between that date and March 15 the British cases should be dealt with as originally arranged; that the second month of the session should be devoted to Canadian claims, i.e., March 15 to April 15; and that the Newfoundland claims should be dealt with during the third month of the session, from April 15 to May 15. This would give sufficient time for the Newfoundland Government to prepare and file the answers in the Newfoundland claims with adequate opportunity for a reply by the United States Agent should that be necessary.

7. The Cayuga claim should be taken first in the month devoted to Canadian cases, the Webster claim being taken last in the month devoted to British claims. This will enable the point as to the interpretation of the Convention of 1853 as to barring claims arising before that date, which arises in each of these two claims, to be dealt with by the Tribunal at the same time.

8. As regards the President of the Tribunal, now that Monsieur Fromageot's services cannot be retained, it may be convenient to the national arbitrators with whom the appointment would lie under article 3 of the Convention of 1910 that the two Governments should come to a preliminary understanding on the subject as was done at the time of the appointment of Monsieur Fromageot.

28th November, 1924.

No. 302.

From the Secretary of State for the Colonies to the Governor General Canada.
No. 548.

DOWNING STREET, December 16, 1924.

6 prints.

MY LORD,—With reference to previous correspondence on the subject of the Anglo-American Pecuniary Claims Tribunal, I have the honour to transmit to Your Excellency to be laid before your Ministers, six copies of a print containing Supplementary papers filed by the United States Government in the Cayuga Indians case which is to come before the Tribunal at its forthcoming sessions at Washington.

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

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ENCLOSURE IN No. 302

AMERICAN AND BRITISH CLAIMS ARBITRATION

CLAIM No. 6
CAYUGA INDIANS

Supplementary Papers

The British Government have advanced on pages 31 to 33 of their Reply an interpretation of Article V of the Claims Convention concluded between the United States and Great Britain February 8, 1853, which the United States considers to be unsound. The United States deems it to be important that certain records revealing the intent of the contracting Parties as expressed by language such as is used in this Article should be laid before the Tribunal. Conformably to Rule 19 of the Rules of the Arbitration relating to "further evidence," the United States has therefore printed papers bearing on the scope of the Arbitration under the Convention of February 8, 1853, and the Arbitration under the Special Agreement of August 18, 1910, and on the effect of barring clauses in these two claims agreements; also communications bearing specifically on the interpretation of language such as is found in Article V of the Convention of 1853.

LIST OF PAPERS

1. Letter of May 12, 1888, from the Department of State to W. J. Gregg.
2. Letter of July 14, 1898, from Secretary of State Day to the Honourable William W. Grout.
3. Letter of June 7, 1911, from Secretary of State Knox to the Honourable George E. Chamberlain.
4. Note of February 15, 1908, from Secretary of State Root to the British Embassy.
   Enclosure: Draft Claims Convention submitted in connection with the negotiations of the Agreement of August 18, 1910.
5. Note of April 13, 1908, from Secretary of State Root to the British Embassy.
   Enclosure: Draft Claims Convention.
6. Note of August 26, 1908, from the British Embassy to the Department of State.
   Enclosure: British counter draft of a Claims Convention.

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1. Letter of May 12, 1888, from the Department of State to W. J. Gregg

DEPARTMENT OF STATE,
WASHINGTON, May 12, 1888.

W. J. GREGG, Esq.,
Frankfort, Kansas.

SIR,—Your letter of the 27th ultimo relative to the claim of Adner Holliday against Great Britain for property confiscated during the War of 1812, has been received.

The 5th Article of the Claims Convention of February 8, 1853, provides that the result of the proceedings of the Commission shall be considered as a full, final and perfect settlement of every claim arising out of any transaction of a date prior to the exchange of ratifications whether or not the same may have been presented to the Commission.

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It appears from the records of the Commission that Mr. Holliday's claim was not presented, consequently it must now, in the language of the treaty be considered and treated as finally settled, barred and inadmissible.

I am, etc.,

G. L. RIVES.
Assistant Secretary.

Enclosure: Convention of February 8, 1853, as above.[1]

[1] Not printed. *Agent's note.*

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2. Letter of July 14, 1898, from Secretary of State Day to the Honourable William W. Grout

DEPARTMENT OF STATE,
WASHINGTON, July 14, 1898.

The Honourable WILLIAM W. GROUT,
House of Representatives.

SIR,—I have the honour to acknowledge the receipt of a letter of the 3rd instant, addressed to you by Mr. Thomas H. McLeod, and by you left at this Department, in reference to the claim of the heirs of Samuel Clark against Great Britain for a tract of land in the Province of Quebec in the Dominion of Canada.

In reply I have the honour to say that this claim, which is based on certain transactions that took place between the years 1784 and 1806, inclusive, has repeatedly received the consideration of the Department, and that the Department, reserving the question as to whether diplomatic action was barred by the treaty concluded at Ghent on the 24th of December, 1814, has uniformly held that diplomatic intervention was inadmissible on other grounds. The Department is, however, again requested to reconsider and reverse its decisions, arrived at after the most thorough examination and deliberation. Under these circumstances it is the duty of the Department to say that any further consideration of the subject would be fruitless, not only because of the decision heretofore made upon the merits, but also because any diplomatic intervention is rendered inadmissible by the Treaty of Ghent. While it is true that that treaty contains no stipulation expressly barring claims that arose prior to its signature, it is equally true, as a principle of law, that a failure to insert in it a stipulation preserving such claims had the effect of rendering them inadmissible as subjects of further diplomatic action. Such has been the position uniformly maintained not only by this Department, but also by the treaty-making power itself. By the convention between the United States and Great Britain, concluded on February 8, 1853, for the general settlement of the claims of the citizens or subjects of the one country against the Government of the other, the jurisdiction of the commission organized thereunder was expressly limited to claims arising out of transactions of a date subsequent to December 24, 1814. This provision merely recognized the principle, which has been repeatedly applied by this Government, that claims growing out of transactions that occurred during or prior to the War of 1812 were barred by the failure to revive and perpetuate them by the Treaty of Peace.

Respectfully yours,

WILLIAM R. DAY.

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3. Letter of June 7, 1911, from Secretary of State Knox to the Honourable George E. Chamberlain

June 7, 1911.

The Honourable GEORGE E. CHAMBERLAIN,
United States Senate.

SIR,—Referring to the Department's letter of April 5th last, in regard to the claim of Moses E. Milner against Mexico, I have the honour to inform you that it appears from the records of the Department that under date of February 9, 1853, the American Minister to Mexico was instructed to investigate the alleged robbery of Moses E. Milner and others by Mexican customs employees, and, if the facts warranted it, to demand restitution of the property taken. In response to representations made by the Minister, the Mexican Government replied that the property in question had been properly seized because of the failure of the owners to pay an export duty thereon, as required by the tariff law of Mexico, and that therefore, no restitution could be made.

As you were advised in the Department's letter of April 5th, the claim in question apparently was not passed on by the claims commission organized under the Convention between the United States and Mexico of 1868. It appears from the records of the Department that some time in 1873 Mr. Milner addressed a letter in regard to his claim to the Secretary of the Interior, which letter was referred to the claims commission, and that the secretary of this body, under date of May 18, 1873, informed Mr. Milner that it was too late to present any claims to the commission at that time, as in accordance with Article 3 of the Convention, the docket of the commission was closed on June 30, 1870.

There appears to be no record in the Department of the employment by Mr. Milner of certain lawyers in Texas with a view to collecting his claim against the Mexican Government.

In this connection, it should be observed that Article 5 of the Convention of 1868 between the United States and Mexico provided as follows:—

"The high contracting parties agree to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and thenceforth inadmissible."

I have, etc.,

P. C. KNOX.

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4. Note of February 15, 1908, from Secretary of State Root to the British Embassy

February 15, 1908.

DEAR MR. AMBASSADOR,—I enclose two papers, one of which is a draft suggestion for a claims convention between the United States and Great Britain, and the other a memorandum for the basis of a treaty relating to the diversion of water from the Niagara River.

Both of these are to be regarded as suggestions rather than definite proposals, and I hand them to you now as they may furnish a basis for your conferences with the Government of Canada during your approaching visit to Ottawa.

W.L. Mackenzie King Papers
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C 40907

The Memorandum regarding Niagara Falls I may myself have to modify in the paragraphs regarding the Niagara River, upon further information and consideration.

Faithfully yours,

ELIHU ROOT.

His Excellency
The Right Honourable JAMES BRYCE, O.M.,
etc., etc., etc.

[Enclosure: Draft Claims Convention submitted in connection with the negotiation of the Agreement of August 18, 1910]

DRAFT OF A PROPOSED CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN FOR THE SETTLEMENT OF CLAIMS

[See Enclosure 2 in No. 59, Vol. 1.]

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5. Note of April 13, 1908, from Secretary of State Root to the British Embassy

April 13, 1908.

DEAR MR. AMBASSADOR,—Referring to Mr. Howard's promemoria of February 24th last, containing the suggestion of Sir Wilfrid Laurier, regarding modifications of the draft convention sent to the British Embassy with the Department's note of February 15th last, I beg to enclose herewith a new draft of convention, embodying the changes proposed.

I am, my dear Mr. Ambassador,

Very truly yours,

ELIHU ROOT.

His Excellency
The Right Honourable JAMES BRYCE, O.M.,
Ambassador of Great Britain.

[Enclosure: Draft Claims Convention]

DRAFT OF PROPOSED CLAIMS CONVENTION WITH GREAT BRITAIN WITH CHANGES SUGGESTED BY MR. HOWARD'S UNOFFICIAL PROMEMORIA

[Enclosure in No. 76, Vol. 1.]

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6. Note of August 26, 1908, from the British Embassy to the Department of State

No. 181.

BRITISH EMBASSY,
MANCHESTER, Mass., August 26, 1908.

SIR,—I have the honour to transmit to you herewith, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, a Draft Convention for the Settlement of Pecuniary Claims, drawn up by His Majesty's Government.

His Majesty's Government have had under consideration the Revised Draft Convention which Mr. Secretary Root sent to this Embassy in a personal letter on 13th April last, and after careful consideration they have thought it more convenient to prepare this fresh Draft which, while it preserves the chief features and provisions of Mr. Root's Draft, is believed to be more in harmony with the views of the Canadian Government who are largely concerned in the settlement of these claims.

It will be observed that as regards the composition of the Tribunal this new Draft reverts to the original suggestion made by Mr. Root in his first Draft that there should be three Commissioners instead of two

C 40908

Commissioners and an Umpire. This latter plan was adopted by the Secretary of State in his second Draft with a view to meeting the wishes of Sir Wilfrid Laurier. After further consultation with the Canadian Government however it has been considered advisable by His Majesty's Government to revert to Mr. Root's earlier suggestion, that the Tribunal should be composed of three Commissioners, and His Majesty's Government who are fully sensible of Mr. Root's courtesy in modifying his original draft, trust that this return to the first proposal will be agreeable to the United States Government.

Some rearrangement of the Clauses of the Convention has also been made, with a view to improving somewhat the sequence and co-ordination of the articles.

Provisions have moreover been inserted to meet the requirements of the Governments of the Dominions and Colonies with reference to the appointment of different Commissioners in respect of the categories of claims affecting different portions of the Empire, and the retention of Counsel or Advocates for the support of any particular claim or class of claims.

It should be noted in this connection that an alternative article to Article II has been inserted in the margin of the enclosed Draft in case the United States Government desire to retain similar powers to those reserved to His Majesty in respect of the appointment of different Commissioners for different classes of claims.

While submitting the enclosed Draft for the observation of your Government thereon, I am instructed to add that it is possible that certain Governments of the Dominions or Colonies may yet desire to make some slight modifications in it.

I have, etc.,

ESME HOWARD.

The Honourable ALVEY A. ADEE,
Acting Secretary of State.

[Enclosure: British counter draft of a Claims Convention]

[This Document is the Property of His Britannic Majesty's Government]
Printed for the use of the Foreign Office. July 31, 1908

Confidential.

DRAFT OF PROPOSED CLAIMS CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN

[See Enclosure 2 in No. 95, Vol. 1.]

No. 303.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, December 19, 1924.

Fr. U.S. Amb. 9 Dec.
To U.S. Amb. 11 Dec.

MY LORD,—With reference to my Confidential despatch of the 4th of December,[1] I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copy of correspondence with the United States Ambassador relative to the future work of the Anglo-American Pecuniary Claim Tribunal.

I have, etc.,

L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 301.

W.L. Mackenzie King Papers
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ENCLOSURE 1 IN No. 303

From the United States Ambassador to the Secretary of State for Foreign Affairs

EMBASSY OF THE UNITED STATES OF AMERICA,
LONDON, December 9, 1924.

SIR,—I have the honour to refer to the memorandum contained in your note of November 28, 1924, indicating a procedure which you advise might be well to adopt in regard to the future work of the Anglo-American Pecuniary Claims Tribunal, to be held in Washington early next year, and to inform you that I have been directed to state that my Government greatly regrets the inability of His Majesty's Government to carry out the arrangements originally agreed upon for the session of the Tribunal beginning January 15, 1925. My Government, however, is anxious to complete the arbitration of the remaining cases with the least possible delay, and to that end would give favourable consideration to the British proposal to postpone the session to the 15th of February, 1925, on the condition that the answer in the Fisheries cases is filed at St. John's not later than the 31st of January, 1925; the American reply, if any, to be filed on April 10, 1925, at Washington. On this basis the United States Government would be disposed to agree to the session beginning on the 15th of February for the hearing of the cases in the order suggested in your memorandum under reference on the condition of the immediate consummation of this arrangement. My Government reserves the right to consider arbitration suspended in the event of any further delay in carrying out this arrangement. It is understood that the agreement is still binding in all respects with the exception of the amending dates of filing the answer and the reply in the Fisheries cases, as suggested above.

I would be grateful if you would endeavour to give an immediate response to the above proposals, and also to the previous proposal of my Government respecting the increase of the arbitrator's remuneration.

I have, etc.,
FRANK B. KELLOGG.

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.,
Foreign Office, S.W.1.

ENCLOSURE 2 IN No. 303

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
December 11, 1924.

YOUR EXCELLENCY,—I have the honour to acknowledge the receipt of Your Excellency's note of December 9th regarding the future work of the Anglo-American Pecuniary Claims Tribunal, and to inform you that His Majesty's Government observe with satisfaction that the United States Government are prepared to fall in with the proposals which they have found it necessary to make for the modification of the arrangements agreed to between the United States and British Agents last year. I need hardly remind you that His Majesty's Government fully share the anxiety of the United States Government, emphasized in your note, for the completion of the arbitration of the remaining cases with the least possible delay, and the proposed scheme is, I am advised, the one most likely in the circumstances to lead to this desirable result.

2. I beg leave to inform you that urgent enquiries are accordingly being made of the Newfoundland Government as to whether it will be possible for them to file their answer in the Fishery cases on January 31st, 1925, and whether in that event, they are content that the reply of the United States Government, if any, should be filed on April 10th, only five days before the hearing of the cases would be due to begin under the proposed scheme, and on a date therefore after the lawyers acting for the Newfoundland Government would have left St. John's.

3. In this connection I have the honour to point out that as regards the date of the filing the pleadings in the Newfoundland Fishery claims, Sir Cecil Hurst in his letter to Mr. Nielson of November 30th, 1923, made it clear that these dates were merely provisional, and that Mr. Nielson in his reply of December 4th, 1923, also refers to these dates as provisional. No complete agreement has in fact ever been come to between the two Agents with regard to the dates of the filing of these pleadings, and there has therefore been no failure on the part of the Newfoundland Government to comply with anything to which they have agreed.

4. I have the honour to inform you that I shall have pleasure in apprising you of the reply of the Newfoundland Government as soon as this is received.

5. With regard to the question of an increase in the remuneration of the Arbitrator, I am happy to inform you that the Canadian Government have now expressed their acquiescence in the proposal put forward by your Government and that His Majesty's Government also agree thereto.

I have, etc.
(For the Secretary of State),
ROBERT VANSITTART.

His Excellency
The Honourable FRANK B. KELLOGG,
etc., etc., etc.

No. 304.

From the Governor General to the Secretary of State for the Colonies

Confidential.

CANADA,
GOVERNMENT HOUSE,
OTTAWA, December 30, 1924.

SIR,—With reference to your telegram and confidential despatch, dated the 1st[1] and 2nd December,[2] respectively, on the subject of the proposed sittings of the Pecuniary Claims Tribunal, I have the honour to inform you that the position of the Canadian Government is that it does not desire to delay the hearing of the Hay Claims but would like further time to prepare the Cayuga case in view of the fact that Mr. E. L. Newcombe, K.C., Counsel for the Dominion Government, has been appointed to the Bench and it therefore becomes necessary for other counsel to familiarize himself with the case. In these circumstances the fact that the printed pleadings were delivered years ago does not ease the situation, and any arrangement by which the Cayuga case could be put over until the fall would be welcomed. Mr. Christopher C. Robinson, K.C., who has been retained as Counsel for the Dominion in the Cayuga and Roy cases, expects to be in England in October next and, as there is scant time to make adequate preparation for the hearing at an earlier date, this Government is not averse to the suggestion of the United States Ambassador that the work be divided into two sessions if the Cayuga and Roy cases can be definitely scheduled for hearing in London or Paris during October or early November.

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If it be found impossible to have the proposed sittings at Washington postponed or to arrange for a second session at London or Paris in the fall, early advice of the fact would be appreciated so that every effort may be made to be ready for the hearing of these cases about the middle of March in accordance with the arrangements proposed in your telegram under reference.

I have, etc.,
BYNG OF VIMY.

Lieutenant-Colonel
The Right Honourable
L. C. M. S. AMERY,
Secretary of State for the Colonies.

[1] No. 298.
[2] No. 299.

No. 305.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, December 31, 1924.

Your telegram December 30th,[1] *Pecuniary Claims Tribunal*. Position of the Canadian Government is that it does not desire to delay the hearing of the Hay claims but would like further time to prepare the Cayuga case in view of the fact that Newcombe, Counsel for the Dominion Government, has been appointed to the Bench and it therefore becomes necessary for other counsel to familiarize himself with the case. In these circumstances the fact that the printed pleadings were delivered eleven years ago does not ease the situation, and any arrangement by which the Cayuga case could be put over until the fall would be welcomed. Mr. Christopher C. Robinson, K.C., who has been retained as Counsel for the Dominion in the Cayuga and Roy cases, expects to be in England in October next, and as there is scant time to make adequate preparation for the hearing at an earlier date this Government is not averse to the suggestion of the United States Ambassador that the work be divided into two sessions if the Cayuga and Roy cases can be definitely scheduled for hearing in London or Paris during October or early November.

If it be found impossible to have the proposed sittings at Washington postponed or to arrange for a second session at London or Paris in the fall, early advice of the fact would be appreciated so that every effort may be made to be ready for the hearing of these cases about the middle of March in accordance with the arrangements proposed in the Colonial Office telegram of the 1st December.

GOVERNOR GENERAL.

[1] Not printed.

No. 306.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, December 31, 1924.

My telegram dated December 1st.[1] Pecuniary Claims. United States Government suggests as umpire Professor Alfred Nerincx, a Belgian and Secretary of the Institute de Droit Internationale. Secretary of State for Foreign Affairs considers person named suitable and it is proposed that the British and United States Ambassadors at Brussels should address identic communication to him asking him to act as umpire. Should be glad to know by telegraph whether your Ministers concur in this proposal.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 298.

No. 307.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, January 10, 1925.

My telegram dated December 1st.[1] Pecuniary Claims Tribunal. In view of the illness of the United States Agent, United States Government have now asked for postponement of all cases in which he was to participate substantially at the forthcoming session, and have proposed short session beginning February 15th at which only Studer, Hay and Roy cases should be dealt with. Tribunal would also settle future procedure, including time and place at which the remaining cases will be argued, subject to special directions in accordance with Article VI, 1910 Agreement. In reply H.M. Government at first suggested it would be best to adhere to the original plan of a long session but to postpone the opening to a later date. In view, however, of the insistency of the United States Government on their proposal, H.M. Government are prepared to waive their objections and fall in with the wishes of the United States Government. Should be glad to know at the earliest possible moment whether your Ministers agree. Matter most urgent.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 298.

No. 308.

From the Governor General to the Secretary of State for the Colonies

OTTAWA, January 12, 1925.

Your telegram December 31st.[1] Canadian Government acquiesces in proposal for appointment of Professor Alfred Nerincx as umpire on Pecuniary Claims Tribunal.

GOVERNOR GENERAL.

[1] No. 306.

No. 309.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, January 19, 1925.

My telegram dated December 31st.[1] Pecuniary Claims Umpire. Person named accepts but asks that session may begin on March 2nd instead of February 15th. United States Government and H.M. Government have no objection. I should be glad to know by telegram whether your Ministers concur.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 306.

OTTAWA: Printed by F. A. ACLAND, Printer to the King's Most Excellent Majesty, 1925.

W.L. Mackenzie King Papers
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C 40913

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 310.

From the Secretary of State for the Colonies to the Governor General Canada.

Confidential.

DOWNING STREET, January 14, 1925.

Fr. U. S. Ambr. 17 Dec.
To U.S. Ambr. 24th Dec.
Fr. U.S. Ambr. 31st Dec.
Memo. to U.S. Ambr. 5th Jan
Memo. fr. U.S. Ambr. 7th Jan
To U.S. Ambr. 8th Jan.

MY LORD,—With reference to my Confidential despatch of the 19th of December[1] and to my telegram of the 10th of January,[2] I have the honour to transmit to Your Excellency, to be laid before your Ministers, the accompanying copies of communications between the Foreign Office and the United States Embassy regarding the arrangements for the forthcoming session of the Pecuniary Claims Tribunal at Washington.

I have, etc.,

L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 303.
[2] No. 307.

ENCLOSURE 1 IN No. 310

From the United States Ambassador to the Secretary of State for Foreign Affairs

LONDON, December 17, 1924.

SIR,—Under the instructions of my Government I have the honour to reply to your note, dated December 11, 1924, regarding the coming session of the Anglo-American Pecuniary Claims Tribunal in the following terms.

It was the understanding of the Government of the United States that the pleadings in the Fishery Claims were to be filed on the designated dates unless an informal Conference with the Newfoundland authorities, suggested by the British Agent to obviate, if possible, the preparation and printing of extensive pleadings, accomplished the purpose for which it was proposed, in which event pleadings would have been unnecessary. The arrangement was provisional only in the sense that it was possible that pleadings would be unnecessary, but the provisional character ceased upon a failure of the conditions which were expected to obviate the necessity for pleadings. Accordingly the United States filed a memorandum on August first and expected His Majesty's Government to answer on November 10 as stipulated. The American Agent has in his possession a memorandum in the handwriting of Sir Cecil Hurst stating,

> "Fishery—dates to be dependent on holding of and date of a preliminary meeting."

With reference to paragraph 5 of your note, the Government of the United States understands that it is now agreed that the compensation of the Arbitrators is increased to twenty dollars per day, this increase to be paid for the same period during which compensation is at present allowed to Arbitrators.

I have, etc.,

FRANK B. KELLOGG.

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.

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ENCLOSURE 2 IN No. 310

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
December 24, 1924.

YOUR EXCELLENCY,—I have the honour to acknowledge the receipt of Your Excellency's note of December 17th regarding the coming session of the Anglo-American Pecuniary Claims Tribunal.

2. I am happy to inform you that the Newfoundland Government concur in the proposal of the United States Government that, the opening of the Tribunal's session being postponed to February 15th, the answer to the Newfoundland Government should be filed at St. Johns not later than the 31st January next, and that the Reply, if any, of the United States Government should be filed by April 10th. The Newfoundland Government undertake to file their Answer at St. Johns not later than January 31st.

3. With reference to the last paragraph of your note under reply, I have the honour to confirm the understanding of the United States Government that it is now agreed that the compensation of the Arbitrators
$20. is increased by twenty dollars per day and that this increase is to be paid for the same period during which compensation is at present allowed to the Arbitrators. In this connection I beg leave to draw your attention to an apparent clerical error in your note, since it is stated therein that the compensation of the Arbitrators is to be increased *to* twenty dollars per day. The arrangement as understood by His Majesty's Government
$20. is, as stated above, that the compensation should be increased *by* twenty dollars per day.

I have, etc.,
(For the Secretary of State)
ROBERT VANSITTART.

His Excellency
The Honourable
FRANK B. KELLOGG,
etc., etc., etc.

ENCLOSURE 3 IN No. 310

From the United States Ambassador to the Secretary of State for Foreign Affairs

LONDON, December 31, 1924.

SIR,—Under the instructions of my Government I have the honour to inform you that the American Agent, Mr. Nielsen, is confined in a hospital with typhoid fever and will be unable to resume his duties as Agent for some time. This places the American Government in the unavoidable necessity of requesting the postponement of the argument at the coming session of the Tribunal of all cases in which he was to have substantial participation.

With this in view and in order that the Arbitration may proceed with the least possible delay, the American Government makes the following proposal:—

(1) That the Tribunal be duly constituted at once and convened on February 15, at Washington, in accordance with the existing arrangement, for the hearing of the following cases: Studer Hay cases, R. T. Roy.

(2) That the Tribunal at that time settle finally in accordance with the powers given to it under article six of the Special Agreement of August 18, 1910, all questions of future procedure, including the time and place at which the remaining cases on the schedule will be argued. This will of course be done after full consideration with the two Agents and any order of the Tribunal will therefore be subject to the special direction of the two Governments as the treaty provides.

Inasmuch as the appointment of Professor Alfred Nerincx of Belgium as umpire is acceptable to the two Governments, it is proposed that the American and British Ambassadors at Brussels be instructed at once to join in an identic note to Professor Nerincx setting forth the necessary information regarding the arbitration and inquiring whether it will be possible for him to serve as umpire and to attend the proposed session beginning February 15.

In view of the necessity of prompt action, I beg respectfully that an answer will be given me to the above proposals at the earliest possible moment.

I have, etc.,
FRANK B. KELLOGG.

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.,
Foreign Office, S.W.1.

ENCLOSURE 4 IN No. 310

MEMORANDUM

According to the arrangement for the next session of the Pecuniary Claims Tribunal proposed at the end of November the session was to begin on February 15th and to be divided into three sections of a month each, the first section being devoted to the cases for which His Majesty's Government are responsible, the second to the Canadian cases, and the third to the Newfoundland cases.

The proposal just made by the United States Government is that a short session only should be held, beginning on February 15th, at which only the following cases should be dealt with: (1) Studer case, (2) the Hay cases, (3) the R. T. Roy case.

His Majesty's Government is responsible for (1); (2) and (3) are Canadian cases.

The new proposal of the United States Government presents several difficulties to His Majesty's Government. First it is possible that Sir Cecil Hurst's services may be required in London in March. According to the arrangements of November, by which the British cases were to have been dealt with between February 15th and March 15th, Sir Cecil could have been back in London in the third week of March. Secondly, as it is necessary for Sir Cecil Hurst to argue both the Studer and Webster cases, and if as now proposed by the United States Government only the Studer case is to be heard in February, Sir Cecil Hurst will be under the necessity of making a second journey to the United States in order to deal with the Webster case, the only other British case which it is intended that he should personally conduct. Thirdly, it appears to His Majesty's Government that the smallness of the group of claims to be argued under the new United States proposal scarcely warrants the expenses of convoking the Tribunal.

It would seem best therefore to adhere to the original plan of a long three months' session to deal with all the claims outstanding in the first schedule, but to postpone its opening until a date, convenient to the United States Government, when Mr. Neilson is restored to health.

If the United States Government concur in the foregoing proposals His Majesty's Government can at once seek the approval of the Canadian and Newfoundland Governments.

5th January, 1925.

W.L. Mackenzie King Papers
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ENCLOSURE 5 IN No. 310

MEMORANDUM

With reference to the Memorandum handed by Mr. Vansittart to Mr. Sterling on January 5, 1925, containing the observations of Sir Cecil Hurst concerning arrangements for the next session of the Pecuniary Claims Tribunal, Mr. Sterling has been instructed by the Secretary of State at Washington to make urgent representations to His Majesty's Government as follows:—

The Government of the United States has given careful consideration to the memorandum of Sir Cecil Hurst. It does not consider the difficulties suggested therein to be either insurmountable or sufficiently serious to necessitate an abandonment of the proposal for a session of the Tribunal commencing February 15th. Concerning the three specific difficulties suggested by Sir Cecil Hurst the following observations are made:—

1. The proposed arrangement will not prevent Sir Cecil Hurst from meeting his London engagement. The hearings will be terminated in ample time for him to be in London in the third week of March.

2. The Government of the United States regrets that it cannot include the Webster case in the group of claims to be argued at the proposed session. It does not, however, feel that the session should be postponed on this account. In conformity with the procedure proposed by the Embassy in its note to the Foreign Office No. 634 of December 31, 1924, and embodied by the Foreign Office in paragraph 3 of the identic instruction proposed by the Foreign Office to be sent to the British and American Ambassadors at Brussels, the Tribunal will, at the proposed session settle finally, in accordance with the powers given it under Article 6 of the Convention, all questions of future procedure, including the time and place at which the remaining cases on the Schedule should be argued. The Government of the United States is confident that, in making an order concerning the time and place for arguing these cases, the Tribunal will make an arrangement which will be satisfactory to both Governments.

3. The Government of the United States is prepared to add to the cases already suggested for argument at the proposed session the Philippine war cases. This will materially enlarge the group of claims to be argued and will eliminate the third difficulty suggested by Sir Cecil Hurst. With the addition of the Philippine cases it is not seen how the session can at the most last more than one month, which will give Sir Cecil Hurst ample opportunity to meet his March engagement.

Mr. Sterling reiterates the desire of His Government to proceed with the arbitration with the least possible delay, pointing out that the United States Government believes the above to be the only plan which will enable substantial progress to be made, while, at the same time, protecting the interests of both Governments.

LONDON, January 7, 1925.

ENCLOSURE 6 IN No. 310

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
January 8, 1925.

SIR,—With reference to your memorandum of January 7th I have the honour to inform you that in view of the marked preference of the United States Government for a short session of the Pecuniary Claims Tribunal to begin on February 15th next, His Majesty's Government are

prepared to waive their objections and to fall in as far as they are concerned with the proposals of the United States Government, with the reservation that the Philippine War Claims should stand over to be dealt with at the later session for which the Tribunal will make arrangements when it meets in February.

2. I beg leave to state that telegraphic enquiries are being made of the governments of Canada and Newfoundland as to whether they concur in the arrangements now proposed, and I shall not fail to inform you of their replies as soon as they are received. I shall at the same time have the honour to communicate with you further on the subject of the identic instructions to be sent to His Majesty's and the United States Ambassadors at Brussels regarding the invitation to Monsieur Nerincx to act as umpire.

I have, etc.,
(For the Secretary of State)
RONALD CAMPBELL.

F. A. STERLING, Esq.,
etc., etc., etc.

No. 311.

From the Secretary of State for the Colonies to the Governor General

Canada.

Confidential.

DOWNING STREET, January 16, 1925.

10th January, 1925.

MY LORD,—With reference to my Confidential despatch of the 14th January,[1] I have the honour to transmit to Your Excellency, to be laid before Your Ministers, the accompanying copy of a note from the United States Chargé d'Affaires regarding the arrangements for the forthcoming session of the Pecuniary Claims Tribunal at Washington.

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 310.

ENCLOSURE IN No. 311

From the United States Chargé d'Affaires to the Secretary of State for Foreign Affairs

LONDON, January 10, 1925.

SIR,—With reference to your note dated January 8, 1925, the substance of which was telegraphed to my Government, I have the honour to inform you that the Government of the United States is gratified to learn that His Majesty's Government is agreeable to the proposal of the United States for a short session of the Tribunal to begin on February 15th. The United States agrees that the Philippine War Claims shall stand over to be dealt with at a future session.

In view of the short time available for obtaining an umpire, it is hoped that the immediate concurrence of Canada and Newfoundland may be obtained in order that the proposed identic instructions may be sent forthwith to the American and British Ambassadors at Brussels.

I have, etc.,
(Chargé d'Affaires ad interim).

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.

W.L. Mackenzie King Papers
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No. 312.

From the Governor General to the Secretary of State for the Colonies

OTTAWA, January 17, 1925.

Telegram.

Your telegram January 10th Pecuniary Claims.[1] My Ministers state that postponement of hearing of all cases other than Studer Hay and Roy cases is satisfactory to Canadian counsel, while it is essential for proper preparation of Cayuga case that it be postponed to date in the fall.

Minister of Justice would be glad to be informed at what time under new proposals it is expected that Roy case will be argued, and whether it will be possible to have that case and question of future procedure discussed at the same time so that Canadian counsel may not make more than one trip to Washington.

Minister of Justice has further requested that His Majesty's Government may be informed that if it be decided to have further sittings at Washington he would desire to have sittings not take place before November 1st, but that if further sittings are to be held in London or Paris any date after November 1st would suit Canadian counsel.

GOVERNOR GENERAL.

[1] No. 307.

No. 313.

From the Governor General to the Secretary of State for the Colonies

OTTAWA, January 23, 1925.

Telegram.

Pecuniary Claims Tribunal, Canadian Government concur.[1]

GOVERNOR GENERAL.

[1] See No. 309.

No. 314.

From the Secretary of State for the Colonies to the Governor General

Canada.

Confidential (2).

DOWNING STREET, January 27, 1925.

MY LORD,—With reference to my telegram of the 19th of January,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a despatch from His Majesty's Ambassador at Brussels reporting the acceptance by Monsieur Alfred Nerincx of the invitation to act as Umpire at the forthcoming session of the Pecuniary Claims Tribunal, together with a copy of a note to the United States Ambassador relative to the postponement of the meeting of the Tribunal until the 2nd of March.

No. 50, 16th Jan.

To U.S. Ambr. 19th Jan.

I have, etc.,

L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 309.

ENCLOSURE 1 IN No. 314

From His Majesty's Ambassador at Brussels to the Secretary of State for Foreign Affairs

No. 50.

BRUSSELS, January 16, 1925.

SIR,—In compliance with the instructions contained in your despatch No. 56 (A.91/23/45) of the 13th instant, I addressed a letter after consultation with the American Embassy to M. Alfred Nerincx inviting him to act as umpire and President of the Anglo-American Pecuniary Claims Arbitration Tribunal. An identic letter has been addressed to M. Nerincx by my American colleague.

From M. Nerinex, Jan. 16.

I beg leave to enclose a copy of the reply which I have now received from M. Nerincx who accepts the offer made to him, but states that it would be more convenient to him were it possible to postpone the first session of the Tribunal until March 1.

He also enquires whether he should stop in London to see Sir Cecil Hurst on his way to Washington.

I have, etc.,

GEORGE GRAHAME.

The Right Honourable
AUSTEN CHAMBERLAIN, M.P.,
etc., etc., etc.

ENCLOSURE 2 IN No. 314

From Monsieur Alfred Nerincx to His Majesty's Ambassador at Brussels

SÉNAT DE BELGIQUE,
36 RUE MARIE THÉRÈSE,
LOUVAIN, January 16, 1925.

YOUR EXCELLENCY,—I beg to acknowledge the receipt of Your Excellency's kind letter dated January 15, 1925, referring to the umpireship of the Arbitration Commission which it is the desire of Your Excellency's Government and the United States Government that I accept in place of M. Fromageot, unable to go to Washington for any length of time under present circumstances.

I at once comply with Your Excellency's request by answering that I duly appreciate the honour and shall accept it under the conditions stated in Your Excellency's letter above referred to.

I understand that it would be my duty to reach Washington in time for the session which is to open on February 15. To be perfectly sincere, I personally would have preferred to have the session open on or about March 1 because I would have had a little more leisure to wind up my work at the University during the winter semester ending February 14, and also because my old mother's health is keeping me in suspense just now. She is practically dying and may not live but a few days. The necessary arrangements of family affairs, considering I am the eldest amongst my brothers and sisters, may take some days more and might make it awkward for me to have to leave in haste.

I would also like to know whether it would be desirable for me to travel via London in order to see Sir Cecil Hurst at the Foreign Office before going to Washington.

I beg to remain, etc.,

A. NERINCX.

To His Excellency
Sir GEORGE GRAHAME,
etc., etc., etc.,
Brussels.

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ENCLOSURE 3 IN No. 314

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
January 19, 1925.

YOUR EXCELLENCY,—With reference to previous correspondence regarding the forthcoming session of the British-American Pecuniary Claims Arbitration Tribunal I have the honour to inform Your Excellency that, subject to the concurrence of the Government of Canada, His Majesty's Government are happy to concur in the proposal, which I understand has been made by your Government, that the meeting of the Tribunal should be postponed until March 2nd, in deference to the wishes of the Umpire, Monsieur Alfred Nerincx.

2. I beg leave to add that the Dominion Government are being requested by telegram to state whether the postponement now proposed is agreeable to them, and that a further communication will be sent to you as soon as their replies are received.

I have, etc.,
(For the Secretary of State)
ROBERT VANSITTART.

His Excellency
The Honourable
FRANK B. KELLOGG,
etc., etc., etc.

No. 315.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, February 2, 1925.

Your telegram dated January 17th,[1] Pecuniary Claims. Understood Studer case will be taken first will probably last one week. Roy case can then be taken and simultaneously with it the question of future procedure can be discused. Secretary of State for Foreign Affairs suggests it will be desirable to press for all remaining cases to be dealt with at one Session. He gathers from your telegram of January 17th that Canadian Counsel will be authorized by your Ministers to act on their behalf in this matter. It is possible that the question of a second schedule of claims may come up but it is thought that this point should not be raised by the British representatives if it can be avoided.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 312.

No. 316.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, February 4, 1925.

Pecuniary Claims. Secretary of State for Foreign Affairs would be glad if your Government would supply to the Embassy at Washington one copy of the British memorial in the Arpin case, which is one of the Hay claims, for communication to Nerincx, and not less than 12 copies for the use of Sir C. Hurst on arrival.

SECRETARY OF STATE FOR THE COLONIES.

No. 317.

From the Governor General to the Secretary of State for the Colonies

Telegram.

OTTAWA, February 13, 1925.

With reference to your telegram February 2nd[1]—Pecuniary Claims Tribunal—with reference to the intimation that the Secretary of State for Foreign Affairs gathers from my telegram of the 17th January,[2] that Canadian Counsel will be authorized by My Ministers to act on their behalf in this matter, the Minister of Justice would be glad if His Majesty's Government were informed in this connection that it is not intended to appoint Canadian counsel as agent of Canadian Government, and that what was intended to be conveyed in the previous despatch was that the Canadian Government would be glad if the proposed discussion between the British and American agents as to future procedure could take place when Mr. Robinson is in Washington for the Roy case in order that any decision by the two Governments as to future procedure should be reached after consultation with Mr. Robinson as to what time and place would be most convenient for the presentation of the Cayuga case to the Tribunal. The arrangement mentioned in your telegram of the 2nd February is satisfactory and any arrangement regarding future procedure so far as the Cayuga case is concerned will be satisfactory to the Canadian Government if it be acquiesced in by Sir Charles Fitzpatrick and Mr. Robinson, but if any other question, such as that of a second schedule of claims, should come up requiring the consideration of my Ministers, it is desired that communication be had with this Government direct.

GOVERNOR GENERAL.

[1] No. 315.
[2] No. 312.

No. 318.

From the Secretary of State for the Colonies to the Governor General

Canada.

Confidential.

DOWNING STREET, February 19, 1925.

MY LORD,—With reference to paragraph 2 of my Confidential despatch of the 2nd of December,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copies of correspondence with the United States Embassy regarding the payment of awards already made by the Pecuniary Claims Arbitration Tribunal.

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 299.

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12 January.
17 January.
9 February.
12 February.

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C 40922

ENCLOSURE 1 IN No. 318

From the United States Chargé d'Affaires to the Secretary of State for Foreign Affairs

LONDON, January 12, 1925.

SIR,—In paragraph 5 of your note dated November 25, 1924, concerning certain questions connected with the British-American Pecuniary Claims Arbitration Tribunal, it was suggested that the subject of interim payments to claimants stand over for the present in the hope that final award contemplated by Article 8 of the Convention might be made within a comparatively short space of time.

Under the instruction of my Government I have the honour to express the hope that, inasmuch as it is now certain that the important cases on the First Schedule will not be argued at the proposed February session, payment of awards may be made pursuant to the Arbitration Convention. It must be pointed out that unless appropriation is made by the United States Congress before March 4 next, an appropriation to pay awards against the United States cannot be obtained until the next regular session of Congress.

I would be most grateful if a favourable reply to my Government's suggestion could be given at the earliest possible moment.

I have, etc.,
F. A. STERLING,
Chargé d'Affaires *ad interim*.

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.

ENCLOSURE 2 IN No. 318

From the Secretary of State for Foreign Affairs to the United States Chargé d'Affaires

FOREIGN OFFICE, S.W.1,
January 17, 1925.

SIR,—With reference to your note of January 12th suggesting that the awards already made by the British-American Pecuniary Claims Arbitration Tribunal should now be paid without awaiting the final award, I have the honour to inform you that I am advised that as the occasion of the session of February 15th is to be taken for arranging all the future procedure for the settlement of outstanding claims it would seem that this question of the interim payment of awards could most appropriately be settled at the same time. It would appear that this procedure would give sufficient time to the United States Government to secure the necessary congressional appropriation to pay the awards against the United States Government before March 4th next.

I have, etc.,
ROBERT VANSITTART
(For the Secretary of State).

F. A. STERLING, Esq.,
etc., etc., etc.

C 40923

ENCLOSURE 3 IN No. 318

From the United States Chargé d'Affaires to the Secretary of State for Foreign Affairs

LONDON, February 9, 1925.

SIR,—I have the honour to refer to your note dated January 17, 1925, which replied to my suggestions that the awards already made by the British-American Pecuniary Claims Arbitration Tribunal should be paid without awaiting the final awards. You state therein that as the occasion of the session of February 15th is to be taken for arranging all the future procedure for the settlement of outstanding claims, it would seem that this question of the interim payment of awards could most appropriately be settled at the same time. You further state that it would appear that this procedure would give sufficient time to the United States Government to secure the necessary congressional appropriation to pay the awards against the United States Government before March 4th next.

I am now in receipt of telegraphic instructions from my Government informing me that, inasmuch as the date of the session of the Tribunal has been postponed to March 2nd, adequate time does not remain in which to obtain thereafter an appropriation by Congress during its present session. My Government therefore urges that His Majesty's Government will agree to pay all awards which have already been rendered. In this connection I would point out that, as the amount which the United States would pay to British claimants in the cases already adjudicated is still in excess of the amounts which American claimants would receive from His Majesty's Government under the awards made in their favour, it would seem to be to the advantage of the British Government to accept this proposal.

I have, etc.,
for the ambassador:
F. A. STERLING,
Counsellor of Embassy.

The Right Honourable
AUSTEN CHAMBERLAIN,
etc., etc., etc.

ENCLOSURE 4 IN No. 318

From the Secretary of State for Foreign Affairs to the United States Ambassador

FOREIGN OFFICE, S.W.1,
February 12, 1925.

YOUR EXCELLENCY,—With reference to Your Excellency's note of 9th February urging that His Majesty's Government and the United States Government should agree to pay, without awaiting the final award, all awards which have already been rendered by the British American Pecuniary Claims Arbitration Tribunal, I have the honour to inform you that, without prior consultation with the Dominion Governments, it is difficult for His Majesty's Government to assent to the proposal of the United States Government.

2. I beg leave, therefore, to enquire whether, in view of the short time now remaining before the close of the session of the United States

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Congress, it would not be possible for the United States Government to secure the passage of the necessary appropriation which should become operative if an agreement should be reached with His Majesty's Government for the immediate payment of the awards already made.

I have, etc.,
for the Secretary of State,
ROBERT VANSITTART.

His Excellency
The Honourable
FRANK B. KELLOGG,
etc., etc., etc.

No. 319.

From the Governor General to His Majesty's Ambassador at Washington

Telegram.

OTTAWA, March 3, 1925.

34 A.

With reference to your despatch No. 3, January 11th, 1912[1]—Claim of Mr. Edward Smith of Perth for the refund of duties paid on hay imported into the United States which had been submitted for inclusion in a schedule of claims to be arbitrated under the Pecuniary Claims Convention with the United States, it is represented to the Minister of Justice that this case is thoroughly prepared and is ready for trial; that it was filed with the British Ambassador at Washington previous to the war, and that it is identical in principle and facts with the Blain case and other hay claims now to come before the Tribunal at its present sittings, and that it is suggested that an arrangement might be made whereby the case might be added to the list of cases to be heard at said sittings.

My Ministers request Your Excellency to take such action as you may think expedient to have this case added to the list as suggested.

BYNG.

[1] No. 2.

No. 320.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.

WASHINGTON, March 4, 1925.

Your telegram of March 3rd,[1] Pecuniary Claims Arbitration, Hurst confirms that Hay Claims will be taken before Ray. One claim probably Arpin will be taken as last case and question of principle decided on that. Claim will probably be reached Monday and arguments should be concluded in one day. Hurst leaves Washington Thursday March 12th and sails March 14th. Future arrangements will be discussed directly Studer argument finished.

ESME HOWARD.

[1] No. 319.

No. 321.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.

WASHINGTON, March 9, 1925.

Your telegram No. 34 A.[1] Following from Hurst

"Hay Claim of Mr. Edward Smith is not included in the first schedule of claims attached to the Claims Convention 1910, and it cannot therefore be considered for arbitration at present. Claim was presented by the United States Government in August 1912 to comply with the Convention, and thereby escapes the bar imposed by Article 2 thereof. Until claim is included in schedule it cannot be brought before the Tribunal."

HOWARD.

[1] No. 319.

No. 322.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.

No. 28.

WASHINGTON, March 20, 1925.

Pecuniary Claims Arbitration. Under the awards rendered yesterday, United States claim in R. T. Roy and Studer cases were disallowed. Canadian Hay claim was decided in favour of the United States.

Signed awards will be forwarded as soon as possible. Copies of awards in two Canadian cases being sent direct to Ottawa.

HOWARD.

No. 323.

From His Majesty's Ambassador at Washington to the Governor General

No. 160.

BRITISH EMBASSY,
WASHINGTON, March 21, 1925.

MY LORD,—With reference to my telegram No. 28 of yesterday's date,[1] I have the honour to transmit to Your Excellency herewith copies of the three awards rendered by the Pecuniary Claims Tribunal covering the Canadian hay claims, the R. T. Roy claim and the Studer case.

The original signed copies of these awards which were handed by the Umpire to a member of my staff at the close of the session on the 19th instant, have been communicated direct to the Foreign Office for filing with the British Agency.

I have, etc.,
ESME HOWARD.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada.

[1] No. 322.

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C 40926

ENCLOSURE 1 IN No. 323

This proceeding involves five claims, which have ben argued, submitted and considered together, for duties paid to the Government of the United States on importations of baled hay from Canada. It is contended that the duties so paid were in excess of those imposed by law.

Concerning the facts there is no dispute.

Between 1868 and 1882 duties were levied, collected and paid pursuant to the provisions of Section 2516 of the revised Statutes of the United States. The material portion of this statute reads as follows:—

> "There shall be levied, collected and paid on the importation of all raw or unmanufactured articles, not herein enumerated or provided for, a duty of 10 per centum, ad valorem; and on all articles manufactured in whole or in part, not herein enumerated or provided for, a duty of 20 per centum ad valorem."

The duty of making classifications under the customs laws was vested in the collectors of customs, supervised by the Treasury Department. That Department classified baled hay as an article manufactured in whole or in part, and, therefore, during the period mentioned, the duty of 20 per centum, ad valorem, was levied and collected upon all baled hay imported into the United States.

There were also in force at this time the following laws relating to protest, appeal and resort to the courts by importers for the recovery of any duties alleged to be erroneously or illegally exacted:—

> "Section 2931 of the Revised Statutes of the United States. On the entry of any vessel, or of any merchandise, the decision of the collector of customs at the port of importation and entry, as to the rate and amount of duties to be paid on the tonnage of such vessel or on such merchandise, and the dutiable costs and charges thereon, shall be final and conclusive against all persons interested therein, unless the owner, master, commander, or consignee of such vessel, in the case of duties levied on tonnage, or the owner, importer, consignee or agent of the merchandise, in the case of duties levied on merchandise, or the costs and charges thereon, shall, within ten days after the ascertainment and liquidation of the duties by the proper officers of the customs, as well in cases of merchandise entered in bond as for consumption, give notice in writing to the collector on each entry, if dissatisfied with his decision, setting forth therein, distinctly and specifically, the grounds of his objection thereto, and shall within thirty days after the date of such ascertainment and liquidation, appeal therefrom to the Secretary of the Treasury. The decision of the Secretary on such appeal shall be final and conclusive; and such vessel, or merchandise, or costs and charges, shall be liable to duty accordingly, unless suit shall be brought within ninety days after the decision of the Secretary of the Treasury on such appeal for any duties which shall have been paid before the date of such decision on such vessel, or on such merchandise, or costs or charges, or within ninety days after the payment of duties paid after the decision of the Secretary. No suit shall be maintained in any court for the recovery of any duties alleged to have been erroneously or illegally exacted, until the decision of the Secretary of the Treasury shall have been first had on such appeal, unless the decision of the Secretary shall be delayed more than ninety days from the date of such appeal in case of an entry at any port east of the Rocky Mountains, or more than five months in case of an entry west of those mountains."
>
> "Section 3011 of the Revised Statutes of the United States. Any person who shall have made payment under protest and in order to obtain possession of merchandise imported for him, to any collector, or person acting as collector, of any money as duties, when such amount of duties was not, or was not wholly, authorized by law, may maintain an action in the nature of an action at law, which shall be triable by jury, to ascertain the validity of such demand and payment of duties, and to recover back any excess so paid. But no recovery shall be allowed in such action unless a protest and appeal shall have been taken as prescribed in section twenty-nine hundred and thirty-one."

C 40927

These provisions are similar to those found in the customs laws of various countries, including Canada (pages 57 to 63 of the Answer).

The several claimants were Canadian shippers of baled hay consigned to agents or brokers in the United States who paid and billed back upon their respective consignors duties at the rate of 20 per centum, ad valorem.

In 1882 a firm of commission merchants in New York, availing itself of the provisions of Sections 2931 and 3011 of the Revised Statutes above quoted, proceeded by protest, appeal and suit to recover the difference between 10 per centum and 20 per centum, ad valorem, paid on certain shipments of baled hay. This proceeding culminated in a decision of the Circuit Court of the United States for the Northern District of New York to the effect that under Section 2516 of the Revised Statutes of the United States, baled hay was dutiable only at the rate of ten per centum, ad valorem. (Frazee, et al, vs. Moffitt, collector: 18 Federal 584). Consequently the plaintiff in that proceeding recovered judgment for the additional 10 per cent which it had paid. There was no appeal from this decision and the Treasury Department on March 23, 1882, issued to collectors of customs a circular reading in part as follows:—

> "The Attorney General has advised acquiescence in such ruling (Frazee, et al, vs. Moffitt, collector). I yield to this opinion and officers of the customs will govern their actions accordingly."

Thenceforth baled hay ceased to be classified as a manufactured article under Section 2516 of the Revised Statutes of the United States, and duties began to be levied and collected at the rate of 10 per centum instead of 20 per centum, ad valorem.

At no time did the claimants, here involved, avail themselves of the right of protest to the collector, appeal to the Treasury Department and resort to the courts secured by Sections 2931 and 3011 of the Revised Statutes of the United States. It is asserted, however, that at the time the collections were made they had no actual knowledge of the provisions of the customs laws of the United States and were not aware until too late for protest and appeal under the statutes that the duties paid were in excess of those imposed by law. In 1883 the claimants presented a memorial to the Governor General of Canada requesting that their claims be brought to the attention of the United States, and certain diplomatic correspondence ensued. The position taken by the Government of the United States was in effect that in the circumstances the claimants must have recourse to Congressional action for any refund to which they might appear to be entitled. A bill was later introduced in Congress and the matter was in due course referred to the Committee on Claims of the United States Senate, which in turn referred the bill to the Court of Claims for finding of fact under the terms of the Act of March 3, 1887. The Courts of Claims in February, 1909, reported back to the Senate Committee findings of fact in the case of one claimant, Blain, evidently taken as typical.

In the course of the argument a letter from the Secretary of the Treasury dated March 20, 1906, to the Senate Committee on Claims was produced. Inasmuch as this letter does not appear in the formal record it is here quoted:—

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TREASURY DEPARTMENT, 1126-D.
OFFICE OF THE SECRETARY,
WASHINGTON, March 20, 1906.

The Chairman,
Committee on Claims,
United States Senate.

SIR,—I have the honour to acknowledge the receipt of your letter of the 14th instant requesting information relative to the merits of S. 4402, granting to the Court of Claims jurisdiction to hear and determine, notwithstanding failure to file protests, etc., the claims of Hosmer, Crampton & Hammond and others for duties in excess of those imposed by law upon hay imported into the United States during the years 1866 to 1882 inclusive.

All of the claims covered by said bill have not been identified on the records of the Department but many have been and all so far as identified are entirely similar and are covered by the following statements of facts.

Under the tariff Acts of 1861, 1862 and 1870, codified in the Revised Statutes of 1874 and 1878, hay was not specifically provided for and by a ruling of this Department dated April 8, 1868, the same was held to be dutiable at the rate of 20 per cent ad valorem as a nonenumerated manufactured article under the Act of March 2, 1861 (See section 2516 Revised Statutes).

Duties were assessed in accordance with such ruling upon all imported hay until March 23, 1882, when the United States Circuit Court having held in the case of Frazer vs. Moffitt, 18 Federal Reporter, 584, that such hay was subject to a duty of 10 per cent only, as a nonenumerated unmanufactured article under section 2516 R.S., the Department acquiescend in said decision and duties at the rate of 10 per cent only were collected upon imported hay until the passage of the Act of 1883, by which hay was made subject to a specific duty at $2 per ton.

Under the provisions of section 14 of the Act of June 30, 1864 (Sec. 2931 Revised Statutes), the decision of the Collector was made final and conclusive against all persons interested therein unless a protest was filed against such decision within ten days thereafter, and an appeal taken to the Secretary of the Treasury.

As none of the claimants filed the protests necessary to a review of the collector's decision and a refund of the duties erroneously assessed, they did not pursue their legal remedy and must be considered as having concurred in the Collector's decision and in any errors occurring therein.

The amount of duties involved in the aggregate or in each individual case covered by the bill cannot be ascertained unless the ports of entry be stated and then only at a very large expense. The aggregate of the excessive duties collected on imported hay between the dates mentioned has, however, been variously estimated at from $250,000 to $2,000,000.

In my opinion the passage of the bill referred to would establish a very bad precedent as I know of no reason why these importers should be repaid the excessive duties collected from them that would not equally apply to all persons who have paid excessive duties and have not pursued their legal remedy, and to allow all such claims would be equivalent to a repeal of the provisions of law requiring the filing of protests by importers and would subject the Government to an avalanche of claims subsequent to every adverse decision of the courts in customs cases.

For your further information I enclose herewith letters dated the 1st and 10th ultimo from the Department to the Chairman of the Committee on Claims of the House of Representatives relative to similar claims.

Respectfully,
L. M. SHAW,
Secretary.

(2 inclosures.)

Although the subject was under consideration by Congress for several years no Congressional action was taken; and eventually the claims were included in the schedule for decision by this Tribunal.

It is clear from the foregoing statement of facts that the customs laws of the United States afforded adequate legal remedies to all importers in the situation of these claimants who might be dissatisfied with the duties exacted and contend that they were either unlawful or excessive. These remedies we find were not only reasonable and fair, but more or less common to the customs laws of all civilized countries. We do not conceive that in the orderly administration and enforcement of such laws any other course of action is open to governments as a practical matter. Some definite procedure for the control of appeals for refunds must be laid down and observed. It is of course conceivable that a statutory procedure might be so unreasonable as effectually to deny the right of protest and appeal, but we do not find any such condition here; and even if a case of unreasonable and arbitrary statutory procedure were presented, provided it applied equally to the nationals of the government concerned and to foreigners, we should entertain grave doubt as to whether it could be said to operate as a denial of justice so as to lay the foundation for an international claim.

Section 2931 of the Revised Statutes of the United States has been construed by the Supreme Court of the United States. We quote from the opinion in Arnson & Another vs. Murphy, collector, 115 U.S. 579, decided on December 7, 1885:—

> "The statute makes the decision of the collector final and conclusive as to the rate and amount of duties, unless there is a specific protest made to the collector within ten days after the liquidation, and an appeal taken to the Secretary of the Treasury within thirty days after the liquidation. The decision of the Secretary on the appeal is made final and conclusive, unless a suit is brought within ninety days after such decision, in the case of duties paid before the decision, or within ninety days after the payment of duties paid after the decision; and no suit can be brought before a decision on the appeal, unless the decision is delayed for the time specified in the statute.
>
> We are of opinion that it is incumbent upon the importer to show, in order to recover, that he has fully complied with the statutory conditions which attach to the statutory action provided for. He must show not only due protest and appeal, but also a decision on the appeal, and the bringing of a suit within the time limited by the statute after the decision, or else that there has been no decision, and the prescribed time after the appeal has elapsed. The decision on the appeal is, necessarily, a matter of record in the Treasury Department, and, as is shown in the present case, it is communicated to the collector by a letter to him, the letter itself being the decision. The letter is a matter of record in the custom house. Inquiry there or at the Treasury Department would always elicit information on the subject; and the importer, knowing when his appeal was taken, can always protect himself by bringing his suit after the expiration of the time named after the appeal, although he has not heard of a decision, being thus certain that he will have brought it within the time prescribed after a possible decision.

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The conditions imposed by the statute cannot, any of them, be regarded as matters a failure to comply with which must be pleaded by the defendant as a statute of limitation. The right of action does not exist independently of the statute, but is conferred by it. There is no right of action on showing merely the payment of the money as duties, and that the payment was more than the law allowed, leaving any statute of limitation to be set up in defence, as in an ordinary suit. But the statute sets out with declaring that the decision of the collector shall be final and conclusive against all persons interested, unless certain things are done. The mere exaction of the duties is, necessarily, the decision of the collector, and, on this being shown in any suit, it stands as conclusive till the plaintiff shows the proper steps to avoid it. These steps include not only protest and appeal, but the bringing of a suit within the time prescribed. They are all successively grouped together in one section, not only in Section 14 of the Act of 1864 but in Section 2931 of the Revised Statutes; and the "suit" spoken of in those sections is the "action" given in Revised Statutes, Section 3011."

We adopt this reasoning as applicable to these claims.

The plea that the claimants were ignorant of their rights under the law, and consequently entitled to refunds of duties, regardless of the law, through the award of an international tribunal cannot be sustained. Importers, whatever their nationality, must be presumed to know and are bound by the customs laws of the countries with which they are dealing. These claimants in fact dealt through commission brokers and agents in the United States by whom the duties were actually paid.

The submission of the claims to this Tribunal by the Government of the United States constituted no implied waiver and did not operate to take them out from under the ordinary statutory provisions.

Now, therefore, the award of the Tribunal is that the claims of His Britannic Majesty's Government be disallowed.

A. Nerincx.
C. Fitzpatrick.
Robert E. Olds.

Dated at Washington, March 19th, 1925.

ENCLOSURE 2 IN No. 323

On June 25, 1908, the *R. T. Roy*, a steam fishing vessel of American ownership and registry, was seized in Lake Huron by a Canadian Inspector of Fisheries. The reason alleged for the seizure was that the vessel was at the time fishing in Canadian waters. The Inspector took her forthwith, together with the officers and crew, to South Bay Mouth, a Canadian port. There, it appears, a preliminary examination of the officers and crew was conducted by the Inspector, and their testimony was reduced to writing. After a lapse of two or three days the Inspector set out in another vessel with the *Roy* in tow, the officers and crew still on board, for Sault Ste. Marie, another Canadian port, where the usual legal inquiry looking to the ultimate condemnation or release of the vessel was intended to take place. On the way, the *Roy* ran on a reef in Canadian waters, and, efforts to float her again proving ineffectual, the Inspector went on to Sault Ste. Marie in the other boat for the purpose of securing assistance. While he was gone the captain and crew of the *Roy* succeeded in getting her off the reef, and they thereupon took her back to her home American port, Alpena, Michigan, where on the first day of July, 1908, further depositions of the officers and crew covering the circumstances of

the seizure were taken before a notary public. These latter depositions are included in the record. The testimony taken at South Bay Mouth, saving that of the captain has not been produced. The evidence indicates that the papers embodying the South Bay Mouth testimony were left on the *Roy* by the Inspector when he left her to go to Sault Ste. Marie, and that they were subsequently carried to Alpena and there disappeared. Some years later, however, the testimony of the captain was produced by one of the attorneys for the claimant at Alpena, on request of the State Department.

At the moment of seizure there was a discussion between the Inspector and the captain with regard to the precise location of the *Roy*. The chart carried by the *Roy* was produced and, while the evidence is not quite clear on the point, it seems probable that the cross found on the chart was placed there by the captain in the course of this discussion, and that this cross represented both the captain's and the Inspector's estimate of the place of seizure. It is contended by the Government of the United States that the seizure took place within American waters, and it is contended by His Majesty's Government that the point was in Canadian waters.

Damages are claimed for the seizure and detention of the vessel, for loss of the catch of fish, and for destruction of nets.

The sole issue—one of pure fact—which is sharply raised in the pleadings and has been exhaustively argued by distinguished counsel, is whether, having due regard for the international boundary through Lake Huron as it was then located, the seizure of the *Roy* was effected on the American or on the Canadian side of that boundary.

In the view which we take of this controversy, we do not find it necessary for us to follow the argument in its involutions with respect to the exact location of the boundary through Lake Huron as laid down by the Treaty of Ghent of 1783 and by the decision of the Special Commissioners in 1822, pursuant to the second Treaty of Ghent, executed in 1814. Nor are we inclined to engage upon any detailed analysis of the evidence beyond pointing out its vague and uncertain character. We have been forced to conclude that in the state of the record it is impossible, without indulging unwarranted conjecture, to determine the main question of fact involved. Leaving out of account the complicated problem of the boundary itself, which is of course not physically indicated through Lake Huron, we are faced by an irreconciliable conflict of untested and untestable statements. The location of the point of seizure is at best a mere guess. The captain of the *Roy* is quoted as saying that "he could only make an estimate or guess as to her location when seized." To check the location by reference to the speed of the *Roy* on her trip to the fishing ground is impracticable because varying estimates of speed were made. The so-called "deep hole," where the nets were set, might have been ascertained with reasonable accuracy, but no evidence on this subject has been adduced. The unexplained disappearance of the best contemporary evidence, namely, the statements taken at South Bay Mouth two days after the seizure for the express purpose of ascertaining the facts, is also a disturbing factor. The evidence of damages is inconclusive and unsatisfactory.

The Tribunal is constrained to emphasize the failure of the claimant to submit to the orderly legal procedure provided for the determination of the issue at the time. The seizure here complained of was the initial step in a procedure which, if it had been permitted to pursue its normal course, would have led to a judicial inquiry in which the very issue here presented would have been considered with full opportunity to elicit all the facts by examination of records and cross-examination of material witnesses. This procedure was interrupted, and its logical completion rendered impossible, by the affirmative act of the claimant's representative in withdrawing the vessel from the only jurisdiction where the matter

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could be duly and promptly dealt with. The circumstances do not justify us in finding that the Canadian authorities had abandoned the seizure when such withdrawal took place.

Moreover, proceedings might have been taken in the Canadian courts at any time against the Fisheries Inspector personally or against the Canadian Government by way of Petition of Right.

The terms of submission provide that this Tribunal "shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim, in whole or in part, any failure on the part of the claimant to obtain satisfaction through legal remedies which are open to him or placed at his disposal."

In the exercise of the discretion thereby conferred the Tribunal is of opinion that the claim must be disallowed.

Now, therefore, the award of the Tribunal is that the claim of the Government of the United States be disallowed.

Done at Washington, D.C., March 19, 1925.

A. Nerincx.
C. Fitzpatrick.
Robert E. Olds.

ENCLOSURE 3 IN No. 323

This claim as put forward in the Memorial is "for the repeated invasion and ultimate destruction of cessionary and property rights" in the State of Muar, in the Malay Peninsula. The particular events giving rise to it took place in the years 1875, 1876, and 1877. The original claimant, Adolph G. Studer, was at that time the Consul of the United States at Singapore. He conceived the idea of securing a cession of land somewhere in the peninsula and establishing a plantation. After a preliminary inquiry he decided that the State of Muar was a desirable location for his project and accordingly approached the ruling Sultan of that State, Ali Iskander Sah, with a view to obtaining a grant. Following certain conversations with one Keun, an employee of a bank at Singapore, who apparently represented the Sultan, Studer sent Keun to see the latter at Malacca, and the result was a so-called preliminary concession dated December 24, 1875. (Appendix to the Memorial, pp. 201-204.) This instrument, drawn up by Studer himself in the technical language usual in conveyances made under the Anglo-Saxon system of land tenure, purported to convey to Studer under certain conditions the fee simple title to a tract of land 6 geographical miles square, to be selected by Studer on any portion of Muar not already disposed of by the Sultan. One of the conditions required Studer to make the selection within three years from the date of the instrument. About one year later Studer himself went to Malacca, and, after an interview with the Sultan, proceeded to Muar where he undertook to make the selection. At the same time he also located grants for several other individuals who appeared to have become interested, through him or otherwise, in the possibilities for developing plantations in that territory.

On February 3, 1877, the preliminary grant was superseded by a final one which defined Studer's concession by metes and bounds. (Appendix to the Memorial, pp. 204-206.) This second instrument appreciably enlarged the area of the grant so that it included approximately 80 square miles. The final grant comprised substantially 50,000 acres.

Sultan Ali died in July, 1877.

The contention of the United States is that although Studer subsequently complied with all of the conditions of the grant, he was deprived of the benefit thereof, and his concession was effectually destroyed, through the wrongful acts and omissions of the subsequent ruler of Muar, the Sultan of Johore, to whose dominions the State of Muar was annexed in 1878.

The British Government appears in this proceeding by virtue of its assumption of responsibility internationally for the Government of Johore under the provisions of a treaty made in 1885.

In January, 1894, Studer brought his claim to the attention of the British Acting Governor of the Straits Settlement by means of a letter outlining at length the history of the concession and of his efforts to secure recognition for it and to operate under it. (Appendix to the Memorial, p. 175.) In October, 1894, Studer filed with the State Department at Washington a comprehensive statement of his claim, which occupies, together with the exhibits, nearly 200 pages of the record. (Appendix to the Memorial, pp. 85-276-½.) In October, 1896, the State Department took the matter up with the British Government and a long diplomatic correspondence ensued, concluding with a communication dated April 28, 1906, from Sir Edward Grey, then at the head of the Foreign Office, to the Honourable Whitelaw Reid, then American Ambassador. (Appendix to the Memorial, p. 582.) This communication referred to a previous suggestion that the claim be submitted to the local courts in Johore for adjudication, and, after transmitting a memorandum from the Sultan of Johore and his advisory board, Sir Edward Grey said:—

> "It is therein again pointed out that no valid reason has yet been adduced for the claimant's refusal to submit his claim in a regular manner before the proper Court in Johore; and, as was stated in the note to Mr. Choate of the 8th of November, 1903, His Majesty's Government feel that until that step has been taken the Johore Government cannot be pressed to recognize the claim in any way.
>
> "It appears, from the earlier 'statement of facts and argument for the claimant' drawn up in 1899, that some difficulty was thought to exist in adopting this course, on the ground that 'the immunity of the Sovereign Power from suits at Law within its territorial limits, unless by its own consent and in the manner in which it ordains,' was a familiar principle at law.
>
> "With a view of meeting this objection His Majesty's Government have thought it desirable to obtain a distinct assurance from the Sultan of Johore on the subject; and His Highness has now formally expressed willingness to waive all technical objections, and to agree to the case being tried by the Principle Judicial Officer in Johore in the presence of a British officer. In the circumstances Your Excellency will no doubt agree that the legal remedies which are open to the claimant in the Sultan's courts must be exhausted before any question of treating the matter through the diplomatic channel or referring it to arbitration can be considered." (Appendix to the Memorial, pp. 582-583.)

It does not appear that any advantage was taken of this offer. Counsel for the United States in the course of the oral argument stated that so far as he was advised the reason for the failure was that the existing treaty with the schedule in which this claim was ultimately included was then already under discussion between the two Governments. (Transcript of Oral Argument, p. 695.) And counsel for His Majesty's Government gave it as his understanding that the offer still stands. (Transcript of Oral Argument, pp. 447-448.)

In the view which, with great reluctance, we feel obliged to take in this case, we do not consider it either necessary or proper for us to enter upon a detailed examination of the evidence presented. The Tribunal finds itself not only embarrassed by the singular lack of reliable evidence and testimony on both sides, but virtually precluded from arriving at any confident conclusion upon the merits of this most interesting and complicated controversy. There is hardly a statement of fact in this record which is not disputed; and the number of facts which may be said to be

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definitely ascertained or admitted is almost negligible. Every issue has been strenuously fought. It may be useful to enumerate some of these issues:—

The power of Sultan Ali to make any concession is denied. The evidence governing the status and authority of the Sultan in such matters is meager and unsatisfactory.

Assuming that he had the power, it is contended that the Sultan did not in fact exercise it in this instance; that there is no adequate showing that the Sultan knew what he was doing when he signed the deeds or that he intended to do more than issue a mere license or permit. In this connection it is admitted that the record is silent upon the rather important question whether the Sultan could read or understand the English language in which the deeds were framed.

The relative positions of the Sultan and of the so-called Tumongong of Muar and the necessity for ratification by the latter are not so clearly defined as one would like to have them. In this connection it is contended that the Tumongong did in reality ratify the concession; but the document relied upon for this purpose is at least open to varying interpretations, and the further evidence on the point seems shadowy and imperfect.

The construction to be placed upon the grant itself has been debated at great length. On the one hand, we are asked to hold that the deed must be construed at its face value, in accordance with the principles of western systems of land tenure, as a conveyance of title in fee simple; on the other, it is argued that the instrument must be interpreted in the light of the Malay Customary Law, and that so construed it has the effect of a mere permit to enter and cultivate, such permit being personal to the grantor and lapsing with his death. The Tribunal has not before it any authoritative statement of the Malay Customary Law applicable to the State of Muar in 1876 and 1877. The situation in this respect offers serious complication. We are dealing with a transition period; and while it is plain that the native Customary Law, whatever it may have been, ultimately gave way to the white man's law, the point of time at which it can fairly be said that the process had advanced far enough to embrace the possibility of a grant of this form and character is, in our opinion, hardly susceptible of determination on the record before us. The evidence of actual practice at the period under consideration is fragmentary and inconclusive.

A large part of the oral argument has been devoted by both counsel to a discussion of events subsequent to the grant, bearing particularly upon Studer's efforts to comply with the conditions and to develop his project in the face of alleged interference by the local authorities. Some 12 acts of commission and omission have entered into this discussion. We apprehend that in any conscientious examination of the question whether a denial of justice within the meaning of international law took place, the conclusion would have to be based not upon the definite establishment of any one or more of these so-called "trespasses" as such, but upon the cumulative effect of these transactions viewing them as illustrative of a general prevailing condition and of the attitude maintained by the local authorities. These are all disputed questions of fact, and without taking them up seriatim and in detail we are constrained to hold that in the present state of the evidence we cannot form a reliable conclusion as to whether there was or was not a denial of justice.

The Tribunal sees no reason to doubt Studer's absolute sincerity and perfect good faith from beginning to end; it has been deeply impressed by this circumstance, which is indeed conceded by counsel for His Majesty's Government. Nevertheless, where a case rests so largely upon *ex parte* statements prepared many years after the event by the party in interest, for the express purpose of presenting his claim in the best possible light, allowances must be made for infirmities of memory as well as for a claimant's natural sense of grievance amounting sometimes almost to an obsession. Studer's letter to the Acting Governor of the Straits Settlement and his communication to the Department of State were both written nearly 20 years after the transactions took place. Neither of these statements possesses the solemnity of a sworn declaration. They are merely the attempts of an individual who truly believed that he had been wronged, and perhaps had been unjustly treated, to recall and set down acts and circumstances of long ago. In effect, the Government of the United States asks the Tribunal to accept these statements without substantial corroboration and to found its judgment upon them. Without regarding many, if not most, of the essential facts as duly established in this way, it is difficult to see how any judgment could be rendered; and even so, much would be left to inference and conjecture.

On the whole record the Tribunal is convinced that the Government of the United States was justified in espousing this claim. It is, moreover, our unanimous feeling that the claim deserved, and still deserves, careful consideration and adjudication upon the merits. The record here does not permit this, and we are definitely of the opinion that no Tribunal so far removed in time and space from the date and scene of this controversy can be expected adequately to deal with the intricate questions of fact involved. The industry and ingenuity of counsel in making the best of so difficult a situation has challenged our unreserved admiration. They have done everything that highly skilled and competent advocates could do to assist us.

The opportunity once presented to carry the claim before the courts of Johore under guarantee apparently sufficient to insure full inquiry and impartial adjudication seems to have been passed over for reasons which are not sufficiently explained. This Tribunal earnestly recommends that this offer be renewed and accepted and that the courts of Johore in that event take the matter up in a liberal spirit without regard to legal refinements and technicalities.

With this emphatic recommendation the award of the Tribunal is that the claim of the Government of the United States be disallowed.
Done at Washington, D.C., March 19, 1925.

A. Nerincx.
C. Fitzpatrick.
Robert E. Olds.

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C 40936

WITH THE COMPLIMENTS OF THE

UNDER SECRETARY OF STATE FOR EXTERNAL AFFAIRS

OTTAWA, 29 July 1925

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 324.

From the Governor General to His Majesty's Ambassador at Washington

Telegram.
47 A.

OTTAWA, March 31, 1925.

Your despatch of the 21st March, No. 160,[1] forwarding copies of three awards rendered by the Pecuniary Claim Tribunal. Attention has been called by the Justice Department to what would appear to be clerical errors in the fifth paragraph of the award in the case of the R. T. Roy. Treaty of 1783 is referred to as the Treaty of Ghent, and the Treaty of 1814 as the second Treaty of Ghent. It is pointed out that the Treaty of 1783 was the Treaty of Paris and the Treaty of 1814 was the Treaty of Ghent, and it is suggested that in the first reference the word "Ghent" should be changed to "Paris," and that the word "second" should be omitted in the reference to the Treaty of Ghent.

My Ministers request that if possible steps may be taken to have the errors corrected before printed copies of the awards are made.

BYNG.

[1] No. 323.

No. 325.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.
No. 32.

WASHINGTON, April 1, 1925.

Your telegram No. 47 A.[1] Attention of the American Agent was drawn to the errors in the R. T. Roy award this morning but he does not feel it lies within his competency to amend the Tribunal's remarks. He suggests that the question be allowed to rest until the Tribunal re-convenes in October and then be brought to the notice of the three members and corrections made under their authority.

HOWARD.

[1] No. 324.

No. 326.

From the Secretary of State for the Colonies to the Governor General

Canada.
Confidential.

DOWNING STREET, April 2, 1925.

11th March. MY LORD,—With reference to my Confidential despatch of the 14th of January,[1] I have the honour to transmit to Your Excellency for the information of your Ministers, the accompanying copy of a letter written

[1] No. 310.

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by Sir Cecil Hurst from Washington relating to the arrangement which has been agreed upon with regard to the payment of the increased rate of remuneration of the Arbitrators under the Pecuniary Claims Convention.

I have, etc.,
(For the Secretary of State)
W. ORMSBY GORE.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

ENCLOSURE IN No. 326

From the British Agent, Pecuniary Claims Tribunal, to the Secretary of State for Foreign Affairs

WASHINGTON, D.C., March 11, 1925.

SIR,—It will be within your recollection that an agreement was come to prior to the present session of the Pecuniary Claims Tribunal that the remuneration of the arbitrators should be increased by $20 per day. This agreement was embodied in the note from the United States Embassy in London to the Foreign Office of December 17th, 1924, and the Foreign Office answer of December 24th.

Up till now the remuneration received by the arbitrators has been $1,200 per month—see the notes of July 19th and July 27th, 1912, between the British Embassy in Washington and the State Department transmitted by Mr. Mitchell Innes in his despatch of August 7th, 1912 (34977/1912).

When I reached Washington the gentleman responsible on the United State side for evoking (sic) all the payments in connection with the work of the Pecuniary Claims arbitration asked me what our views were as to the precise method of giving effect to the arrangement of December last. It did not seem easy to combine a monthly rate of pay with an increase on a *per diem* basis. For the purpose of the new arrangement were there six days in the week or seven?

To avoid difficulties of this kind in the application of the increased rate of remuneration for the arbitrators the agent for the United States and I agreed that effect should be given to the new agreement by paying each arbitrator an additional $600 per month, and that this should also apply to the month preceding the meeting of the Tribunal during which the arbitrators are expected to study the papers.

This arrangement between the agents was explained to and concurred in by the arbitrators.

I have, etc.,
C. HURST.

The Right Honourable
AUSTEN CHAMBERLAIN, M.P.,
etc., etc., etc.

No. 327.

From the Governor General to His Majesty's Ambassador at Washington

No. 61.

CANADA, GOVERNMENT HOUSE,
OTTAWA, April 6, 1925.

SIR,—With reference to Your Excellency's despatch, No. 16, of the 9th January, 1925,[1] in regard to the claim of the Pottawatamie Indians against the United States Government, I have the honour to inform Your Excellency that it is pointed out by the Department of Justice that the placing of this claim before the Court of Claims for adjudication would be a just mode of procedure and quite acceptable to the Canadian Government, but that it appears that some action on the part of the United States Government or of Congress is necessary before the claim can be adjudicated upon its merits by the Court, because in the first place it is understood that the Court lacks jurisdiction to hear any claim growing out of or dependent upon any treaty stipulation entered into with the Indian tribes, and further, even assuming that the Court has jurisdiction, it would seem useless to begin proceedings in that Court because under existing legislation the Court would be bound to hold that the claim is barred because of failure to file the petition within six years after the claim first accrued. If the Government of the United States is not prepared to recognize the claim without having it first adjudicated upon by the Court, the Canadian Government would be glad if the necessary action could be taken by the United States Government, as was done in the Oneida case, to confer upon the Court of Claims the necessary jurisdiction and to authorize the determination of the case notwithstanding the limitation of time prescribed by the Statute. Mr. Chisholm, who represents the Indians, has informed the Justice Department that the officers of the Government with whom he conferred at Washington expressed themselves favourably to a disposition of the case upon the lines above indicated.

My Government will be grateful if Your Excellency will convey the views set forth above to the United States Government.

I have, etc.,
BYNG OF VIMY.

His Excellency
The Right Honourable
Sir ESME HOWARD, G.C.M.G., K.C.B., C.V.O.

[1] Not printed.

No. 328.

From the Secretary of State for the Colonies to the Governor General

Canada.
No. 180. DOWNING STREET, April 16, 1925.

MY LORD,—With reference to my telegram of the 2nd of February,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a report by Sir Cecil Hurst on the session of the Pecuniary Claims Commission held at Washington in March.

23rd March.

I have, etc.,
(for the Secretary of State)
W. ORMSBY GORE.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

No. 315.

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C 40340

ENCLOSURE 1 IN No. 328

British Agent, Pecuniary Claims Tribunal, to the Secretary of State for Foreign Affairs

FOREIGN OFFICE, S.W.1,
March 23, 1925.

SIR,—The session of the Pecuniary Claims Commission, for the work of which I recently visited the United States, opened at Washington on Monday, March 2. The arbitrators and also the agents of the two parties were received on the morning of that day by President Coolidge and subsequently by the Secretary of State, Mr. Hughes. The Tribunal held a formal meeting immediately afterwards, and in the afternoon began to hear the arguments in the Studer case. The arguments in that case lasted seven days, being completed on Tuesday, March 10.

Arrangements had been made by the Agent of the United States for the Tribunal to sit in one of the courts in the Courthouse of the Federal District of Columbia, but the arbitrators found it inconvenient to meet at a place so far from the hotels in which they were living, and by the courtesy of Dr. James Brown Scott, the Secretary-General of the Carnegie Endowment for International Peace, the subsequent meetings of the Tribunal were all held in the Board Room of the Trustees of the Endowment at Jackson Place. Offices in the Mills Building at Washington were provided by the United States Government for each of the Arbitrators and for the British Agent and for the Canadian representative.

At the conclusion of the arguments in the Studer case the Tribunal began the hearing of the Hay Claims. These are claims put forward by the Government of the Dominion of Canada for the refund of part of the duties paid by various Canadian exporters of hay on the importation of hay into the United States. These importations took place in the seventies of the last century and duties were paid at the rate of 20 per cent *ad valorem* under a section of the Tariff Act which imposed a duty at that rate on manufactured articles. It was subsequently held in a case decided by the Federal Circuit Court of Appeals that the process by which grass was converted into hay did not render it a manufactured article. The proper rate of duty under the Tariff Act was, therefore, 10 per cent. The United States Treasury accepted the decision and thereafter levied only a duty at the lower rate. The Canadian importers of hay then began to claim the refund of the duties they had paid at the higher rate. The claims were always resisted by the United States Government. No settlement was arrived at and ultimately some of the claims were included in the First Schedule to the Claims Convention of 1910. Most of the claimants had entrusted their interests to a Washington firm of lawyers of the name of Consaul, and it was Mr. Consaul who argued the case before the Tribunal. For the United States the case was argued by Mr. Nielsen, the United States Agent, who opposed the claims with considerable vigour and at great length. He maintained that aliens who trade with the United States do so upon the footing of complying with the laws laid down by the United States, that the provisions of the United States law as to the return of customs duties had none of them been complied with by the claimants, and that for a Claims Tribunal to make an award in favour of these claimants would be to override the law enacted by the United States on a matter exclusively within its jurisdiction and thereby to infringe its sovereignty.

Only about ten of the Hay claims are included in the First Schedule to the Claims Convention, and in only five of these had pleadings been filed on either side. These cases were all argued together as it was understood that the issues raised in all the cases were identical and that one argument would, therefore, be sufficient. If the Tribunal should adopt

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the view urged upon it by the United States Government and dismiss the claims, it would clearly be useless to press the remaining Hay claims whether included in the First Schedule to the Convention of 1910 or not. If the Tribunal makes an award in favour of the claimants, it is to be hoped that the United States Government will agree to the payment of all the claims in which the facts can be substantiated.

The only other case included in the programme of this session was a small American claim against Canada, known as the Roy Claim, for the seizure of a fishing boat on Lake Huron by the Dominion authorities. The question at issue was whether the vessel was seized on the American side or the Canadian side of the international boundary line running through Lake Huron.

The Roy Claim was argued on behalf of the Dominion Government by Mr. C. C. Robinson, K.C., of Toronto, who acted as general representative of the Dominion Government during the session, no Associate Agent on behalf of Canada having yet been appointed.

No awards had been pronounced by the Tribunal by the time I left Washington, but it was the understanding on both sides that the decisions would be given before the arbitrators left Washington.

The members of the Tribunal evinced considerable interest in the arrangements for the next session of the Tribunal and summoned the two Agents to a private meeting with the arbitrators at which the whole subject was considered. The discussion ranged over the whole ground and resulted in an agreement to the effect that the next session should open at Washington on Monday, October 26, 1925, and should dispose of all the First Schedule claims which are still outstanding. The Tribunal will first hear and determine the questions of principle involved in the American fishing claims against Newfoundland, the British arbitrator on this occasion being the nominee of the Newfoundland Government. It will then deal with the Hawaiian, Philippine and Webster claims, and then with the Cayuga Indians claim. As there had not been sufficient time to communicate with the Newfoundland Government and as the Canadian representative had not reached Washington, I made the agreement subject, on the British side, to the concurrence of the Canadian and Newfoundland Governments. The details are set out in a letter which I addressed to my United States colleague on March 12—enclosure 1. The members of the Tribunal proposed to make an order of the Tribunal as to the date and place of meeting and as to the disposal at the next session of all the remaining claims in the First Schedule, but at the time when I left Washington the order had not been made, nor had the American Agent replied to my letter of March 12. When I gave a copy of my letter to Mr. Nielsen to Mr. Robinson on behalf of the Dominion Government, and when I sent a copy to Mr. Morine, the Associate Agent for Newfoundland, I asked that the concurrence of their Governments might be expressed officially to the United States through the Embassy at Washington.

Before I left Washington I obtained from the Embassy and handed to each of the arbitrators cheques for the British share of their remuneration for the month preceding and the month of the session, viz., $1,800 for each arbitrator. In the case of Sir Charles Fitzpatrick a deduction was made of a sum which had been advanced to him by the Dominion Government before he left Ottawa (see enclosure 2). None of the arbitrators had handed in the account for his travelling expenses, but I arranged with the United States financial officer that when they were received and checked by his Government he would send copies of the accounts to the Embassy and that the Embassy would then pay the British half of each of the accounts direct to the arbitrators. Other payments, such as those for the stenographic reports of the arguments, will be treated in the same way. When the accounts have been received and checked by the American agent, a copy will be sent to the Embassy and half will then be paid by the Embassy.

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CANADA

The United States Government had appointed as their Secretary of the Tribunal under article 5 of the Convention Mr. Stanley P. Smith. As the work to be done by the Secretaries of the Tribunal is not heavy, and as the members of the staff of the Embassy have very little time to spare, no appointment of a British Secretary was made, and Mr. Smith very kindly undertook to prepare and make the necessary entries in the British copies of the Minute Book of the Tribunal and of the Register. As the next session of the Tribunal is due to be held in Washington, I left the British copies of the Minute Book and the Register in Mr. Smith's hands.

Monsieur Nerinox has entered upon his duties as Umpire with the most praiseworthy zeal and shows a wonderful grasp of the English language and remarkable fluency in speaking it.

Before closing this report I desire to place on record my appreciation of the courtesy and helpfulness which I have experienced at the hands of my United States colleague and of all those who were associated with him on the American side in the work of the Claims Commission, and also of the great assistance which was given to me by the Ambassador and by all the members of the Embassy staff at Washington.

I have, etc.,

CECIL J. B. HURST.

The Right Honourable
AUSTEN CHAMBERLAIN, M.P.,
etc., etc., etc.

ENCLOSURE 2 IN No. 328

From the British Agent to the American Agent

WASHINGTON, March 12, 1925.

MY DEAR COLLEAGUE,—The discussion with the members of the Tribunal as to the arrangements for the next session results according to my understanding in the common adoption of the following programme subject, however, in my case to the concurrence of the Canadian and Newfoundland Governments.

An effort will be made at the next session to dispose of all the remaining claims listed in the First Schedule to the Convention.

The Tribunal will meet in Washington on Monday, October 26th, 1925, and will take up the consideration of questions of principle involved in the American claims against Newfoundland. The chief question of principle involved I understand to be whether the vessels in respect of which the claims have arisen are to be treated as fishing vessels or as trading vessels.

When dealing with these Newfoundland claims the British member of the Tribunal will be appointed by the Newfoundland Government.

So soon as the Tribunal has heard and decided the questions of principle involved in the claims against Newfoundland the cases affecting His Majesty's Government in London will be taken up: viz., the group of Hawaiian claims, the group of Philippine claims, and the Webster claim, the Webster claim being taken last. Thereafter the Tribunal will take up the Canadian Cayuga Indian claim.

In accordance with the first of the terms of submission attached to the Convention of 1910 the question whether the Webster and the Cayuga claims are barred by Treaty will first be disposed of, and the cases will only be argued on their merits if that question is decided in favour of the claimant Governments.

An effort will be made to conclude the work of the session and wind up the First Schedule claims in time to enable those who have come from Europe to be done by Christmas.

After the questions of principle arising in the Newfoundland claims have been decided by the Tribunal, the Agents on either side will endeavour to work out in detail the application of the Tribunal's decision to the individual claims. Any agreement come to will in due course be reported to the Tribunal and entered on the record.

For the purpose of framing the question or questions of principle to be submitted to the Tribunal in respect of the claims against Newfoundland, and for the purpose of discussing any other matters in connection with these claims which might usefully be the subject of agreement, a meeting between the Agent for the United States and the Associate Agent for Newfoundland will be held at some date and place to be arranged between them, but subsequent to the filing of the United States reply in these claims.

I am, etc.,

CECIL J. B. HURST,
British Agent.

FRED K. NIELSEN, Esq.,
Agent American and British Claims Arbitration,
Department of State,
Washington, D.C.

ENCLOSURE 3 IN No. 328

From the Deputy Minister of Justice to the British Agent

OTTAWA, February 25, 1925.

Re British and American Claims Arbitration

DEAR SIR,—I am to-day making an advance to Sir Charles Fitzpatrick of $500 on account of the remuneration and expenses to be allowed to him as British Arbitrator and charged to the two Governments. I should be glad if you would make a note of this, in order that when the accounts come to be adjusted, this Government will receive credit for this amount.

Yours, etc.,

W. STUART EDWARDS,
Deputy Minister of Justice.

Sir CECIL HURST, K.C.B.,
c/o The British Embassy,
Washington, D.C., U.S.A.

ENCLOSURE 4 IN No. 328

From the British Agent to the Deputy Minister of Justice

HOTEL PENNSYLVANIA,
NEW YORK, March 12, 1925.

DEAR MR. EDWARDS,—An answer to your letter of February 25, telling me you had advanced $500 to Sir C. Fitzpatrick for expenses, etc., in attending the session of the Pecuniary Claims Arbitration, seems belated when it is dated March 12—but I waited until I had dealt with the financial side of the work at Washington before replying to your note. This morning I gave each of the arbitrators a cheque for the British share of their remuneration: viz., $1,800. In the case of Sir Charles I gave him only $1,300 and took a receipt for $1,800. I told him his travelling expenses would be paid in full and I asked the Embassy at Washington to notify you officially of the action taken.

The Hay claims were argued yesterday and this morning, and the Roy claim began this afternoon. I was very glad that Robinson was able to come.

CECIL J. B. HURST.

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No. 329.

From His Majesty's Ambassador at Washington to the Governor General

No. 207.

BRITISH EMBASSY,
WASHINGTON, April 24, 1925.

MY LORD,—I have the honour to transmit to Your Lordship, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
HERBERT W. BROOKS.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To the Department of State, Washington, April 24, 1925.	Claim of the Pottawatomie Indians against the United States Government.

Reference: Canada despatch No. 61 of April 6, 1925.[1]

[1] No. 327.

ENCLOSURE IN No. 329

From His Majesty's Ambassador at Washington to the United States Secretary of State

No. 416.

BRITISH EMBASSY,
WASHINGTON, D.C., April 24, 1925.

SIR,—In the note which Mr. Grew was so good as to address to Mr. Brooks, at that time His Majesty's Chargé d'Affaires, on July 12th last, on the subject of the claim of the Pottawatomie Indians against the United States, the former stated that it was not necessary for suits against the Government of the United States in cases falling within the jurisdiction of the Court of Claims to be sponsored or referred to that Court by any executive department or by either of the Houses of Congress, but that such cases could be filed directly by the claimants in accordance with the rules of procedure established by the Court in question.

You are already aware that, in the opinion of the Dominion Government the adjudication of the Pottawatomie Indians' case before the United States Court of Claims would be a most satisfactory arrangement. The Government of Canada are inclined to think, however, that in so far as this specific case is concerned some action on the part of the United States Government or of Congress will be necessary before the claim can be adjudicated upon its merits by the Court, because in the first place it is understood that the Court lacks jurisdiction to hear any claim growing out of or dependent upon any treaty stipulation entered into with the Indian tribes, and secondly, even assuming that the Court has jurisdiction, it would seem useless to institute proceedings in that Court because, under existing legislation, the Court would be bound to hold that the claim is barred because of failure to file the petition within six years after the claim first accrued.

The Dominion Government desire me to add that in the event of the Government of the United States not being prepared to recognize the Pottawatomies' claim without having it first adjudicated upon by the Court of Claims, the former Government would be glad if the necessary action could be taken by the United States Government, as was done in the Oneida case, to confer upon the Court of Claims the necessary jurisdiction and to authorize the determination of the case, notwithstanding the limitation of time prescribed by the Statutes. In this connection it appears that Mr. Chisholm, who represents the Indians, has informed the interested Canadian authorities that the American officials with whom he has conferred on several occasions in Washington have expressed themselves favourably to a disposition of the case upon the lines indicated above.

I should be grateful if you would furnish me at your early convenience with an expression of your views upon the contents of this note.

I have, etc.,
(For H.M. Ambassador)
HERBERT W. BROOKS.

The Honourable
FRANK B. KELLOGG,
Secretary of State of the United States,
Washington, D.C.

No. 330.

From the Secretary of State for the Colonies to the Governor General

Telegram.

LONDON, May 27, 1925.

In view of your telegram of July 2nd 1924,[1] McIver Claim, it was thought best to defer reply to the United States Ambassador; but he has now referred further to the case and unless claim has been settled, it is proposed, if your Ministers agree, to reply on the lines indicated in my telegram of June 26th.[2] Please telegraph reply.

SECRETARY OF STATE FOR THE COLONIES.

[1] No. 285.
[2] No. 284.

No. 331.

From the Governor General to His Majesty's Ambassador at Washington

No. 107.

CANADA, GOVERNMENT HOUSE,
OTTAWA, June 10, 1925.

SIR,—I have the honour to inform Your Excellency that in the preparation of the case of the Canadian Cayuga Indians against the State of New York for submission to the Pecuniary Claims Tribunal at its approaching session, it is desired, if possible, to examine certain correspondence and papers understood to be in the possession of the United States War Department, consisting of correspondence between the United States Department of Indian Affairs or the Federal Indian Commissioners, and the State of New York, or its Indian Commissioners, during the period from 1788 to 1812 inclusive, and that Mr. James White, the Agent of the Department of Justice, has been despatched to Washington for this purpose.

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In view of the attitude of the United States Government disclosed in Sir Cecil Spring-Rice's despatch No. 193 of the 15th October, 1913,[1] when a request to inspect United States records bearing on the Canadian Hay claims was made, favouring access of claimants to the public records where practicable, I shall be grateful if Your Excellency will enquire whether the United States authorities would find it convenient to allow Mr. White to examine the correspondence referred to. Such a favour would be much appreciated by the Canadian Government.

I have, etc.,
BYNG OF VIMY.

His Excellency
The Right Honourable
Sir Esme Howard, G.C.M.G., K.C.B., C.V.O.

[1] No. 149.

C 40947

O

WITH THE COMPLIMENTS OF THE
UNDER SECRETARY OF STATE FOR EXTERNAL AFFAIRS

OTTAWA, 9 Jan. 1926

JAN 9 Recd

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 339.

From the Secretary of State for Dominion Affairs to the Governor General

Canada.

No. 388.

DOWNING STREET, September 12, 1925.

MY LORD,—I have the honour to request Your Excellency to inform your Ministers that the following expenditure, supported by the accompanying vouchers, has been incurred by His Majesty's Government in respect of the British share of the expenses of Sir C. Fitzpatrick's services as arbitrator in the recent session of the Anglo-American Pecuniary Claims Arbitration Tribunal which was held at Washington:—

(1) Remuneration at $1,800 a month	$1,300 00
(Balance only—$500 already advanced by the Canadian Government.)	
(2) Travelling expenses—to Washington	32 50
to Canada	31 06
	$1,363 56

2. I should be glad if, in accordance with the agreement arrived at in 1911 regarding the allocation of expenses and following the proposals for increasing the remuneration payable to arbitrators (see my telegram of the 14th of November, 1924),[1] arrangements could be made for the repayment to His Majesty's Government of the sterling equivalent of the above sum, amounting to two hundred and eighty-six pounds nine shillings and three pence.

I have, etc.,

L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 296.

ENCLOSURE 1 IN No. 339

Travelling expenses incurred by Sir Charles Fitzpatrick, G.C.M.G., on his return journey to Canada on the conclusion of the session of the Pecuniary Claims Arbitration held in Washington, March, 1925.

Railroad ticket, Washington to Quebec	$27 12
Pullman	12 00
Incidental expenses	23 00
	$62 12

Received the sum of thirty-one dollars and six cents ($31.06) being the share (one half) payable by the British Government of the above-mentioned expenditure of sixty-two and twelve cents ($62.12) which I certify was duly incurred on the journey in question.

C. FITZPATRICK.

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ENCLOSURE 2 IN No. 339

I acknowledge to have received from His Majesty's Ambassador at Washington the sum of thirteen hundred dollars ($1300.00) being the balance of two months' remuneration ($1800.00) as arbitrator in the Pecuniary Claims Arbitration; the payment of $1800.00 covers the preliminary month preceding the present meeting of the Tribunal on March 2nd, and the month of the Session.

C. FITZPATRICK.

ENCLOSURE 3 IN No. 339

I acknowledge to have received from His Majesty's Ambassador at Washington the sum of thirty-two dollars and fifty cents ($32.50), being the share payable by the British Government of my travelling expenses to Washington.

C. FITZPATRICK.

ENCLOSURE 4 IN No. 339

March 18, 1925.

SIR CHARLES FITZPATRICK,
American and British Claims Arbitration,
Offices of the Tribunal, Washington.

Statement of Expenses

Ticket, Ottawa to Washington via Montreal	$ 30 00
Pullman	12 00
Disbursements at Montreal and New York	23 00
	$ 65 00
Ticket, Washington to Quebec	$ 27 12
Pullman and other incidentals	35 00
	$127 12

A true copy.

MAURICE P. SHAUER,
Special Disbursing Officer,
Department of State.

No. 340.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 497.

BRITISH EMBASSY,

MANCHESTER, Mass., September 19, 1925.

MY LORD,—I have the honour to refer to correspondence ending with Sir Esme Howard's despatch No. 207 of April 24th last,[1] relative to the claim of the Pottawatomie Indians against the United States.

The Resident Secretary of His Majesty's Embassy at Washington took the opportunity of a recent conversation with Mr. Vallance, the competent official of the Solicitors' Branch of the State Department, to enquire the present position as regards this claim. Mr. Vallance informed

the Resident Secretary that the consideration of this claim would be deferred until a decision had been arrived at in the matter of the Cayuga Indian claim during the forthcoming session of the Pecuniary Claims Tribunal at Washington. Mr. Vallance added that he had fully discussed the question of the Pottawatomie claim with Mr. Edwards, the Canadian Deputy Minister of Justice, on the occasion of the recent visit of the latter to Washington to attend the negotiations connected with the Liquor and Narcotic Convention.

In these circumstances, I assume that the Canadian Government are aware of the attitude of the United States Government as regards this claim and that no further representations in the matter on the part of His Majesty's Embassy are necessary for the time being.

I have, etc.,

H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 329.

No. 341.

From the Governor General to His Majesty's Chargé d'Affaires at Washington

No. 170.

CANADA, GOVERNMENT HOUSE,

OTTAWA, September 25, 1925.

SIR,—With reference to your despatch No. 497, of the 19th instant,[1] on the subject of the claim of the Pottawatomie Indians against the United States, I have the honour to inform you that the Canadian Government had not previously been aware of the attitude of the United States Government as therein indicated, and is not cognizant of any circumstance which would make this claim dependent in any sense upon the decision in the Cayuga case. The suggestion to postpone consideration of the Pottawatomie claim is an occasion to them of no little surprise, and they desire that pressure should be brought to bear upon the United States Government with a view to promoting early and favourable consideration of this claim, and would welcome any action which you may feel at liberty to take towards that end.

It has been reported by the Deputy Minister of Justice that when in Washington recently on other business, he casually referred to this claim in conversation with Mr. Vallance of the State Department, and asked him if he could say when a reply might be expected to the last Canadian communication. Mr. Vallance replied that a memorandum was being prepared in his Department which he expected would be completed within a month, and that the Canadian Government might expect a reply in about a month's time. No suggestion was made, however, that consideration of this claim would be deferred until a decision had been arrived at in the matter of the Cayuga Indian claim, in fact the whole tenor of Mr. Edwards' conversation with Mr. Vallance was inconsistent with any such suggestion.

The proposal further to postpone consideration of this claim, coming as it does after a lengthy correspondence regarding a number of minor points raised by the United States Government, and at a time when the

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Canadian authorities had been led to expect a definite statement of the position of the United States Government in the matter makes it difficult to escape the conclusion that that Government is merely endeavouring to postpone consideration of the case indefinitely.

My Government will be grateful if you will take up this matter with the United States Government and make it clear that it would be a matter of considerable disappointment to the Canadian Government if consideration of the claim should be further postponed.

I have, etc.,

BYNG OF VIMY.

His Majesty's Chargé d'Affaires,
British Embassy,
Washington.

[1] No. 340.

No. 342.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 506.

Very Confidential.

BRITISH EMBASSY,

WASHINGTON, D.C., October 6, 1925.

MY LORD,—I have the honour to acknowledge the receipt of Your Excellency's despatch No. 170 of the 26th ultimo,[1] regarding the claim of the Pottawatomie Indians of Wisconsin, and to transmit to you herewith copy of a note which I have addressed to the United States Government requesting the favour of a reply to this Embassy's representations on the subject.

Your Excellency may rest assured that this case will continue to engage my serious attention with a view to obtaining an early reply from the United States Government to the suggestion that it be adjudicated by the United States Court of Claims. At the same time, I cannot conceal my fear that further delays are likely to ensue before a satisfactory settlement of this claim is reached. Mr. Vallance, in his capacity as one of the solicitors to the Department of State, unfortunately handles not only this but many other British claims in which His Majesty's Embassy is interested, with the result that various members of my staff have had frequent opportunities to observe his attitude on such matters. I regret to inform Your Excellency that the official in question has never shown the slightest spirit of co-operation in the course of these negotiations but is always ready to complicate the issue by raising all manner of legal obscurities. As an example of his methods I need only refer to his attempt to make a settlement of the Pottawatomies' claim conditional upon the reconsideration by the Dominion Government of their attitude in the so-called Isenberg case. And I am by no means certain that Mr. Vallance has abandoned this idea.

I have, etc.,

H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 341.

ENCLOSURE IN No. 342

From His Majesty's Chargé d'Affaires at Washington to the United States Secretary of State

No. 867.

BRITISH EMBASSY,

WASHINGTON, D.C., October 6, 1925.

SIR,—I have the honour to refer to Sir Esme Howard's notes No. 915 of October 8th, 1924, and No. 416 of April 24th last, and to previous correspondence relative to the claim of the Pottawatomie Indians of Wisconsin now residing in Canada against the United States Government. The first of these communications contained an explanation of the facts which have moved the Government of Canada to support this claim, while the second intimated that the Dominion Government would be glad to see this long outstanding case adjudicated by the United States Court of Claims and in that connection drew attention to a previous similar claim, namely that of the New York Indians versus the United States (See Statutes at Large, page 426, Chapter 52, Vol. 27 and 40, Court of Claims Reports, 448).

At the request of the Government of Canada, I beg leave to remind you that correspondence on the claim of the Pottawatomies has now taken place between His Majesty's Embassy and the Department of State over an extended period of years, in addition to which the case in question has formed the subject of numerous conversations between leading members of the Dominion Government and officials of the Department. No definite expression of the views of the United States Government on the claim has yet been received, however, to the great disappointment of the Dominion authorities interested therein, who have some difficulty in appreciating the reasons for the delay which has marked the consideration of the representations made at their request by His Majesty's Embassy.

In these circumstances, you will, I feel sure, readily understand my anxiety to be furnished at your earliest convenience with a reply to the second of the two official communications mentioned in the first paragraph of this note, and I venture to solicit your earnest co-operation to that end.

I have, etc.,

H. G. CHILTON.

The Honourable
FRANK B. KELLOGG,
Secretary of State of the United States,
Washington, D.C.

No. 343.

From the Deputy Governor General to the Secretary of State for Dominion Affairs

No. 409.

CANADA,

OTTAWA, October 7, 1925.

SIR,—With reference to your despatch No. 388 of the 12th September,[1] on the subject of the expenses of Sir Charles Fitzpatrick as Arbitrator in the Anglo-American Pecuniary Claims Arbitration Tribunal, I have the honour to inform you that, while in accordance with the established practice one-half of the arbitrator's expenses has properly been

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charged against Canada, the same practice as to his monthly remuneration ($1800) has not been followed but the full amount has been charged.

The Canadian Government request that an amended statement of the said expenses be forwarded.

I have, etc.,
FRANCIS A. ANGLIN,
Deputy Governor General.

Lieutenant-Colonel
The Right Honourable
L. C. M. S. AMERY,
Secretary of State for Dominion Affairs.

[1] No. 339.

OTTAWA: Printed by F. A. ACLAND, Printer to the King's Most Excellent Majesty, 1926.

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PECUNIARY CLAIMS CONVENTION

CONFIDENTIAL

No. 344.

From the Secretary of State for Dominion Affairs to the Governor General

Canada.
No. 34.

DOWNING STREET, January 19, 1926.

MY LORD,—With reference to the Deputy Governor General's despatch No. 409 of the 7th October, 1925,[1] regarding the remuneration of Sir Charles Fitzpatrick as Arbitrator in the Anglo-American Pecuniary Claims Arbitration Tribunal, I have the honour to request Your Excellency to inform your Ministers that the $1800 which the Canadian Government have been requested to pay represents one-half of the remuneration for two months, that is, the month of the annual session and the preceding month of study.

2. In this connection I should be glad if you would invite the attention of your Ministers to the correspondence enclosed in the late Lord Harcourt's despatch No. 607 of the 31st August, 1912.[2]

3. I regret that this was not made clear in my despatch No. 388 of the 12th September, 1925.[3]

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 345.
[2] No. 82.
[3] No. 339.

No. 345.

From the Governor General to His Majesty's Ambassador at Washington

No. 16.
Confidential.

CANADA, GOVERNMENT HOUSE,
OTTAWA, January 20, 1926.

SIR,—With reference to Mr. Chilton's despatch No. 506 of the 6th October last marked "Very Confidential,"[1] regarding the claim of the Pottawatomie Indians against the United States Government, my Government will be glad to know whether any reply has yet been received from the United States Department regarding this case. If not, they will be grateful if Your Excellency can press the United States Government for such a reply.

I have, etc.,
BYNG OF VIMY.

His Excellency
The Right Honourable
Sir ESME HOWARD, G.C.M.G., K.C.B.,
H.B.M. Ambassador at Washington.

[1] No. 342.

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No. 346.

From His Majesty's Ambassador at Washington to the Governor General

Telegram.
No. 4.

WASHINGTON, January 23, 1926.

Decision in Cayuga Indians' claim was rendered yesterday. Total sum of one hundred thousand dollars was awarded representing "just share in payments of annuity from eighteen hundred and forty-nine" and "capital sum which at five per cent interest would yield half of amount of annuity for future."

Full text of decision will be sent when available.

HOWARD.

No. 347.

From His Majesty's Ambassador at Washington to the Governor General

No. 45.

BRITISH EMBASSY,
WASHINGTON, D.C., January 27, 1926.

MY LORD,—With reference to Your Excellency's despatch No. 16 of the 20th instant,[1] I have the honour to transmit herewith copy of a further note which I have addressed to the United States Government expressing the hope that they may accord their early and favourable consideration to the proposal that the case of the Pottawatomie Indians of Wisconsin should be made the subject of adjudication before the United States Court of Claims.

Mr. Vallance, the official of the Solicitors' Branch of the State Department, who has hitherto handled this claim, is now on leave of absence from Washington. I have however caused this matter to be brought to the personal attention of his acting subsitute, Mr. Devin, who admitted that the reply to the Embassy representations on the subject had been unduly delayed and undertook that the State Department would determine their attitude in the matter in the immediate future.

I shall continue to press the United States Government for a reply and shall not fail to notify you as soon as it is forthcoming.

I have, etc.,
(For the Ambassador)
H. W. BROOKS.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 345.

ENCLOSURE IN No. 347

From His Majesty's Ambassador at Washington to the United States Secretary of State

No. 62.

BRITISH EMBASSY,
WASHINGTON, D.C., January 27, 1926.

SIR,—I have the honour to refer to correspondence ending with my note verbale No. 1010 of November 23rd last, concerning the claim against the United States Government of the Pottawatomie Indians of Wisconsin, now residing in Canada.

I regret to point out that, though I have on several occasions drawn the attention of the State Department to this claim, I am still without information as to whether the United States Government are prepared to concur in the view of the Canadian Government that this case should be made the subject of adjudication before the United States Court of Claims. In these circumstances, I have the honour, at the request of the Canadian Government, once more to bring the matter to your notice and to express the hope that the United States Government may, at their earliest convenience, accord their favourable consideration to the above-mentioned proposal which, in the opinion of the Canadian Government, offers the most satisfactory procedure for the adjustment of this long outstanding claim.

I have, etc.,
(For the Ambassador)
H. W. BROOKS.

The Honourable FRANK B. KELLOGG,
Secretary of State of the United States,
Washington, D.C.

No. 348.

From the Secretary of State for Dominion Affairs to the Governor General

Canada.
No. 48.

DOWNING STREET, January 29, 1926.

MY LORD,—With reference to my telegram of the 14th November, 1924,[1] and connected correspondence, regarding the remuneration of the arbitrators of the Anglo-American Pecuniary Claims Arbitration Tribunal, I have the honour to request Your Excellency to inform your Ministers that the question of a further increase in the salaries of the arbitrators has been brought to the notice of His Majesty's Government as the result of a semi-official communication from M. Nerincx, the neutral arbitrator and umpire.

2. It is understood that Sir Charles Fitzpatrick has approached the Canadian Minister of Justice and that the American arbitrator, Dean Roscoe Pound, has approached the United States Secretary of State with an unofficial enquiry whether the salaries of the members of the Tribunal can be raised, on account of the increase in living expenses at Washington, to three thousand dollars a month each.

3. The United States Secretary of State is apparently agreeable to the proposed increase but is unwilling to take the initiative in the matter.

4. As your Ministers are aware, the Canadian Government are responsible under the arrangement made in 1911 (see Lord Grey's despatch No. 150 of the 22nd March, 1911)[2] for the whole of the British share of the cost of Sir Charles Fitzpatrick's remuneration as arbitrator and I should accordingly be glad to learn whether they consider that the remuneration of the arbitrators should be raised and, if so, whether they agree that the increase should bring the salaries up to three thousand dollars a month for each of the arbitrators.

5. It will be recalled that the salaries of the arbitrators were raised, for the last session of the Tribunal, to one thousand eight hundred dollars a month (see my telegram of the 14th November, 1924,[1] under reference, and connected correspondence).

I have, etc.,
L. S. AMERY.

His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 296.
[2] No. 18, vol. I, p. 40.

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C 40957

No. 349.

From His Majesty's Ambassador at Washington to the Governor General

No. 70.

BRITISH EMBASSY,
WASHINGTON, D.C., February 5, 1926.

MY LORD,—With reference to my telegram No. 4 of the 23rd ultimo[1] notifying Your Excellency of the decision of the Pecuniary Claims Tribunal in the matter of the Cayuga Indians Claim, I have the honour to transmit to you herewith a copy of the full text of the decision. Additional copies are being printed by the United States Government Printing Office and a supply will be sent to you in due course.

A request has been received from Sir Cecil Hurst, Legal Adviser of the Foreign Office, for an additional eight copies of the Supplementary Arrears filed on behalf of His Majesty's Government in connection with the claim in question should these documents be available. I would be grateful if Your Excellency would arrange to have them sent to me for transmission to the Foreign Office.

All the Claims scheduled for hearing by the Pecuniary Claims Tribunal, appointed under the Claims Convention of 1910, having now been disposed of, the original documents, etc., filed on behalf of His Majesty's Government during the course of the arbitration have been returned to this Embassy and such of them as relate to Canadian Claims will be forwarded to Your Excellency in the near future.

I have, etc.,
ESME HOWARD.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa, Canada.

[1] No. 346.

ENCLOSURE IN No. 349

AMERICAN AND BRITISH CLAIMS ARBITRATION TRIBUNAL

AWARD
CAYUGA INDIANS
Claim No. 6

Arbitrators:
ALFRED NERINCX,
Sir CHARLES FITZPATRICK,
ROSCOE POUND.

British Memorial
filed December 4, 1912.
American Answer
January 1, 1914.
British Reply
filed August 30, 1914.
Hearing of the case
November 27 to
December 23, 1925.
Counsel:
Great Britain
CHRISTOPHER C. ROBINSON.
United States
FRED K. NIELSEN.
DALLAS S. TOWNSEND.
CHARLES F. MURPHY.

This is a claim of Great Britain, on behalf of the Cayuga Indians in Canada, against the United States by virtue of certain treaties between the State of New York and the Cayuga Nation in 1789, 1790, and 1795, and the Treaty of 1814 between the United States and Great Britain, known as the Treaty of Ghent.

At the time of the American Revolution, the Cayugas, a tribe of the Six Nations or Iroquois, occupied that part of Central New York lying about Cayuga Lake. During the Revolution, the Cayugas took the

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side of Great Britain, and as a result their territory was invaded and laid waste by Continental troops. Thereupon the greater part of the tribe removed to Buffalo Creek, and after 1784 a considerable portion removed thence to the Grand River in Canada. By 1790 the majority of the tribe were probably in Canada. In 1789 the State of New York entered into a treaty with the Cayugas who remained at Cayuga Lake, recognized as the Cayuga Nation, whereby the latter ceded the lands formerly occupied by the Tribe to New York and the latter covenanted to pay an annuity of $500 to the nation. In this treaty a reservation at Cayuga Lake was provided for. As there was much dissatisfaction with this treaty on the part of the Indians, who asserted that they were not properly represented, it was confirmed by a subsequent treaty in 1790 and finally by one in 1795, executed by the principal chiefs and warriors both from Buffalo Creek and from the Grand River. By the terms of the latter treaty, in which, as we hold, the covenants of the prior treaties were merged, the State convenanted, among other things, with the "Cayuga Nation" to pay to the said "Cayuga Nation" eighteen hundred dollars a year forever thereafter, at Canandaigua, in Ontario County, the money to be paid to "the Agent of Indian Affairs under the United States for the time being, residing within this State" and, if there was no such agent, then to a person to be appointed by the Governor. Such agent or person appointed by the Governor was to pay the money to the "Cayuga Nation," taking the receipt of the nation and also a receipt on the counterpart of the treaty, left in the possession of the Indians, according to a prescribed form. By this treaty the reservation provided for in the Treaty of 1789 was sold to the State.

There are receipts upon the counterpart of the Treaty of 1795 down to and including 1809, and these receipts and the receipts for 1810, retained by New York, show that the only persons who can be identified among those to whom the money was paid, and the only persons who can be shown to have held prominent positions in the tribe, were then living in Canada. In 1811 an entire change appears. From that time a new set of names, of quite different character, appear on the receipts retained by New York. From that time there are no receipts upon the counterpart. Since that time, it is conceded, no part of the moneys paid under the treaty has come in any way to the Cayugas in Canada, but the whole has been paid to Cayuga in the United States, and since 1829 in accordance with treaties in which the Canadian Cayugas had no part or in accordance with legislation of New York. The claim is: (1) That the Cayugas in Canada, who assert that they have kept up their tribal organization and undoubtedly have included in their number the principal personages of the tribe according to its original organization, are the "Cayuga Nation," covenantees in the Treaty of 1795, and that as such they, or Great Britain on their behalf, should receive the whole amount of the annuity from 1810 to the present. In this connection it is argued that the covenant could only be discharged by payment to those in possession of the counterpart of the treaty and indorsement of a receipt thereon, as in the treaty prescribed. (2) In the alternative, that the Canadian Cayugas, as a part of the posterity of the original nation, and numrically the greater part, have a proportion of the annuity for the future and a proportion of the payments since 1810, to be ascertained by reference to the relative numbers in the United States and in Canada for the time being.

As the occasion of the change that took place in and after 1811 was the division of the trible at the time of the War of 1812, those in the United States and those in Canada taking the part of the United States and of Great Britain, respectively, Great Britain invokes Article IX of the Treaty of Ghent, by which the United States agreed to restore to the Indians with whom that Government had been at war "all the possessions, rights, and privileges which they may have enjoyed or been entitled to" in 1811 before the war.

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Great Britain can not maintain a claim as for the Cayuga Nation for the whole annuity since 1810 and for the future. In order to maintain such a claim, it would be necessary to establish the British nationality of the obligee at the date at which the claim arose. The settled doctrine on this point is well stated by Little, Commissioner, in Abbiatti's Case, 3 Moore, International Arbitrations, 2347-8. See also Mexican Claims, 2 Id. 1353; Dimond's Case, 3 Id. 2386-8. The obligee was the "Cayuga Nation," an Indian tribe. Such a tribe is not a legal unit of international law. The American Indians have never been so regarded. 1 Hyde, International Law, § 10. From the time of the discovery of America the Indian tribes have been treated as under the exclusive protection of the power which by discovery or conquest or cession held the land which they occupied. Wheaton, International Law, 838; 3 Kent, Commentaries, 386; Breaux *v.* Jones, 4 La Ann. 141. They have been said to be "domestic, dependent nations" (Marshall, C. J., in Cherokee Nation *v.* Georgia, 5 Pet. 1, 17), or "States in a certain domestic sense and for certain municipal purposes" (Clifford, J., in Holden *v.* Joy, 17 Wall. 211, 242). The power which had sovereignty over the land has always been held the sole judge of its relations with the tribes within its domain. The rights in this respect acquired by discovery have been held exclusive. "No other power could interpose between them." (Marshall, C. J., in Johnson *v.* McIntosh, 8 Wheat. 543, 578.) So far as an Indian Tribe exists as a legal unit, it is by virtue of the domestic law of the sovereign nation within whose territory the tribe occupies the land, and so far only as that law recognizes it. Before the Revolution all the lands of the Six Nations in New York had been put under the Crown as "appendant to the Colony of New York," and that colony had dealt with those tribes exclusively as under its protection. (Baldwin, J., in Cherokee Nation *v. Georgia,* 5 Pet. 1, 34-35.) New York, not the United States, succeeded to the British Crown in this respect at the Revolution. Hence the "Cayuga Nation," with which the State of New York contracted in 1789, 1790, and 1795, so far as it was a legal unit, was a legal unit of New York law.

If the matter rested here, we should have to say that the Legislature of New York was competent to decide, as it did in the Treaties of 1829 and 1831, what constituted the "Nation," for the purposes of the prior treaties made by the State with an entity in a domestic sense of its own law and existing only for its own municipal purposes.

It does not follow, however, that Great Britain may not maintain a claim on behalf of the Cayuga Indians in Canada. These Indians are British Nationals. They have been settled in Canada, under the protection of Great Britain, and subsequently, of the Dominion of Canada, since the end of the eighteenth or early years of the nineteenth century. There was no definite political constitution of the Cayuga Nation, and it is impossible to say with legal precision just what would constitute a migration of the nation as a legal and political entity. But as an entity of New York law, it could not migrate. "Nationality is the status of a person in relation to the tie binding such person to a particular sovereign nation." Parker, Umpire, in Administrative Decision No. 5, Mixed Claims Commission, United States and Germany, October 31, 1924, 25 Am. Journ. Int. Law, 612, 625. The Cayuga Nation, as it existed as a legal unit by New York law, could not change its national character, without any concurrence by New York, and become, while preserving its identity as the covenantee in the treaty, a legal unit of and by British law. The legal character and status of the New York entity with which New York contracted was a matter of New York law. Moreover, the situation of the Cayuga Nation is very different from that of an ordinary corporation, which has no small margin of self-determination. Such a legal unit can not change its national character by its own act. See North and South American Construction Company's Case, 3 Moore.

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International Arbitrations, 2318, 2319. Even less is such a thing possible in the case of an Indian tribe, whose dependent condition is as well settled as its legal position is anomalous. Such tribes are "in a state of pupilage." (Marshall, C. J., in Cherokee Nation *v.* Georgia, 5 Pet. 1, 17.) They have always been "subject to such restraints and qualified control in their national capacity as was considered by the whites to be indispensable to their own safety and requisite to the due discharge of the duty of protection." (3 Kent, Commentaries, 386.) In the case of Indians on the public domain of the United States, they are "the wards of the Nation. They are communities dependent on the United States." (Miller, J., in United States *v.* Kagama, 118 U.S. 375, 383-4.) With respect to Indians, the Government "is *in loco parentis.*" Nisbet J.. in Howell *v.* Fountain, 3 Ga. 176.

When the Cayugas divided, some going to Canada and some remaining in New York, and when that cleavage became permanent in consequence of the War of 1812, Great Britain might, if it seemed desirable, treat the Canadian Cayugas as a unit of British law or might deal with them individually as British nationals. Those Indians were permanently established on British soil and under British jurisdiction. They were and are dependent upon Great Britain or later upon Canada, as the New York Cayugas were dependent on and wards of New York. If, therefore, the Canadian Cayugas have a just claim, according to the "the principles of international law and of equity," Great Britain is entitled to maintain it

That, as a matter of justice the Canadian Cayugas have such a claim, has been the opinion of every one who has carefully and impartially investigated their case. In 1849, the Commissioners of the Land Office, to whom the Legislature of New York had referred a memorial of "the chiefs and warriors of the Cayuga Indians residing in Canada West," reported in their favour and urged a "just distribution" of the annuity. This commission was composed of the then Lieutenant Governor, Secretary of State, Comptroller, Treasurer, and State Engineer and Surveyor of New York. N.Y. Assembly, Doc. 1849, vol. 3, No. 165. Afterwards the claim was considered in detail by the General Term of the Supreme Court of New York in People *v.* Board of Commissioners of the Land Office, 44 Hun. 588. That tribunal pointed out that we "ought not to permit words such as 'sovereign states,' 'treaties,' and the like to conceal the real facts." The substance of the matter was that New York agreed to pay the then Cayuga Indians and their posterity, and on the division of the tribe the annuity ought to have been apportioned, as, indeed, was done when the New York Cayugas afterward divided. It is true the judgment in this case was reversed by the Court of Appeals. But the reversal was upon jurisdictional grounds in no way affecting the views of the Supreme Court upon the merits of the claim. Nor can we examine the evidence and come to any other conclusion than that as a matter of right and justice such an apportionment should have been and ought to be made.

In the report of the Committee of the New York Senate, in 1890, that committee was governed by two propositions of law, one that the Canadian Cayugas by their emigration "surrendered all claim or interest in the annuity funds and property of said Cayuga Nation of Indians," the other, that the claim was not within the purview of the Treaty of Ghent. N. Y. Senate Doc. No. 73, 1890. But the first can not be maintained in view of the circumstances that the United States guaranteed their lands to the Six Nations in 1789, after the removal to the Grand River in 1784, and that the principal signers of the Treaty of 1795 and most of those who receipted for the annuities on behalf of the nation from 1795 to 1810 were Cayugas who had so emigrated. As to the second, we do not so construe the Treaty of Ghent. The committee relies on the form of payment to the nation as an entity. The word "enjoy" in the treaty, as we think, refers to the substantial participation in the division

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of the money. If New York did not follow the treaty as to production of and receipt on the counterpart, the State was bound to see that those who ought to have the money were those who got it. Both in this report and in the opinion of Judge O'Brien, then Attorney General of New York, in 1884 (Memorial, Vol. III, p. 777), the circumstances that the Canadian Cayugas had taken part with Great Britain in the War of 1812 is evidently regarded as a ground of excluding them from any share in the annuity. So also the letter of Commissioner Bissell (Memorial, Vol. III, p. 793) gives this reason. But it is obviously untenable, and it was expressly stated on behalf of the United States at the hearing that no such defense is urged. It is evident that both the committee and the Attorney General go upon the form of the covenant and the legal authority of New York to determine what shall be recognized as the Cayuga Nation. They do not deny the merit of the claim. This is palpably true of the decision of the New York Court of Appeals in Cayuga Nation *v.* State, 99 N. Y. 235.

It can not be doubted that until the Cayugas permanently divided, all the sachems and warriors, wherever they lived, whether at Cayuga Lake, Buffalo Creek, or the Grand River in Canada, were regarded as entitled to and did share in the money paid on the annuity. Indeed it is reasonably certain that the larger number and the more important of those who signed the Treaty of 1795 were then, or were soon thereafter, permanently established in Canada. It is clear that the greater number and more important of those who signed the annuity receipts from the date of the treaty until 1810 were Canadian Cayugas. We find the person through whom, by the terms of the treaty, the money was to be paid, writing to the Governor of New York in 1797 that the Canadian Cayugas had not received their fair proportion in a previous payment and proposing to make the sum up to them at the next payment. Everything indicates that down to the division the money was regarded as payable to and divided among the Cayugas as a people. The claim of the Canadian Cayugas, who are in fact the greater part of that people, is founded in the elementary principle of justice that requires us to look at the substance and not stick in the bark of the legal form.

But there are special circumstances making the equitable claim of the Canadian Cayugas especially strong.

In the first place, the Cayuga Nation had no international status. As has been said, it existed as a legal unit only by New York law. It was a *de facto* unit, but *de jure* was only what Great Britain chose to recognize as to the Cayugas who moved to Canada and what New York recognized as to the Cayugas in New York or in their relations with New York. As to the annuities, therefore, the Cayugas were a unit of New York law, so far as New York law chose to make them one. When the tribe divided, this anomalous and hard situation gave rise to obvious claims according to universally recognized principles of justice.

In the second place, we must bear in mind the dependent legal position of the individual Cayugas. Legally they could do nothing except under the guardianship of some sovereign. They could not determine what should be the nation, nor even whether there should be a nation legally. New York continued to deal with the New York Cayugas as a "nation." Great Britain dealt with the Canadian Cayugas as individuals. The very language of the treaty was in this sense imposed on them. What to them was a covenant with the people of the tribe and its posterity had to be put into legal terms of a covenant with a legal unit that might and did come to be but a fraction of the whole. American Courts have agreed from the beginning in pronouncing the position of the Indians an anomalous one. Miller J., in United States *v.* Kagama, 118 U. S. 375, 381. When a situation legally so anomalous is presented, recourse must be had to generally recognized principles of justice and fair dealing in

order to determine the rights of the individuals involved. The same considerations of equity that have repeatedly been invoked by the courts where strict regard to the legal personality of a corporation would lead to inequitable results or to results contrary to legal policy, may be invoked here. In such cases courts have not hesitated to look behind the legal person and consider the human individuals who were the real beneficiaries. Those considerations are even more cogent where we are dealing with Indians in a state of pupilage toward the sovereign with whom they were treating.

There is the more warrant for so doing under the terms of the treaty by virtue of which we are sitting. It provides that decision shall be made in accordance with principles of international law and of equity. Merignhac considers that an arbitral tribunal is justified in reaching a decision on universally recognized principles of justice where the terms of submission are silent as to the grounds of decision and even where the grounds of decision are expressed to be the "principle of international law." He considers, however, that the appropriate formula is that "international law is to be applied with equity." *Traité théorique et pratique de l'arbitrage international*, § 303. It is significant that the present treaty uses the phrase "principles of international law and equity." When used in a general arbitration treaty, this can only mean to provide for the possibility of anomalous cases such as the present.

An examination of the provisions of arbitration treaties shows a recognition that something more than the strict law must be used in the grounds of decision of arbitral tribunals in certain cases; that there are cases in which—like the courts of the land—these tribunals must find the grounds of decision, must find the right and the law, in general considerations of justice, equity, and right dealing guided by legal analogies and by the spirit and received principles of international law. Such an examination shows also that much discrimination has been used in including or not including "equity" among the grounds of decision provided for. In general, it is used regularly in general claims arbitration treaties. As a general proposition, it is not used where special questions are referred for arbitration.

Three arbitration treaties between Great Britain and the United States contain provision for decision in accordance with "equity" or "justice": The claims Convention of 1853, Article I (1 Malloy, Treaties, 664), using the words "according to justice and equity"; the Claims Convention of 1896, Article II (1 Malloy, 766), calling for "a just decision"; and the Agreement for Pecuniary Claims Arbitration, 1910, Article VII (3 Malloy, 2619), prescribing decision "in accordance with treaty rights and with the principles of international law and of equity." These are general claims arbitrations. They should be contrasted with the arbitration agreements between Great Britain and the United States in which there is no provision for equity as one of the grounds of decision. Articles IV, V, and VI of the Treaty of Ghent provide for arbitration as to the islands on the Maine boundary, as to the northeastern boundary, and as to the river and lake boundary. The arbitrators are to decide "according to such evidence as shall be laid before them." Here the questions were of fact only. Hence in an arbitration of specific questions, all provision as to equity is omitted. So also in the Regulations for the Mixed Courts of Justice under the Treaty of April 7, 1862 (1 Malloy, 681), Article I, the arbitrators are to "act in all their decisions in pursuance of the stipulations of the aforesaid treaty." This was a special tribunal under a treaty for abolition of the slave trade. The contrast with the provisions of the treaties for general claims arbitrations is noteworthy. So also in the Fur Seal Arbitration Convention of 1892 (1 Malloy, 746), Articles II, VI; the Alaskan Boundary Convention, 1903 (1 Malloy, 787), Articles I, III, IV; and the Agreement for the North Atlantic Coast Fisheries Arbitration (1 Malloy, 835), Article I. In each of these certain

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specific questions were submitted. These agreements are either silent as to the grounds of decision or provide simply for a fair and impartial consideration.

In some of the arbitration agreements between Great Britain and the United States it has happened that clauses of both types have been included in one treaty. Thus, in the Jay Treaty of 1794, Article V, has to do with arbitration of the Maine boundary. In that matter the arbitrators are to decide "according to such evidence as shall * * * be laid before them." But Article VII, providing for arbitration of claims, requires a decision "according to the merits of the several cases, and to justice, equity, and the law of nations." (Moore, International Arbitrations, 5, 321.) Again in the Treaty of Washington, 1871, Art. XXXIV, and following, providing for arbitration of the San Juan water boundary, call for decision "in accordance with the true interpretation of the Treaty of June 15, 1846." 1 Moore, International Arbitrations, 227. Also in the same treaty, Article VI, submitting the Alabama Claims, provides three carefully formulated rules, agreed on expressly by the parties, and requires decision by those rules and "such principles of international law, not inconsistent therewith, as the arbitrators shall determine to have been applicable to the case." So also in Article II, as to claims governed by rules agreed upon, the arbitrators are to examine and decide "impartially and carefully." On the other hand, in Article XXIII, providing for the arbitration of fishing claims, the decision is to be "according to justice and equity." (1 Malloy, 710, 714.) Here the careful discrimination, according to the subject matter dealt with, in the several articles of the same treaty, speaks for itself.

Arbitration treaties of and with Latin American countries before 1910 (the date of the treaty here in question) tell the same story. Of these, some provide for decision according to international law, equity (or justice), and treaty provisions. Such are (with slightly varying language): Arbitration Convention between the United States and Mexico, 1839, 1 Malloy, 1101, Art. IV (arbitration of claims); Ecuador-United States, 1862, 13 St. L. 631; Peru-United States, 1863, 13 St. L. 639, Art. III; United States-Venezuela, 1866, 13 St. L. 713, Art. I; Mexico-United States, 1868, 1 Malloy, 1128, Art. I; Guatemala-Mexico, 1888, 71 Br. & For. State Pap. 255, Art. IV; United States-Venezuela, 1892, 28 St. L. 1183, Art. III; Chile-United States, 1892, 27 St. L. 965, Art. IV; Guatemala-Honduras, 1895, 77 Br. & For. State Pap. 530, Art. VI; Mexico-Venezuela, 1903, Manning, Arbitration Treaties among the American States, 343, Art. I (arbitration of all pending claims); Brazil-Peru, 1904, U. S. Foreign Relations, 1904, p. 111, Art. III (general claims arbitration); Argentina-Brazil, 1905, 3 Am. Journ. Int. Law, Suppl. p. 1, Art. X (general arbitration); Brazil-Peru, 1909, Manning, 450, Art. IX (general arbitration). It will be noted that these words are used where no specific claims are in question, but there is a general arbitration of claims of all kinds. In other cases the treaty speaks only of justice and equity. Such are: Costa Rica-Nicaragua, 1854, Manning, 31 Art. III; New Granada-United States, 1857, 1 Malloy, 319, Art. I; Chile-United States, 1858, 12 St. L. 1083; Paraguay-United States, 1857, Manning, 145, Art. II; Costa Rica-United States, 1860, 12 St. L. 1135, Art. II; Peru-United States, 1868, 16 St. L. 751, Art. I; Chile-Peru, 1868, Manning, 78; United States-Venezuela, 1886, Manning, 150, Art. VI; Mexico-United States, 1902, 32 St. L. 1916; Brazil-United States, 1902, U. S. Treaty Series, No. 413, Art. I. Here it is significant that eight of the ten arbitrations between the United States and Latin American States, in which, because of the difference in legal systems and technique of decision, it was expedient to give some latitude to the Tribunal. In this connection the treaty between the United States and Venezuela in 1903 (U.S. Treaty Series, No. 420) is especially significant. It requires decision "upon a basis of absolute equity, without regard to objections of a technical character or of the

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provisions of local legislation." (As to what this meant, see Ralston, International Arbitral Law and Procedure, 69-71.) In other cases, the language shows that the arbitrator was to be no more than an *amiable compositeur:* Honduras-Salvador, 1880, Manning, 1115, Art. V ("just and expedient"); Honduras-Nicaragua, 1894, Manning, 211, Art. II (5); Honduras-Salvador, 1895, Manning, 216, Art. II; Chile-United States, 1909, U. S. Treaty Series, No. 535½ ("as an *amiable compositeur*").

In the treaties cited, to which the United States has been a party, it will be noted how discriminatingly the language is chosen. How can it be said that the phrase "principles of equity" is of no significance when the different phrases are shown to have been so carefully chosen to fit different occasions?

This conclusion is borne out even more when we examine the arbitration treaties of and with the Latin American States in which no reference is made to equity. In some of these no reference is made to grounds of decision: Mexico-United States, 1897, 30 St. L. 1593 (a limited arbitration of specific issues of law and fact raised by prior diplomatic correspondence); Peru-United States, 1898, U. S. Treaty Series, No. 286 (limited arbitrations of the amount of indemnity only—all other questions excluded); Haiti-United States, 1899, Manning, 282 (special agreement to submit one claim of a citizen of the United States to one of the Justices of the Supreme Court of the United States); Guatemala-United States, 1900, Manning, 288, Art. I (refers "questions of law and fact" as to one specific claim); Nicaragua-United States, 1900, 2 Malloy, 1290 (reference to specific claims, as to the amount of indemnity only—question of liability expressly excluded); Salvador-United States, 1901, U. S. Treaty Series, No. 400 (specific claims, the issues having already been defined by diplomatic correspondence); Dominican Republic-United States, 1902, Manning, 320 (special arbitration of one claim on defined points); Dominican Republic-United States, U. S. Treaty Series, No. 417 (special arbitration as to terms of payment of agreed indemnity). In each of these cases the Unted States was a party, and the nature of the arbitration shows why it is that reference to general grounds of decision was omitted.

In another type of case provision is made for decision according to international law or "public law" and treaties. Such a case is: Colombia-United States, 1874, 1 Foreign Rel. U. S., 427, Art. II (but here these general grounds were supplemented by special stipulations). In another type, the grounds of decision are expressly restricted to "the rules of international law existing at the time of the transactions complained of": Haiti-United States, 1884, 23 St. L. 785, Art. IV (reference to two special claims of citizens of the United States to one of the Justices of the Supreme Court of the United States; naturally it was sought to restrict the scope of his choice of grounds of decision). In another group of treaties, the decision is to be "according to the principles of international law." Such are: Brazil-Chile, 1899, Manning, 259, Art. V; Argentina-Uruguay, 1899, 94 Br. & For. State Pap. 525, Art. X; Argentina-Paraguay, 1899, 92 Id. 485, Art. X; Argentina-Bolivia, 1902, Manning 316, Art. X; Argentina-Chile, 1902, Manning, 328, Art. VIII; Costa Rica-Guatemala-Honduras-Nicaragua-Salvador, 1907, 100 Br. & For. States Pap. 836, Art. XXI (treaty establishing the Central American Court of Justice as a Permanent Court of Arbitration). But these treaties (except the last) add that the terms of submission may otherwise provide, thus taking care of the possibility of anomalous situations. One treaty, Bolivia-Peru, 1901, 3 Am. Journ. Int. Law, Suppl. 378, Art. VIII, requires "strict obedience to the principles of international law." In another type of this species of treaty, there is minute specification of the exact grounds of decision. Such are Bolivia-Peru, 1902, Manning, 334; Costa Rica-Panama, 1910, 6 Am. Journ, Int. Law, Suppl. p. 1. Each is a boundary arbitration.

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In these treaties of and with Latin-American States, as in the case of treaties between Great Britain and the United States, it happens sometimes that different provisions as to the grounds of decision are made in different articles of the same treaty. Thus: Colombia-Ecuador, 1884, Manning, 140 (Art. I, "impartiality and justice," Art. II, "in accordance with the principles of international law and the legal principles established by analogous modern tribunals of high authority"); Ecuador-United States, 1893, 28 St. L. 1205, (Art. II (b) "under the law of nations," Art. IV, such damages "as may be just and equitable"—an arbitration of one specified claim); United States-Venezuela, 1908, U. S. Treaty Series, No. 522½ (Art. I "under the principles of international law," Art. II whether "manifest injustice" was done, Art. III "on its merits in justice and equity," Art. V "in accordance with justice and equity"). This different language for different situations speaks for itself. It should be said also that the language of treaties with Continental powers, both prior and subsequent to 1910, to which the United States is a party, entirely sustains the conclusions to which the examination of the treaties with Great Britain and with Latin-American States must lead. (See United States-Norway, 1921, 3 Malloy, 2749, Art. I; Allied Powers-Germany, 1920, 3 Malloy, 3469, Art. 299 (b); Allied Powers-Hungary, 1921, 3 Malloy, 3644, Art. 234 (b); United States-Great Britain-Portugal, 1891, 2 Malloy, 1460, Art. 1; United States-Germany-Great Britain, 1899, 2 Malloy, 1589, Art. I.)

Under the first and second Hague Conventions for the Pacific Settlement of International Disputes (32 St. L. 1779, Art. XLVIII; 36 St. L. 2199, Art. LXXIII) there is to be a special *compromis* in each arbitration which is to provide as to the basis of decision. But wide powers of determining the basis of decision are insured by Art. 48. Also Art. 38 of the Statute of the Permanent Court of International Justice (1920) provides specially that the court may decide *ex aequo et bono*, if the parties agree thereto. As Anzilotti points out, however, that much-criticized provision is meant for cases such as we have seen above, which call, not for principles of equity, but for a degree of compromise. Anzilotti, *Corso di diritto internazionale*, 64 (1923). Such a power is not necessarily non-judicial, as Magyary asserts. *Die internationale Schiedsgerichtsbarkeit im Volkerbunde*, 151-2 (1922). But it is a different thing from what we invoke in the present case—namely, general and universally admitted principles of justice and right dealing, as against the harsh operation of strict doctrines of legal personality in an anomalous situation for which such doctrines were not devised and the harsh operation of the legal terminology of a covenant which the covenantees had no part in framing and no capacity to understand. It is enough to cite the opinions of Merignhac (*Traité théorique et pratique de l'arbitrage international*, §§ 294-305), *Bulmerincq* (*Die Staatsstreitigkeiten und ihre Entscheidung ohne Krieg*, § 11, Holtzendorff, *Handbuch des Völkerrechts*, VI, 42), and Lammasch (*Die Lehre von der Schiedsgerichtsbarkeit in ihrem ganzen Umfange*, II, 179-181, 185).

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save the face of the negotiations. The other is that the tribe or nation must be taken to be the entity of New York law, not the Canadian Cayugas as British nationals. As to this interpretation, the remark of Chief Justice Fuller, in Burthe *v.* Dennis, 133 U. S. 514, 520-21, is pertinent. He says: "It would be a remarkable thing, and we think without precedent in the history of diplomacy, for the Government of the United States to make a treaty with another country to indemnify its own citizens for injuries received from its own officers." It would be no less strange and unprecedented for the United States to covenant with another power to restore the rights of its own nationals under its exclusive protection. In order to give this portion of the article any meaning, we must take it to promise that the Indians who had gone to Canada and had sided with Great Britain on the splitting up of the original nation, were to be put in the *status quo* as of 1811, even if legally the New York Cayuga organization was now the nation for the strict legal purposes of the covenant in the Treaty of 1795.

In 1843, in a letter to the then Governor of New York, written on behalf of the New York Cayugas with reference to the division of the annuity between the Cayugas remaining in New York and those who had gone to the West, Peter Wilson, an educated Cayuga, and one of the sachems of the New York nation, said: "The emigrating party of the New York Cayugas have invited the Canadian Indians to come over and accompany them to the Western country, and we are apprehensive they will represent these as composing a part of their party having claims to the moneys of the Cayuga Nation arising from the annuities of the State of New York, which claim we do not recognize." Further on he adds: "We wish your excellency distinctly to understand that the Cayugas residing in a foreign country, to-wit, Canada, have no just or legal claim to any part of the annuities arising from this State." Here, in its original form, the objection of the New York Cayugas to participation by the Canadian Cayugas rests on the proposition, obviously inadmissible, if for no other reason, in view of Art. IX of the Treaty of Ghent, that the Canadian Cayugas reside in a foreign country. Six years later (1849), when the Canadian Cayugas were pressing their claim to a share before the Legislature of New York, the objection was rested on the ground of an agreement at the time of the division of the nation, whereby, to use Wilson's own words, "it was mutually agreed that thereafter they should no longer participate in the annuities or emoluments flowing from the governments they were to oppose; but each division should take the whole from the government to which it is allied * * * that all property and interest on the British side should belong to the British Indians, while the property and interests on the American side must be the sole property of the American Iroquois." This is a plausible theory and, urged dramatically and with much detail of circumstance in Wilson's speech in 1849, it has undoubtedly played a controlling part in the subsequent denials of the claims of the Canadian Cayugas. But without adverting to the mystery that surrounds the speech itself, for it is not established that it was ever delivered, and conceding certain circumstances that appear to confirm it, we are of opinion that it has no foundation beyond the admitted division of the nation on the eve of the War of 1812, and the fact that during and after that war the Canadian Cayugas did not participate in the division of the payments. In reality the circumstances do not go beyond this. If there had been more, Wilson certainly would have said so in 1843. His letter of that date is too prolix to justify an assumption that he left out anything he knew that had a bearing on his case. Certainly he would not have left out the one conclusive argument in his armory. Moreover, it ought to have been possible to establish a point of such importance by something more than the assertion in Wilson's speech. The only other evidence is a statement in a report of the Committee on Indian Affairs to the Senate of New York,

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in 1849, that the Council in which "that agreement was made, if any," had been graphically described to the committee by an Onondaga Chief. It is clear enough from the whole report that the committee, at the least, was skeptical as to the alleged agreement. Certainly the whole conduct of the Canadian Cayugas from the conclusion of the War of 1812 was inconsistent with it. We are satisfied that they held the counterpart of the Treaty of 1795 from a time soon after its execution to the present, when they produce it before us. There is clear evidence that after 1815 their chiefs made repeated visits to New York claiming a share and vouching their possession of the counterpart upon which, by the terms of the treaty, receipts for payment were to be indorsed. Almost immediately upon the close of the war they urged upon the British Colonial Office that they were no longer receiving their share of the annuity, as they had received it before the war. In 1819 they discussed their claim in a council and considered retaining counsel to present it. In 1849 they presented it by petition to the Legislature of New York, and continued to press it at intervals from that time. No one but Wilson testifies (if his speech may be called testimony) to the agreement of partition. His speech, in many of its details, is palpably erroneous. The circumstances and the conduct of the parties are at variance with it. It can not be that, if this solid and conclusive ground for excluding the Canadian Cayugas had existed, the ground of excluding them from a share in the annuity would have been doubtful in 1849.

We have next to consider whether the claim of Great Britain, on behalf of the Canadian Cayugas, that the latter should share in the payments of the annuity covenanted to be paid to the original Cayuga Nation, is barred by Article V of the Claims Convention of 1853. That article reads:

"The high contracting parties engage to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, presented, or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and thenceforth inadmissible."

On behalf of Great Britain it is contended that Article V must be construed in connection with Articles I and II. The United States, on the other hand, contends that Article V is complete and unambiguous and hence calls for no interpretation, but must be applied according to its plain terms.

It will be noted that in order to be barred the claim must have (1) "arisen," and (2) arisen out of "transactions" prior to the ratification of the convention. No doubt the Treaty of 1795, the division of the Cayuga Nation, and the Treaty of Ghent are "transactions" prior to 1853. But if no claim against the United States had "arisen" in 1853, there was no claim to be barred by the terms of Article V, which does not purport to apply and certainly ought not to be construed as applying to claims to arise in the future, even if in part out of past transactions. If, as the United States insists, we must apply the language of Article V as it stands, the word "arise" is quite as important as the word "transactions," and we must look to the transactions that are decisive for the "arising" of the claim, as one cognizable before an international tribunal, in order to determine whether the claim before us is barred.

What, then, are the grounds on which liability of the United States must be based, and what is the date of the "transactions" from which a claim "arises" in which that liability may be asserted?

First, we must ask whether the United States would be liable directly and immediately on the basis of the Treaty of 1795. It has been urged

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upon us that the United States would be liable upon that treaty on three grounds: (1) That the treaty is legally a Federal, not a New York, treaty, made in the presence of a Federal Indian agent; (2) that the treaty has to do with a matter of exclusively Federal cognizance, under the Constitution of the United States, and so must be presumed to have been executed under competent Federal authority, since the alternative would be that the treaty would be void; (3) that in any event the interest of the United States in the treaty, as one dealing with a matter of Federal cognizance under the Constitution of the United States, is such as to make the United States directly and immediately liable upon the treaty, even if it is the contract of the State of New York.

We are unable to assent to any of these propositions. Neither in form nor in substance was the Treaty of 1795 a Federal treaty; it was a contract of New York with respect to a matter as to which New York was fully competent to contract. In form it is exclusively a New York contract. The negotiators derived their authority from the State Legislature and purported to represent the State only. The United States does not appear anywhere in the negotiations nor in the treaty. The United States Indian agent, who was present, at the request of the Indians because they had confidence in him, appears as a witness in his personal, not his official, capacity. Nor was the subject matter one of Federal cognizance. The title of the Cayuga Indians, one of occupation only, had been extinguished by the Treaty of 1789, which ceded the lands of the Cayugas to New York, providing for a reservation, which, we think, must be taken to have been held of New York by the nation. It is argued that the language of the treaty is rather that of a common-law reservation, so that the reserved land was reserved out of the grant. As to this, we are satisfied with the observations of Gray, J., in Jones *v.* Meehan, 175 U. S. 1, 11: "The Indians * * * are a weak and dependent people, who have no written language and are wholly unfamiliar with all the forms of legal expression, and whose only knowledge of the terms in which the treaty is framed is that imparted to them by the interpreter * * * ; the treaty must therefore be construed not according to the technical meaning of the words to learned lawyers, but in the sense in which they would naturally be understood by the Indians." We think the treaty meant to set up an Indian reservation, not to reserve the land from the operation of the cession. Such a construction is indicated by Marshall, C. J., in Cherokee Nation *v.* Georgia, 5 Pet. 1, 17.

That treaty (1789) was made at a time when New York had authority to make it, as successor to the Colony of New York and to the British Crown. Long before the Revolution, the country of the Six Nations had been treated as "appendent to the government of New York." Baldwin, J., in Cherokee Nation *v.* Georgia, 5 Pet. 1, 35. It was for the Legislature of New York to say who could bind the Cayuga Nation as a New York entity. The subsequent treaties of 1790 and 1795 purported simply to confirm the original treaty and were made because of dissatisfaction of the Indians, not because of any legal invalidity. The cases cited to us with respect to Indians on the public domain of the United States or on lands relinquished by some or other of the original thirteen States are not in point. The distinction is made clear in Dana's note to Wheaton, Elements of International Law, § 38 (8 ed. 60). He says: "It is important to notice the underlying fact that the title to all lands occupied by the Indian tribes *beyond the limits of the thirteen original States*, is in the United States. The Republic acquired it by the treaties of peace with Great Britain, by cessions from France and Spain, and by *relinquishments from the several States*." See also Seneca Nation *v.* Appleby, 127 App. Div. 770. The title of New York here was independent of and anterior to the Federal Constitution. At the time of the Treaty of 1795, the Cayuga Indians held the reservation of New York and the dealings of New York with the Cayuga Nation as a New York entity and with

respect to lands held of New York were a matter for that State only. See Marshall, C. J., in Cherokee Nation *v.* Georgia, 5 Pet. 1, 16-18; Nelson, J., in Fellows *v.* Blacksmith, 19 How. 366, 369; 3 Kent, Commentaries, 380-386; Beecher *v.* Wetherbee, 95 U. S. 517, 525, and State decisions there cited; Seneca Nation *v.* Christie, 126 N. Y. 122; Jemison *v.* Bell Telephone Co., 186 N. Y. 493, 498.

We must hold that the Treaty of 1795 was a contract of the State of New York and that it was not a contract on a matter of Federal concern or in which the Federal Government had an interest. Indeed the fact that it has stood unchallenged as a New York contract for over a century and that New York has gone on for the whole of that time dealing with the provisions of the treaty and with the legal position of the Cayuga Nation as matters of New York law, speaks for itself. This Tribunal can not know more as to what is a Federal treaty and what a New York treaty than the United States and the State of New York.

If the treaty of 1795 is a contract of the State of New York, the United States would not be liable merely on the basis of a failure of New York to perform a covenant to pay money. This proposition is established by repeated decisions of international tribunals: Thornton, Umpire, in Nolan's Case, 4 Moore, International Arbitrations, 3484; Thompson's case, Ibid.; Bainbridge, commissioner, in La Guaira Electric Light and Power Company's Case, Ralston, Venezuela Arbitrations of 1903, 178, 181-2; Thomson-Houston Electric Company's Case, Id. 168-9; Schweitzer *v.* United States, 21 Ct. Cl. 303; Florida Bond Cases, 4 Moore, International Arbitrations, 3594, 3608-12. In the case last cited there is a full discussion by Bates, Umpire. See also Ralston, International Arbitral Law and Procedure, §§ 457-467, pp. 217-221; Borchard, Diplomatic Protection of Citizens Abroad, 200. Two *dicta*, cited to the contrary on the argument, are readily distinguishable. What is said in the Montijo, 2 Moore, International Arbitrations, 1421, 1439, had no reference to a contract of a State of a Federal union creating a debt of that State. There was a violation of a Federal treaty. And the letter of Secretary Fish, 6 Moore, Digest of International Law, 815-816, had reference to injuries to persons and property by the State authorities, not to Federal liability for debts incurred by the contract of a State.

In the cases in which a Federal Government has been held upon the contract of a State, there has been (1) an immediate connection of the Federal Government with the contract as a participant therein, or (2) an assumption thereof or of liability therefor, or (3) a connection therewith as beneficiary, whether in the inception or as beneficiary of the performance, in whole or in part, or (4) some direct Federal interest therein. The United States is in no such relation to and had no such connection with or interest in the contract of New York with the Cayuga Nation.

Liability of the United States must, therefore, be grounded upon Article IX of the Treaty of Ghent, in which the United States covenanted that the Indians should be restored to the position in which they were before the War of 1812, and hence that they should share in the annuity, as they did before the war. That liability, in our opinion, did not accrue until, New York having definitely refused to recognize the claims of the Canadian Cayugas, the matter was brought to the attention of the authorities of the United States, and that Government did nothing to carry out the treaty provision. That situation and the Treaty of Ghent are the transactions out of which the claim arises. The earliest date at which the claim can be said to have accrued, as a claim against the United States under International Law, is 1860.

In municipal law, failure of a promisor to perform gives rise to a cause of action then and there, wihtout more. But it is otherwise when one State steps in to assert a claim against another State because the latter is in default with respect to some performance promised to a national of the former. "In the estimation of statesmen and jurists,

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international law is probably not regarded as denouncing the failure of a State to keep such a promise, until there has been a refusal either to adjudicate wholly the claim arising from the breach, or, following an adjudication, to heed the adverse decision of a domestic court. Upon the happening of either of those events, the denial of justice is regarded as first apparent. Then there is seen a failure to respect a duty of jurisdiction which is distinct from the breach of the contract and subsequent to it in point of time." 1 Hyde, International Law, § 303, pp. 546-7. See to the same effect decisions cited in Ralston, International Arbitral Law and Procedure, § 37, pp. 27-29; 6 Moore, Digest of International Law, § 916, pp. 285-9; 1 Westlake, International Law 331-334.

Even in 1860, the Government of the United States referred the Indians to New York. Certainly in 1853, when it was by no means clear that some thing might not yet be done by the Legislature of New York, an international tribunal would have said that, while there might have been a breach of the covenant, there had not, as yet, been a denial of justice by the United States. For these reasons we hold that the claim is not barred by Article V of the Convention of 1853.

It is urged on behalf of the United States that the claim would be held to be barred by laches. There is no doubt that there has been laches on the part of Great Britain. The claim of the Canadian Cayugas to share in the annuity payments was brought to the attention of the British Colonial Office immediately after the War of 1812, and within a few years thereafter was repeatedly urged upon the Deputy Superintendent General of Indian Affairs in Canada. Yet it was not until 1899 that the British Minister at Washington presented the claim to the State Department of the United States. Also it must be conceded that the case is not as if New York had withheld the money entirely. That State had paid the whole amount of the annuity each year, in reliance upon its authority to decide who constituted the "Cayuga Nation." There is much to be said for an equity in favour of New York as to payments before the claim of the Canadian Cayugas was presented to the legislature of that State, in 1849. But no laches can be imputed to the Canadian Cayugas, who in every way open to them have pressed their claim to share in the annuities continuously and persistently since 1816. In view of their dependent position, their claim ought not to be defeated by the delay of the British Government in urging the matter on their behalf. Nor can New York be said to have been prejudiced by the delay after 1849, at which time the facts of the case had been brought to the notice of the legislature and a public commission had recommended that justice be done. On the general principles of justice on which it is held in the Civil Law that prescription does not run against those who are unable to act, on which in English-speaking countries persons under disability are excepted from the operation of statutes of limitation, and on which English and American Courts of Equity refuse to impute laches to persons under disability, we must hold that dependent Indians, not free to act except through the appointed agencies of a sovereign which has a complete and exclusive protectorate over them, are not to lose their just claims through the laches of that sovereign, unless, at least there has been so complete and bona fide change of position in consequence of that laches as to require such a result in equity. In the present case by no possibility can there be said to have been a change of position without notice after 1849. Under all the circumstances, we think it will be enough to deny interest on the share of the Canadian Cayugas in past instalments of the annuity and to let the payments from 1811 to 1849 stand as made.

By the third prayer of the Memorial, Great Britain seeks a declaration that the Canadian Cayugas are entitled to the annuity for the future. Great Britain, for reasons already stated, is not entitled to such a declaration. Nor have we jurisdiction to make a declaration that the Canadian Cayugas are entitled to share in the annuity for the future. Our powers

C 40972

are limited to a money award, and we must consider how we may frame a money award so as to give effect by that means to the substantive rights of the parties and reach a just result. Accordingly we think the award should contain two elements: (1) An amount equal to a just share in the payments of the annuiy from 1849; (2) a capital sum which at five per cent interest will yield half of the amount of the annuity for the future. If by means of an award the United States is held to pay these sums, we think that Government will have been required to perform the covenant in Article IX of the Treaty of Ghent so far as specific performance may be achieved through a money award. The Canadian Cayugas are in a legal condition of pupilage. A sum in the hands of their quasi guardian sufficient to pay their share of the annuities for the future will fully protect them and give them what they are entitled to under the Treaty of Ghent.

In explanation of the way in which we have arrived at the amount of the award, we may say that as to the second element, we have taken a sum sufficient to yield an income equal to half of the annuity because the evidence is too uncertain and controversial and the relative numbers fluctuate too much to permit of an exact proportion. Hence, in the obsence of any clear mathematical basis of distribution, we proceed upon the maximum that equality is equity. In view of all the evidence we are satisfied that it is not New York nor the United States that will suffer by reason of any margin of error. As to the first element, as it is palpable that in any possible reckoning the Canadian Cayugas have always been numerically much more than half the tribe, we feel that we should be quite justified in awarding sixty per cent of the payments after 1849. But out of abundant caution and in view of the fact that New York actually paid out the whole amount each year under claim of right, we fix the whole amount, including both the elements above set forth, at one hundred thousand dollars.

We award one hundred thousand dollars.

Done at Washington, D.C., January 22, 1926.

The President of the Tribunal,
A. NERINCX.

No. 350.

From His Majesty's Ambassador at Washington to the Governor General

No. 99.

BRITISH EMBASSY,
WASHINGTON, D.C., March 1, 1926.

MY LORD,—With reference to the final paragraph of my despatch No. 70 of the 5th ultimo[1] relative to the completion of the work of the British-American Pecuniary Claims Tribunal, I have the honour to inform Your Excellency that the original documents returned to this Embassay in connection with the following claims have been forwarded to you to-day:—

Claim No.	5.	Yukon Lumber
" "	6.	Cayuga Indians
" "	7.	Magloire G. Blain
14 and	15.	Argonaut and Colonel Jonas H. French
Claim No.	16.	"Canadienne"
" "	17.	R. T. Roy
" "	18.	David J. Adams
" "	19.	"Tattler"
" "	20.	"Lord Nelson"
" "	22.	Great N.W. Tel. Co.
" "	29.	"Coquitlam"
" "	35.	Pierre Bourgeois.

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A list of all the claims in connection with which documents were returned by the State Department is enclosed herewith and if Your Excellency will be so good as to indicate what claims in addition to those above mentioned are Canadian Claims, the documents in such further cases will be forwarded.

The copy of the Treaty in the Cayuga Indians Claim was handed to Mr. James White, of the Department of Justice, during his recent visit to Washington.

I have, etc.,
ESME HOWARD.

His Excellency
The Lord Byng of Vimy, G.C.B.,
etc., etc., etc.,
Ottawa.

[1] No. 349.

ENCLOSURE IN No. 350

Claim No.	Name of Claim	Claim No.	Name of Claim
1.	Lindisfarne	21.	The Newschwang
2.	Wm. Hardman	22.	Great N.W. Tel. Co.
3.	The Eastry	23.	The Sidra
4.	King Robert	24.	The Jessie
5.	Yukon Lumber	25.	Thos. F. Bayard
6.	Cayuga Indians	26.	Pescawha
7.	M. G. Blain (Hay)	28.	The Kate
8.	H. J. Randolph Hemming	29.	Coquitlam
9.	Union Bridge Co.	30.	R. E. Brown
10.	Frederick Gerring	31.	Wm. Webster
11.	Home Miss. Society	32.	A. Studer
12.	The Favourite	33.	P. Anderson (Hay)
13.	The Wanderer	34.	N. Bachelder (Hay)
14.	The Argonaut	35.	Pierre Bourgeois (Hay)
15.	Jonas H. French	38.	J. Parsons
16.	Canadienne	39.	Zafiro case
17.	R. T. Roy	40.	Iloilo Claims
18.	D. J. Adams	41.	Luzon Sugar Ref. Co. Ltd.
19.	The Tattler	42.	H.L.P. Chiene
20.	The Lor Nelson	43.	Charles Arpin (Hay)

No. 351.

From the Governor General to His Majesty's Ambassador at Washington

No. 68.

Canada, Government House,
Ottawa, March 17, 1926.

Sir,—With reference to Your Excellency's despatch No. 70 of the 5th February,[1] transmitting a copy of the full text of the decision of the Pecuniary Claims Tribunal in the matter of the Cayuga Indians' claim, I have the honour to inform Your Excellency that information has been received by the Department of Indian Affairs that at a recent meeting of the Indians on the six Nations Reserve a delegation of three men was appointed to visit Washington with the hope of obtaining control of the moneys thus awarded. It will be recalled that a deputation of Cayuga Indians appeared before the Tribunal, represented by counsel, and attempted to withdraw their claim, but they were not recognized. In

any case, as the Indians in the proposed delegation are not all members of the Cayuga nation, they would have no right to participate in any representations which might be made on behalf of the Cayugas. The interests of the Indians will be fully safeguarded by the Department of Indian Affairs. My Government suggest, therefore, that no facilities should be afforded to the delegation if it should reach Washington.

I have, etc.,
BYNG OF VIMY.

His Excellency
The Right Honourable
Sir Esme Howard, G.C.M.G., K.C.B.,
H.B.M. Ambassador at Washington.

[1] No. 349.

No. 352.

From His Majesty's Ambassador at Washington to the Governor General

No. 150.

British Embassy,
Washington, D.C., March 29, 1926.

My Lord,—I have the honour to transmit to Your Lordship, herewith, copies of the paper mentioned in the subjoined schedule.

I have, etc.,
(For the Ambassador)
H. G. CHILTON.

His Excellency
The Governor General of Canada.

Name and Date	Subject
To the Department of State, dated March 26th, 1926.	Claim of Cayuga Indians resident in Canada.

Reference: Canada despatch No. 68 dated March 17, 1926.[1]

[1] No. 351.

ENCLOSURE IN No. 352

From His Majesty's Ambassador at Washington to the United States Secretary of State

No. 217.

British Embassy,
Washington, D.C., March 26, 1926.

Sir,—With reference to the award made by the Pecuniary Claims Tribunal on January 22nd last in the matter of the claim of the Cayuga Indians resident in Canada, I have the honour, at the request of His Excellency the Governor General of Canada, to inform you that his attention has been drawn to a recent meeting held by the Indians on the Six Nations Reserve at which a delegation of three men was appointed to visit Washington with the hope of obtaining control of the moneys thus awarded.

In this connection, it will be recalled that, during the hearings of this claim, the Tribunal refused to recognize a deputation of Cayuga Indians which appeared before them represented by counsel and attempted to withdraw their claim. Inasmuch as the three Indians in the above-mentioned delegation are not all members of the Cayuga nation, they have

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no right to participate in any representations which might be made on behalf of that tribe whose interests are, moreover, fully safeguarded by the Canadian Department of Indian Affairs.

In these circumstances, Lord Byng suggests that no facilities should be afforded to this delegation in the event of their reaching Washington.

I have, etc.,
ESME HOWARD.

The Honourable
FRANK B. KELLOGG,
Secretary of State of the United States,
Washington, D.C.

No. 353.

From the Secretary of State for Dominion Affairs to the Governor General

Canada.
Confidential.

DOWNING STREET, March 29, 1926.

MY LORD,—With reference to my despatch No. 180 of the 16th of April, 1925,[1] I have the honour to transmit to Your Excellency, for the information of your Ministers, the accompanying copy of a report by Mr. Montagu Shearman, the British Agent, on the adjourned session of the Pecuniary Claims Tribunal, which was held at Washington from October, 1925, to January, 1926.

25th Feb., 1926.

I have, etc.,
L. S. AMERY.

Governor General His Excellency
General the Right Honourbale
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 328.

ENCLOSURE IN No. 353

Mr. Shearman to Sir Austen Chamberlain

FOREIGN OFFICE, February 25, 1926.

SIR,—In continuation of Sir Cecil Hurst's report of the 23rd March, 1925, I have the honour to report that I arrived in Washington upon the 31st October, 1925, in order to attend the adjourned session of the Pecuniary Claims Tribunal, it having been decided that I should undertake this work as the British agent, Sir Cecil Hurst, was unavoidably prevented from proceeding to Washington.

2. The tribunal actually began its labours upon the 26th October, when the Hon. Roscoe Pound, Dean of the Law School in the University of Harvard, subscribed and read his declaration of appointment as American arbitrator in succession to Mr. Robert Edwin Olds, who had been appointed Assistant Secretary of State in the State Department. Senator Alfred Nerincx presided over the tribunal, and the British member was Sir Charles Fitzpatrick, G.C.M.G. Mr. Howard Leroy acted as American secretary, while Mr. J. C. Thomson, of the British Embassy in Washington, acted as British secretary to the tribunal. The sittings were held in a large hall in the Chamber of Commerce at Washington, and offices for the arbitrators and for the British agent and the representatives of Canada and Newfoundland were provided in the Transportation Building.

3. From the 26th October till the 6th November the tribunal was occupied with the Newfoundland fishery claims. These were a group of claims by the United States against the Newfoundland Government on behalf of American fishing vessels for the refund of customs and light dues and for the seizure of vessels for violation of Newfoundland fishing statutes. Mr. Nielsen, agent for the United States, Mr. Frederick Tarr and Mr. Stanley Udy argued the cases for the United States, and the Government of Newfoundland was represented by the Hon. Alfred B. Morine, K.C., Minister without portfolio and a former Attorney-General and Minister of Justice for Newfoundland, assisted by Mr. C. E. Hunt. The main issue in these cases was whether the vessels in question were engaged in trading or were merely exercising fishing privileges. Upon the 6th November the tribunal dismissed the main group of these claims by finding that the vessels were all engaged in trading, but they found for the United States in three minor claims in which damages were demanded for refusing to recognize fishing licenses in respect of certain vessels.

4. Upon the 6th November the hearing of the Hawaiian group of claims was opened. These were claims by British subjects for damages for illegal arrest and imprisonment in Hawaii and expulsion therefrom in 1895 during a Royalist rising in that archipelago against the Provisional Government. It will be remembered that the sovereignty of these islands shortly afterwards passed to the United States. Mr. Nielsen had previously served upon the representative of Great Britain a notice of motion praying that these claims should be dismissed on the ground that they disclosed no cause of action. This motion he proceeded to argue at some length, but upon the 7th November the tribunal intimated that they wished to hear in the first instance whether the United States as a matter of law could be held liable for wrongs done to British subjects by the Government of the Hawaiian Republic. This raised an interesting question of State succession which I proceeded to argue on behalf of Great Britain. Mr. Nielsen opposed on behalf of the United States, and, after hearing my reply, the tribunal decided on the 10th November that the United States were not liable for wrongs alleged to have been committed by the Government of Hawaii, basing their judgment on that previously given by the same tribunal in the case of Robert E. Brown.

5. Upon the 14th November the hearing of the Iloilo group of Philippine war claims began. These claims arose out of the occupation of the city and harbour of Iloilo in the Philippine Islands by General Otis in December, 1897, and the early months of 1898. As in the Hawaiian group, the tribunal desired to decide the question of liability before discussing the question of nationality and the amount of damage done. The main issue in these cases was whether the United States Government and their military forces were guilty of negligence in the conduct of military operations that resulted in the occupation of Iloilo and the subsequent burning of the town by the insurgents. I argued the case on behalf of Great Britain, and after hearing Mr. Nielsen, who opposed the claims with great pertinacity, the tribunal finally decided upon the 19th November that Great Britain had not established the liability of the United States.

6. Upon the 19th November the tribunal began the hearing of the *Zafiro* claim. This was for damages caused by the failure of the United States authorities to control looting and sabotage committed by the crew of the *Zafiro*, which was a supply ship sailing under the orders of Admiral Dewey and at that time attached to his fleet in the Bay of Manila. The case raised the interesting question of the status of Government-owned ships and of the liability of a State for damages committed by military and naval forces under its control. I argued the case on behalf of Great Britain, and Mr. Neilsen and Mr. Marshal Morgan appeared for the United States. The tribunal finally decided upon the 30th November in favour of Great Britain and awarded damages as claimed to the three

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claimants concerned. A claim for interest was disallowed. Two minor Philippine claims, those of J. Parsons and the Luzon Sugar Refining Company, were dismissed.

7. None of these Philippine claims were of great importance, but the *Zafiro* case raised interesting questions of law, and the decision, which I am informed was written by Mr. Pound, is of an elaborate and exhaustive nature, containing a useful review of all the previous authorities on the points at issue.

8. The tribunal then discussed the procedure to be followed in the two cases which still remained to be argued. These were the Webster case and the Cayuga Indians case. The Webster claim arose from an alleged denial of title to lands in New Zealand acquired by one William Webster, a United States citizen, previous to the annexation of that dominion by Great Britain in 1839. On behalf of Great Britain it was argued that no denial of title or of justice had taken place, inasmuch as the claimant had previously submitted his claims to the Local Land Commissions, and it was also claimed that the claim was barred by the Claims Convention of 1853. The Cayuga Indians claim was in respect of certain annuities withheld from the Canadian group of the Cayuga Indians tribe, whose land had been annexed by the State of New York. They relied upon several treaties entered into before 1800 and upon the provisions of the Treaty of Ghent of 1814. The United States Government denied their right to claim, denied that they as a tribe fell within the provisions of the 1853 Convention, and also contended that the claim was barred by article 5 thereof.

9. Although these claims were not in fact connected in any way, a similar point of great importance arose in both. Article 5 of the Claims Convention of 1853 between Great Britain and the United States reads as follows:—

> "The high contracting parties engage to consider the result of the proceedings of this commission as a full, perfect and final settlement of every claim upon either Government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, presented or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred and thenceforth inadmissible."

In the British memorial in the Webster case it was argued that the claim was barred inasmuch as it related to transactions which took place in the years 1839-45. On the other hand, the American reply in the case of the Cayuga Indians argued that that claim also was barred, inasmuch as it arose out of transactions prior to the date of the Treaty of Ghent signed in 1814. Mr. Christopher Robinson, K.C., of the Canadian Bar, who argued this case for the Canadian Government, was anxious that the tribunal should not decide the barring point in the Webster case until he had at least been heard on the similar point that arose in the Cayugas case. After discussion between ourselves, we agreed to ask the tribunal to hear the barring point in both cases in the first instance before dealing with the merits of either.

10. The tribunal having agreed to this course, I argued upon the 27th November on behalf of Great Britain that the Webster claim was barred. In doing this it was necessary to take care not to say anything to the tribunal that might prejudice Mr. Robinson when at a later stage he would have to put forward arguments, also on behalf of Great Britain, which might easily conflict with those advanced in the Webster case. As the result of our discussions, we decided that in the first place it was not necessary to contend that the bar was absolute (*i.e.*, barring all cases arising out of transactions previous to 1853), but that it was coextensive

with the jurisdiction of the convention itself, which applied only to cases arising between 1814 and 1853. This line of argument was thought to be sufficient to bar Webster, whose claims arose in 1839, and not to upset the Canadian contention in the Cayugas case, which was that the claim was based upon certain treaties anterior to and including the Treaty of Ghent itself. Upon only one small point was it found impossible that Mr. Robinson and I should speak with one voice. I had to argue that the words "claim upon either Government" referred to all claims that were *capable* of being presented to either Government at the material time. Mr. Robinson, however, when it came to his turn, had to argue for the purposes of his case that a formal presentation to the claiming Government was a necessary preliminary.

11. In reply to my argument on the barring point in the Webster case, Mr. Nielsen, the American agent, was placed in an embarrassing position. His own standpoint was that the bar was absolute. Of course, he could not say so in the Webster case, for if he did he would have placed himself out of court, so he and his colleague, Mr. Stanton Peel, confined themselves to arguing that the Webster case did not "arise" at all until after 1853. They gave no assistance whatever to the tribunal in interpreting the barring clauses. But they were only biding their time, because on the afternoon of the same day Mr. Nielsen, on rising to address the tribunal on the preliminary point in the Cayuga Indians case, produced a substantial printed "Memorandum of Oral Argument" in support of the contention that the treaty bar was absolute. This he proceeded to elaborate for several days, and, finally, upon the 4th December, the tribunal, in a written judgment, decided to hear both the cases on their merits, reserving their decision on the preliminary point. It is doubtful whether this decision was in accordance with the terms of submission annexed to the 1910 Convention, but it was clearly in accordance with common sense, and in the result proved successful for Great Britain.

12. Upon the 7th December Mr. Nielsen and Mr. Peel opened the argument on the merits in the Webster claim. I replied, and the decision was reserved until the 12th December, when the tribunal gave a decision dismissing the claim on the merits, without referring at all to the arguments on the barring point.

13. Upon the 8th December Mr. Robinson opened his argument on the merits of the Cayuga Indians claim. He was opposed by Mr. Nielsen, assisted as various stages by Mr. Murphy and Mr. Townsend. The arguments were lengthy and lasted for fourteen days, concluding on the 22nd December. The tribunal then adjourned until the 22nd January, when the President read an award, giving 100,000 dollars to Great Britain on behalf of the Canadian Cayugas. The text of this award is interesting reading. It contains a lengthy passage reviewing all the precedents and authorities for the proposition that an arbitration tribunal, if authorized by the terms of submission, can at its discretion rely upon principles of equity rather than those of strict legal interpretation. For instance, after reference to a particular passage from a particular writer, they say: "But it is a different thing from what we invoke in the present case, namely, general and universally admitted principles of justice and right dealing, as against the harsh operation of strict doctrines of legal personality in an anomalous situation for which such doctrines were not devised and the harsh operation of the legal terminology of a covenant which the covenantees had no part in framing and no capacity to understand." There is also an interesting passage dealing with the barring point, in the course of which they hold that the claim did not "arise" between the two Governments at the material time, but merely concerned the claimant tribe and the Government of the State of New York. A comparison is then drawn between the obligations incurred by constituent States and those incurred by the Federal Union. As to the amount awarded, the claim was for a far greater sum, but the tribunal had based their judg-

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ment on payments accruing since 1849 only and in respect only of that portion of the Cayuga Indian tribe who were domiciled in Canada. They have awarded a lump sum representing a proportionate amount of the whole of the annuities due since 1849 which will bear interest sufficient to provide for the payment of these annuities for the future.

14. The delivery of this award upon the 22nd January will probably be the last act of the tribunal. All the claims included in the first schedule have now been disposed of, either by a judicial decision or by withdrawal by consent. It is unlikely that negotiations for a second schedule of claims presented before 1910 will ever be entered upon. Therefore, although the minutes of the tribunal record that it has adjourned *sine die*, it is more than probable that it will never meet again under the provisions of the Convention of 1910.

I have, etc.,

MONTAGU SHEARMAN.

No. 354.

From the Governor General to His Majesty's Ambassador at Washington

No. 78.

CANADA, GOVERNMENT HOUSE,
OTTAWA, March 30, 1926.

SIR,—With reference to Your Excellency's despatch No. 99 of the 1st instant[1] regarding the completion of the work of the British American Pecuniary Claims Tribunal, my Government will be glad to learn whether the decision can be considered as final in the case of the *Coquitlam*, Claim No. 29, and to receive information as to the date of payment of the award.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
Sir ESME HOWARD, G.C.M.G., K.C.M.G.,
H.B.M. Ambassador at Washington.

[1] No. 350.

No. 355.

From His Majesty's Ambassador at Washington to the Governor General

No. 151.

BRITISH EMBASSY,
WASHINGTON, D.C., March 30, 1926.

MY LORD,—With reference to my despatch No. 70 of the 5th ultimo,[1] forwarding a copy of the decision in the Cayuga Indians Claim heard during the recent session at Washington of the British-American Pecuniary Claims Tribunal, I have the honour to inform Your Excellency that forty printed copies of the award are being despatched to you to-day under separate cover.

With reference to the second paragraph of my above-mentioned despatch, I should be glad to be informed whether Your Excellency is yet in a position to supply the eight additional copies of the Supplementary annexes for transmission to Sir Cecil Hurst.

I have, etc.,

ESME HOWARD.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 349.

No. 356.

From the Governor General to His Majesty's Ambassador at Washington

No. 83.

CANADA, GOVERNMENT HOUSE,
OTTAWA, April 9, 1926.

SIR,—With reference to Your Excellency's despatch No. 151 of the 30th March,[1] on the subject of the award in the matter of the Cayuga Indian claim, I have the honour to forward, herewith, for transmission to Sir Cecil Hurst, eight additional copies of the Supplementary Annexes, filed on behalf of His Majesty's Government, in the said case.

I have, etc.,

BYNG OF VIMY.

His Excellency
The Right Honourable
Sir ESME HOWARD, G.C.M.G., K.C.B.,
H.B.M. Ambassador at Washington.

[1] No. 355.

No. 357.

From the Deputy Governor General to His Majesty's Ambassador at Washington

No. 89.

CANADA, GOVERNMENT HOUSE,
OTTAWA, April 20, 1926.

SIR,—With reference to Your Excellency's despatch No. 99 of the 1st ultimo,[1] forwarding certain original documents in connection with Canadian claims before the Pecuniary Claims Tribunal, I have the honour to enclose, herewith, a copy of a list received from the Justice Department enumerating a number of annexes connected with the Cayuga Indians case which have not been returned by the United States State Department.

My Government will be grateful if Your Excellency will take steps to obtain the return of these documents.

With regard to the request contained in the second paragraph of Your Excellency's despatch under reference, I have the honour to inform you that, in addition to the claims named in the first paragraph of that despatch, the following claims contained in the list which you enclosed are also Canadian claims:—

No. 12. The Favourite
" 13. The Wanderer
" 24. The Jessie
" 25. Thos. F. Bayard
" 26. Pescawha
" 28. The Kate
" 43. Charles Arpin (Hay)

I have, etc.,

F. A. ANGLIN,
Deputy Governor General.

His Excellency
The Right Honourable
Sir ESME HOWARD, G.C.M.G., K.C.B.,
H.B.M. Ambassador at Washington.

[1] No. 350.

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ENCLOSURE IN No. 357

Arbitration of Outstanding Pecuniary Claims Between Great Britain and the United States of America

THE CAYUGA INDIANS

Memo of Annexes Not Returned by U.S. State Department

Annexes.

1. Printed Book: Documents of Senate of New York State, 1890, containing Document No. 58.
2. Printed Book: Documents of Senate of New York State, 1891, containing Document No. 73.
3. Printed Book: Documents of Senate of New York State, 1889, containing Document No. 35.
4. Printed Book: Documents of Assembly of New York State, 1851, containing Documents No. 83.
6. Printed Book: Hough's Indian Treaties 1784-1790. Two volumes.
13. Printed Book: containing report of Attorney General Carmody to Land Board of the State of New York, dated May 18th, 1911.
22. Printed Book: Lincoln's Messages from Governors of New York State. Vol. 1.
115 & 116. Printed Book: known as "Smithsonian Report" for 1885, Part 2, being a publication of Congress of the United States year 1885-6.
117. Printed Book: entitled "The People of the Longhouse," published by E. M. Chadwick, Toronto, 1897.
119. Printed Book: in (two?) volumes, "Morgan's League of the Iroquois."
121. Printed Book: "Life and correspondence of Major-General Sir Isaac Brock."

Seven copies of printed book "Indian Treaties and Surrenders," Canadian Government Publication, two volumes under one cover.

No. 358.

From the Secretary of State for Dominion Affairs to the Governor General

Canada.
No. 197.

DOWNING STREET, April 23, 1926.

MY LORD,—With reference to my despatch No. 34 of the 19th of January,[1] I have the honour to request Your Excellency to inform your Ministers that the following expenditure has been incurred in respect of the British share of the expenses of Sir C. Fitzpatrick as arbitrator in the session of the Anglo-American Pecuniary Claims Arbitration Tribunal, which was held at Washington during October-December, 1925.

(1) Remuneration at $1,800 a month.	$2,200 00
Balance only—$500 already advanced by Canadian Government.	
(2) Travelling expenses to Washington.	31 50
	$2,231 50

Vouchers in support of this expenditure are enclosed.

2. I shall be glad if arrangements may be made for the repayment to His Majesty's Government of the sterling equivalent of this sum, viz., four hundred and sixty pounds, eighteen shillings and ten pence (£460.18.10).

3. I shall be glad to learn whether replies may shortly be expected to my despatches Nos. 34 of the 10th of January[1] and 48 of the 29th of January[2] regarding the expenses of Sir C. Fitzpatrick and the remuneration of the arbitrators respectively.

I have, etc.,
L. S. AMERY.

Governor General
His Excellency
General the Right Honourable
LORD BYNG OF VIMY, G.C.B., G.C.M.G., M.V.O.,
etc., etc., etc.

[1] No. 344.
[2] No. 348.

ENCLOSURE 1 IN No. 358

Received from His Britannic Majesty's Ambassador at Washington the sum of nine hundred dollars, being the British share of the remuneration due to me as member of the Pecuniary Claims Arbitration for the month preceding the opening of the session on October 26th, 1925.

C. FITZPATRICK.

WASHINGTON, October 29th, 1925.
Sir CHARLES FITZPATRICK.

ENCLOSURE 2 IN No. 358

$400.00. I acknowledge to have received from His Britannic Majesty's Ambassador at Washington the sum of four hundred dollars, being the Britisn share of my remuneration as member of the British-American Pecuniary Claims Tribunal for the first month of the Session which opened on October 26, 1925 ($900), less the sum of $500 advanced to me by the Canadian Department of Justice on October 23rd, 1925.

C. FITZPATRICK.

WASHINGTON, D.C., November 27, 1925.

ENCLOSURE 3 IN No. 358

$900.00. I acknowledge to have received from His Majesty's Ambassador at Washington the sum of nine hundred dollars, being the British share of remuneration due to be as a member of the British-American Pecuniary Claims Tribunal for the second month of the present session (November 26-December 25).

C. FITZPATRICK.

Sir CHARLES FITZPATRICK,
WASHINGTON, December 26th, 1925.

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ENCLOSURE 4 IN No. 358

Statement of travelling expenses incurred by Sir Charles Fitzpatrick, G.C.M.G., on the journey from Quebec to Washington to attend the Session of the British-American Pecuniary Claims Tribunal which opened on October 26, 1925.

Ticket	$33 00
Pullman	12 00
Meals, luggage charges, etc.	18 00
	$63 00

$31.50. Received the sum of thirty-one dollars and fifty cents, being one-half of the above-mentioned expenditure which I certify was duly incurred on the journey in question.

C. FITZPATRICK.

WASHINGTON, D.C., November 18, 1925.

No. 359.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 198.

BRITISH EMBASSY,
WASHINGTON, D.C., April 28, 1926.

MY LORD,—With reference to Your Excellency's despatch No. 89 of the 20th instant[1] relative to the return of documents filed in connection with certain claims heard before the British-American Pecuniary Claims Tribunal, I have the honour to inform you that the exhibits in the claims enumerated in the last paragraph of your despatch and in Claim No. 34 (Nathaniel Bachelder-Hay) are being forwarded to you to-day under separate cover.

I am approaching the State Department with regard to the return of the annexes in connection with the Cayuga Indians case mentioned in the list accompanying your despatch under reference.

I have, etc.,
H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.

[1] No. 357.

No. 360.

From His Majesty's Chargé d'Affaires at Washington to the Governor General

No. 206.

BRITISH EMBASSY,
WASHINGTON, D.C., May 4, 1926.

MY LORD,—With reference to the second paragraph of my despatch No. 198 of the 28th ultimo,[1] relative to the return of certain outstanding annexes filed in connection with the Cayuga Indians case, I have the honour to inform Your Excellency that all the documents mentioned in the list enclosed in your despatch No. 89 of the 20th ultimo,[2] with the exception of Hough's Indian Treaties in two volumes, are being forwarded to you to-day under separate cover.

With regard to Hough's Indian Treaties, I enclose herewith a copy of a semi-official communication which has been received from the State Department. If it can be verified that the missing volumes were actually filed further efforts to locate them will be made.

I have, etc.,
H. G. CHILTON.

His Excellency
The LORD BYNG OF VIMY, G.C.B.,
etc., etc., etc.,
Governor General of Canada,
Ottawa.

[1] No. 356.
[2] No. 357.

ENCLOSURE IN No. 360

AMERICAN AND BRITISH CLAIMS ARBITRATION

Offices of the Agent and Counsel for the United States

WASHINGTON, April 30, 1926.

I am returning herewith the books mentioned in the list which accompanied your letter of the 28th, with the exception of Hough's Indian Treaties, two vols., which do not appear to have been filed with the other documents in the Indian case. It is my recollection that, in checking some of the Annexes filed in this case by the British Government, it was necessary to obtain the Hough Treaties from the Congressional Library for this purpose.

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C 40985 B-1000-T
Unofficial

To the Prime Minister: Aug. 16, 1929.

MR. THOMAS'S VISIT

I should be inclined to guess, from discussion in England, particularly in Labor party circles, that some of the following might be Mr. Thomas's proposals:

1. Intensified immigration policy, industrial as well as agricultural, with renewal of assisted passages by Canadian Government and possible proposal that Continental immigration be cut out entirely to make room for English immigrants.

2. Canadian railways to be asked to provide cheap fares for any British immigrants arriving in Canada.

3. Offer to lend Canada money to undertake public works, on condition that the machinery required, and possibly the workers required, be obtained from England.

4. Plans for British Government directly undertaking settlement and development in agricultural areas such as Peace River.

5. Plans for state purchase of Canadian wheat, possibly in return for Canadian purchase of British coal or other goods.

6. Attempt at direct negotiation by Mr. Thomas with Trade Union Congress, in effort to allay trade union hostility to assisted immigration.

O.D. SKELTON

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C 40986 E-305-0

Unofficial

Dec 1927

C

All Hon. read
Please hand on to
Lee when finished
19-3-28

Rejection of proposed Anglo-Egyptian Treaty.

Origin of the present tension.

The refusal of the Egyptian Government to accept the draft treaty with Great Britain and the announcement by the British Government that it will take what steps are necessary to enforce its interpretation of the rights over Egypt reserved in the Declaration of 1922, have brought about one more crisis in Egyptian relations. There has been a crisis at least once a year since the ending of the war. The conflict between the rising tide of Egyptian nationalism, heightened by the professions of the Allies as to the rights of oppressed nationalities, and the success of so many Eastern peoples in attaining freedom as a result of the war, and the firm determination of the British Government, supported by Australia and New Zealand, to dominate the Suez Canal and control the communications with India and the East, is not likely to prove easy of solution. It would be of some interest to listen to a dialogue between an Egyptian and a Nicaraguan as to the comfort of belonging to a small state bordering on a canal which a great power felt it necessary to control.

Previous stages.

It will be recalled that Egyptian foreign relations have passed through the following stages in the past half century:

1. From 1880-1914: nominally part of Turkish Empire, under autonomous Khedive, but in fact controlled by Britain through army of occupation and resident Commissioner.

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C 40986 E-305-0

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All these read
Please keep on file
we can refer
19-3-28

Unofficial
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Previous stages (continued)

2. From 1914-1922: formal protectorate declared by Britain when Turkey entered the war.

3. From 1922-1928: independence recognized by Britain in 1922, subject to the following reservations which Egypt declined to accept formally:

Right to enforce security of British Imperial Communications in Egypt.
Right to defend Egypt against foreign interference.
Right to protect foreign interests in Egypt.
The Sudan.

Ever since 1922 efforts have been made to work out an agreed and permanent solution. On every occasion an Egyptian Government which showed itself willing to accede to British demands lost power in Egypt. Recently the death of the leader of Egyptian nationalism and the growing ambitions of Italy in the Eastern Mediterranean have made the Egyptian Government more prepared to listen to British proposals. Following visits of King Fuad and the Prime Minister, Sarwat Pasha, to London last year, a treaty was drafted which Sarwat was apparently ready to recommend, but which his Government, backed by the overwhelming majority of the Assembly, has now rejected.

The Draft Treaty.

The essence of the treaty is the attempt to substitute an alliance with defined obligations on each side, chiefly, it may be said, on Egypt's side, for the indefinite control now claimed by Great Britain.

The High Contracting Parties agree to conclude a treaty of friendship and alliance. Egypt undertakes to make its foreign policy harmonize with Britain's, to give preference to British over other foreigners in engaging civil officials, to adopt British type of armament and British officers on the present scale in its own army, to bar any

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The Draft Treaty (continued)

aircraft except Egyptian or British from approaching within twenty miles of the Suez Canal, to allow the British Government to station in Egypt such troops as it considers necessary to protect imperial communications, subject to reconsideration of the locality of stationing after ten years, and, in case Britain is at war, even though Egyptian rights are in no way affected, to give Britain use of Egyptian ports, aerodromes, railways, telegraphs, etc.

Great Britain on its part proposes to substitute an Ambassador for its High Commissioner, to support the admission of Egypt to the League of Nations, and, subject to the provisions of the Covenant, to come to the aid of Egypt if involved in war by reason of any attack or act of aggression.

Relation of Dominions

The draft of the treaty communicated to us last year was somewhat ambiguous as to its basis. In the preamble the parties were stated to be "the King of Egypt" and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, etc., without any geographical limitation. The term "His Britannic Majesty" was used throughout the treaty except in one article where "His Britannic Majesty's Government" occurs. In the Annexes dealing with army training, appointment of officials etc., the terms "His Britannic Majesty's Government" and "British Government" occur frequently.

In the despatch of November 11th, the British Government stated it was prepared to accept the treaty "if we receive concurrence of Governments of Dominions." It recommended it "most warmly to consideration and approval

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Relation of Dominions (continued)

of Dominion Governments."

The Australian Government concurred, though objecting to the clause whereby the Council of the League was to be allowed to decide as to place of stationing of troops after ten years, if the two parties could not agree. To this the British replied that at present its right to maintain troops in Egypt, if challenged before an international tribunal, might not be upheld: the treaty gave unassailable and perpetual right to maintain troops, Council of League could only decide as to place, and without doubt interests of some other foreigners in Egypt would be sufficiently identical with Britain's to prevent a verdict against British wishes by the unanimity required for Council decisions.

New Zealand of course concurred. The Irish Free State replied it hoped that the negotiations between Egypt and "His Majesty's Government in Great Britain" would be concluded acceptably to both sides. South Africa stated it was not directly interested, expressed general approval of attempt to stabilize position by a treaty, and saw no reason why His Majesty's Government in Great Britain should not, if so advised, conclude treaty as proposed. Canada stated prospect of agreement had been learned with pleasure and that there was no objection to His Majesty's Government in Great Britain entering into treaty in appropriate form, but that the Government could not recommend to Parliament making treaty applicable to Canada nor participate in signature and ratification: Government would consider any further developments in the light of its position as member of the British Commonwealth and of the League of Nations and in the light of the situation then existing at home and abroad.

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The British Government replied that instructions had been given to make the treaty in the name of His Majesty on behalf of Great Britain and Northern Ireland, and that plenipotentiary would be granted correspondingly limited powers.

Publication

The British Government is now publishing the draft treaty and certain subsequent correspondence. The Australian Government is laying part of the correspondence on the table simultaneously.

O.D.

March 8/28.

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O.D. SKELTON TO W.L.M.K.

C 40991

E.T.

OFFICE OF
THE UNDER-SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA.

MEMORANDUM FOR THE PRIME MINISTER: 27th April, 1928

Attached is a communication from the Prime Minister of Australia, calling attention to the discussion on Anglo-Egyptian negotiations in the Australian House in March. The chief discussion is given on pages 3693-3695, in which Mr. Bruce summarized the negotiations and supported the policy of the British Government. The Leader of the Labour Party, Mr. Charlton, indicated that the matters dealt with vitally concern Australia, and that the safe navigation of the Suez Canal is of the greatest moment to Australia.

O.D. SKELTON

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C 40992

COPY

COMMONWEALTH OF AUSTRALIA

Prime Minister's Department

Department of External Affairs.

Canberra,F.C.T..

21st March,1928

With the compliments of the Prime Minister and Minister for External Affairs.

Anglo-Egyptian Negotiations: Vide Hansard pages 3693-5, 3763-4, 3789, and papers laid on the table of the House.

Minister for External Affairs,

Canada.

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C 40993 E-3050 Unofficial

Egypt ✓

Memorandum for Mr. King.

Press reports this morning indicate the probability that the Egyptian Parliament will accept in substance the British ultimatum.

The Assemblies Bill to which objection was taken has not yet been withdrawn, but motions to postpone further discussion until November were adopted by both the Chamber and the Senate in secret session yesterday.

It is possible that a question may be asked in the House as to whether the Canadian Government has been consulted. We have not been consulted in any way, nor has our view on the situation been asked for, though we have been informed of the action which the British Government was taking.

O.D. Skelton

Ottawa, 1st May, 1928.

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C 40994 E-3050 Unofficial

MEMORANDUM FOR THE PRIME MINISTER: 30th April,1928

Egyptian Crisis.

A new phase in the Egyptian situation has arisen. When Egypt refused to sign the draft treaty, the British Government stated that they would consider themselves free to take any action necessary to safeguard the four qualifications which accompanied the acknowledgment of Egyptian independence in 1922, namely -

1. Security of communications of British Empire in Egypt.
2. Defence of Egypt against foreign aggression.
3. The protection of foreign residents in Egypt and protection of minorities.
4. The Sudan.

A Bill is at present before the Egyptian Parliament limiting the rights of the police to disperse gatherings because they are considered likely to disturb public order. It was held that such legislation involved danger to foreigners and came within reservation 3 above. The Egyptian Government in reply protested against this action as an interference with the internal conduct of Egyptian affairs,rendering impossible the existence of a parliament or government worthy of the name, and adding that there was no danger whatever of foreigners suffering in case the law were passed.

The British Government has ~~therefore~~ issued an ultimatum. If the Egyptian Government does not comply, the British forces will probably seize the Alexandria Customs.

It is not likely that Egypt will offer any armed resistance to this step,but it puts an amicable solution out of the question for a long time to come.

This situation doubtless is one reason why the British Government would prefer to give no further publicity to the correspondence on the draft treaty.

O.D.S.

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C 40995 E-13/5B.

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C A B I N E T.

SECRET.

C.P. 3621.

STATEMENT OF THE VIEWS OF THE FRENCH GOVERNMENT ON ANGLO-FRENCH RELATIONS.

By their respective situations, their past, the diffusion of their civilisations, the leading part which they have played side by side during the whole war against German ascendancy, France and England, if they are united, are in a position to exercise a decisive influence on the maintenance of peace in Europe.

A divergence in their policies would prevent the restoration of that general feeling of security which is indispensable, in order that the efforts necessary for the economic restoration of Europe should bear fruit. The union of the two nations would be for Europe a firm pivot in which all peaceful tendencies would find support.

In order that this union may produce its beneffcent effects, it is necessary that it should seem close and lasting; and that it cannot be unless it is founded upon a mutual understanding of the essential interests of each country.

For France, one question dominates all others -- the question of her security. This country which has suffered so much from the proximity of Germany, and which has been so cruelly tried during the last war, cannot contemplate without intense anxiety the possibility that such devastation may be renewed. France cannot forget that the German population is 20 millions stronger than her own; that democracy is still for the great majority of Germans no more than an empty phrase, and that this people highly disciplined, industrious, gifted with a fertile genius for organisation, but in which an active political and intellectual propaganda, notably in the universities and schools, supports a spirit of aggression and an ardent desire for revenge, may some day render vain the measures of disarmament prescribed by the Treaty of Versailles.

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The best guarantee against any such eventuality would be the certainty in Germany that France would not be isolated in the event of a German attack. Those who negotiated the Treaty of Versailles understood this well, since they found it necessary in 1919 to complement the stipulations of that Treaty by the Treaties between France and the United States and between France and England, which were not ratified.

The situation is not quite the same today as then. The United States appear certain to hold themselves aloof from European politics. For two years past, moreover, the execution of the peace and the difficulties involved in the solution of the different problems raised by the general situation have given rise to certain differences of view between France and England which were not apparent in 1919. It is therefore desirable that the agreement to be concluded between France and England against a German attack should also register the determination of the two countries to act together with complete harmony for the maintenance of peace. A Treaty containing only a military guarantee would not be sufficiently effective in its bearing on Germany if the latter were able to discover means of provoking and using Franco-British disagreements for the purpose of destroying their accord.

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In the mind of the French ~~Government any~~ purely defensive Treaty to be concluded ought to contain bilateral engagements. The one-sided guarantee, contemplated in the Franco-British Treaty of 1919, which was supplemented by a similar Treaty between France and the United States, would no longer correspond to the realities of the situation. It is necessary to give public expression to the unity of the two countries in the event of German aggression. Moreover, even if England believes herself unexposed to German attack, no-one can affirm in spite of the fact that England is certainly much less exposed than France in that respect, that the transformation of methods and engines of war may not entail for England the loss of all or some of the advantages which she draws from her natural defences.

The French Government therefore considers that the Entente in future should provide that in the event of direct German aggression against one of the two countries, the other country should bind itself to come immediately to its aid with all its military, naval and air forces. It should further be laid down that the British Government undertook to consider the maintenance of German disarmament contemplated in the Treaty of Versailles, and specially in the clauses referring to the regions of the Rhineland, under Articles 42, 43 and 44 of that Treaty, as indispensable to the safety of French soil; and that all violation of those arrangements would constitute in the eyes of the British Government a case of direct aggression against French security in exactly the same sense as invasion of the actual soil of France. Moreover, all violation by Germany of the military, naval and air clauses of the Treaty of Peace should be considered by both contractingparties as a ground for concerted action between them.

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In order to give full effect to this undertaking, the two Governments should engage to regulate in agreement the strength of their respective military, naval, and air forces, and an understanding should be envisaged between their general staffs. These clauses while they would provide for the necessary military collaboration between the two countries, would allow them to dispose, to their mutual satisfaction, of the question of armaments. The constant collaboration of the two countries being moreover the best guarantee against any action likely to disturb the security of Europe, The two Governments should agree to act together on any question of a nature to endanger the general peace, and to examine together the measures necessary to assure a prompt, and pacific and equitable solution.

In the mind of the French Government this mutual guarantee of military security, and this/ demonstration of the close political understanding existing between them would be of capital importance for the pacific settlement of European questions.

The British Government has, indeed, indicated the profound repugnance of British public opinion to any engagement which might involve military action for the defence of other countries in which Great Britain believes herself less interested. The British Government has nevertheless itself recognised that it would be well to introduce a new element into the arrangements made for the maintenance of general peace. Whatever may be the guarantees provided by the League of Nations, it would be well that the powers which are the most exposed to the recrudence of mutual causes of conflict, should show in a still more precise manner than that of the stipulations of the Covenant, the sincerity of their desire for peace.

Paragraph/

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Paragraph 6 of the resolution adopted on the 6th January by the Cannes Conference contains in itself the principle of a guarantee of that nature. The Genoa Conference might give clearer shape and broader scope to that guarantee in the sense of the engagements concluded at Washington for the maintenance of peace in the Pacific.

France and England are called upon to exercise their influence to bring about the conslusion of such an arrangement; but an engagement between the two Nations to take council together on all questions endangering the general peace would, as has already been indicated, enable them to exercise an even more powerful influence, whether by concerted action in the Council of the League of Nations or in putting their joint authority at the service of the cause of peace.

There could be no more effective guarantee of a durable peace than a vast system of international co-operation founded upon a close union between France and England. It is not conceivable, as experience shows, that the peace of the world should be disturbed, when France and England show themselves publicly resolved to act together for the prevention of war.

These are, in the opinion of the French Government, the conditions upon which the collaboration of France and England would most usefully contribute to the maintenance of the general peace, and the preservation of the interests of the two nations.

Carlton Hotel,
Cannes.
8th January, 1922.

2, Whitehall Gardens, S.W.
17th January, 1922.

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C 41000 37E-1315A

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CABINET.

3

SECRET

C.P. 3629.

ITALY AND ANGLO-FRENCH RELATIONS.

MEMORANDUM ADDRESSED BY MR. LLOYD GEORGE ON BEHALF OF THE BRITISH TO THE ITALIAN DELEGATION, CANNES, JANUARY 11TH, 1922.

The British Delegation have taken note of the Aide-Memoire presented to them by the Italian Delegation on January 10th. They much appreciate its friendly character, and desire to make the following observations upon it.

Great Britain's traditional friendship with Italy, strengthened by comradeship in the Great War and by close co-operation in the re-establishment of peace, makes it unnecessary for the British Government to explain that the Treaty about to be concluded between Great Britain and France is not designed in any way to exclude Italy from the counsels of the Great Allies or to weaken the close understanding which subsists between them. That Treaty has been proposed for special reasons, which they have no doubt that Italy fully appreciates.

Great Britain's special interest in the security of France's eastern frontiers against German attack has been revealed to all peoples in the fierce light of war. Germany's invading armies in 1914 swept close to the Channel ports and were finally held along a line in France and Flanders nearer than any part of the Continent to the English coast. The sound of the German guns was heard in England daily for four years. England knows that, were Germany in some future struggle to succeed in planting her artillery upon the coast of France, London itself would be within range of her shells. Not only Britain, but all the Dominions of the British Empire, gave unreservedly of their manhood and their wealth to overwhelm the common enemy side by

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CANADA

POOR
COPY

side with the French armies. The fields of France now cover many hundreds of thousands of British dead. The whole of the British Empire is represented amongst those graves. Britain, therefore, has an interest not less than that of France in ensuring that the sacrifices of the French and British peoples shall not have been made in vain.

France, however, has good reason for anxiety lest the struggle should be renewed. Her capital has been occupied by Germany within living memory. It was saved by a slender margin of miles only four years ago. Some of her richest provinces are still scarred by the devastations of the enemy. No country has suffered equally in the last half century without fault or provocation of her own.

It was on these goounds that Great Britain signed together with the representatives of the United States on June 28th, 1919, a Treaty agreeing to come immediately to the assistance of France in the event of any unprovoked movement of aggression being made against her by Germany. The Treaty of 1919 was ratified by the British Parliament in the same year, but in virtue of its second Article, which provided that it should come into force only when the Treaty of even date signed by the representatives of the United States was ratified, it has hitherto been a dead letter. Great Britain nevertheless has always felt that it was a point of honour on her part to stand by the Treaty. The understanding which it contained influenced French policy in certain important respects during the negotiation of the Treaty of Versailles; and Great Britain therefore considers herself bound in honour to renew her pledge.

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Italy ~~is more fortunately placed than France, for great~~ natural barriers protect her frontiers and divide her from her late enemies. She therefore has no need to share the common anxiety which inspires the pact of ~~insurance between Great Britain~~ and France against unprovoked and sudden war.

On the other hand, Great Britain offers to Italy, as to France, her intimate and earnest co-operation in building up a great system of European accord for the maintenance of peace. Great Britain's pledge to stand by France against an unprovoked attack by Germany upon French soil is the first measure necessary to ensure the stability of Europe and to divert the German people from dreams of revenge. But in the mind of the British Government, that measure is only a stepping-stone to a much wider pact, which they hope to see concluded in the Economic Conference which is to meet in Italy under the auspices of the Italian Government next March. Clause VI of the British Resolution accepted by the Allied Powers in Conference last week lays down as the basis of this pact "that all nations should join in an undertaking to refrain from aggression against their neighbours." It is hoped that Germany and Russia will give and receive this simple guarantee and that the new conformation of Eastern, Central, and South-Eastern Europe under the Treaties of Versailles, St. Germain and Trianon may thereby be ensured against the paralysing effects of international suspicion and non-cooperation. It is also hoped that the prosperity of all European States may be revived by the re-entry of Russia, with its great productive and consuming powers, into the normal and beneficent processes of international commerce and exchange. Such a pact would lead by natural agreement to the reduction of European armaments and to that general sense of security amongst nations which Europe so

profoundly

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profoundly needs. If those great objects are attained at the coming Conference, the Allied Powers will be entitled to feel that they have used the power bequeathed to them by victory to raise all Europe to a saner and happier plane.

CANNES. January 11th, 1922.

2, Whitehall Gardens, S.W.,
17th January 1922.

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C 41004 E-1315B.

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57

SECRET.

CABINET.

C.P. 3612.

(Also I.C.P. 236.) Note on the conversation held at the British Embassy, Paris, at 4 p.m., January 14th, 1922.

.....

PRESENT:-

British.	French.
The Prime Minister.	M. Poincaré
Lord Hardinge of Penshurst.	
Sir Edward Grigg.	French Interpreter.

.....

MONSIEUR POINCARÉ began by offering his apologies for the inconvenience caused by the political crisis in France.

He had thought that Monsieur Briand would take a vote of the Chamber and return to Cannes with authority to conclude the work of the Supreme Council there. The Government was not yet formed but he thought it might be useful to have a preliminary talk with Mr. Lloyd George. He emphasised the fact, however, that the opinions which he expressed were necessarily personal and provisional. Although he had almost completed his Government it was not yet in existence and he had no right to speak except informally and purely on his own behalf. He would like at the outset to assure Mr. Lloyd George of his feelings of friendship both towards England and towards Mr. Lloyd George himself. He had always been a firm believer in the Franco-British Entente.

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THE PRIME MINISTER thanked him. He said it was inconceivable that France and England should not act together as close friends.

With regard to the text of the agreement published by Monsieur Briand that morning. MONSIEUR POINCARÉ said he had always been a supporter of a written agreement between France and England and that he would like to take the discussion up at the point where Monsieur Briand had left it. He agreed that such an agreement should be accompanied by a general liquidation of outstanding questions which might raise difficulties between the two countries, and he regretted very much that the text of the agreement should have been made public before all these questions had been disposed of. He was now afraid that the discussion of these questions would be rendered more difficult by public criticism.

THE PRIME MINISTER said he thought a general clearing up most desirable and he hoped that it would be possible to keep up the arrangement under which Lord Curzon was to meet the French and Italian Foreign Secretaries in Paris next week.

MONSIEUR POINCARÉ said that he had found himself in complete agreement with Lord Curzon in a conversation he had had a month or two ago. With regard, however, to the questions raised, he ought to say that Tangier presented certain difficulties and that he must have time to go into it carefully.

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THE PRIME MINISTER agreed and said that it would no doubt be necessary to discuss the question "à trois" with Spain.

MONSIEUR POINCARÉ agreed. He then went on to discuss the question of Angora, expressing some regret at the course taken by Monsieur Briand's Government. He would like time, he said, to consider the situation there also before discussing a settlement. Monsieur Franklin-Bouillon he thought had not been kept very well informed by the Quai d'Orsay. He wished to settle this and all other outstanding questions as quickly as possible, but of course, without sacrificing any of the rights of France.

THE PRIME MINISTER assured him that Great Britain did not ask for any sacrifices of French rights.

MONSIEUR POINCARÉ then turned to the question of the draft treaty and said that he would like to postpone the discussion of that in detail until other questions had been cleared up. It might be useful, however, if he gave Mr. Lloyd George an indication of his views upon it, inasmuch as it was necessary for him to make some reservations. He emphasised again the fact that he was merely mentioning his "préoccupations personnelles."

THE PRIME MINISTER said he would be grateful for an indication of his personal attitude.

MONSIEUR POINCARÉ said that his first point of anxiety related to the form of Article I. French opinion disliked the idea of a unilateral guarantee.

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It was a question of the dignity of France and of maintaining relations of mutual loyalty, and he felt that France would be to some extent compromised by a purely unilateral guarantee. "You guarantee us," he said, "because you are interested in France and in the maintenance of peace. We should like to guarantee you in return against any attack by Germany."

THE PRIME MINISTER said that he quite appreciated the point and that the draft treaty made a special point of the "common" interest of France and Great Britain in French security because Germany could only get at England through France.

MONSIEUR POINCARÉ said that Germany might build submarines or devise long range artillery or develop great air forces all of which might be a menace to Great Britain.

THE PRIME MINISTER pointed out that even so Germany could only approach England through France and Belgium.

MONSIEUR POINCARÉ said that he would not argue the point at present except to say that the unilateral character of the guarantee was a difficulty, and that it might be wise for England to take the precaution of giving it a bilateral character even if the precaution seemed a little superfluous.

MONSIEUR POINCARÉ then passed to the second point of the draft treaty about which he felt anxiety - namely, the absence of any

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reference to a naval and military convention between the two countries. He considered it most important that such a convention should be provided for in the same way as before the War.

THE PRIME MINISTER pointed out that there had been no written convention before the War. There had not even been any obligation to go into the War. It was true that discussions had taken place between leading soldiers of both countries on the measures which we should take, if and when Great Britain come into a war; but these were merely informal arrangements and carried with them no obligation on the part of the British Government. What was offered now was something far greater, namely, a definite engagement on the part of the British Government to come immediately to the side of France with all its forces, naval, military and air.

MONSIEUR POINCARÉ agreed that there had been no written convention before the War. He had been surprised at a statement made by Mr. Lloyd George in the House of Commons indicating that there was. The Prime Minister remembered the speech. It was a slip on his part. He had been immediately corrected by Mr. Asquith, and had accepted the correction on the spot.

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MONSIEUR POINCARÉ pointed out that the Treaty would seem to have very little effective value in France without a military convention. He said that he would rather have a military convention without a treaty than a treaty without a military convention.

THE PRIME MINISTER said that he took a very different view, which he would like to explain. He did not ask for an answer from Monsieur Poincaré here and now, but gave his view only in order that Monsieur Poincaré might have time to reflect on it. If England made a military convention, that convention would necessarily deal only with such troops as she possessed. It would stipulate perhaps that Great Britain should move three or four Divisions within a certain time to France. That would be in reality a very small thing compared with the guarantee given in the draft treaty, because the forces with which it dealt would not in any way represent the real strength which we were prepared to place on the side of France. In this way it would be misleading, not only to France itself, but to Germany and to the whole of Europe. Monsieur Poincaré no doubt understood perfectly that our paper strength in peace time was not our real strength. Our paper strength - he meant the forces covered by the estimates and available for a continental expedition - amounted only to three or four Divisions; our real strength consisted of something much greater. We had millions of men, trained to arms and

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discipline in the War, and that immense reserve, easily available, easily mobilized, would maintain its value for twenty years that is, certainly for the whole period during which Germany's own reserves from the war could be considered dangerous.

MONSIEUR POINCARÉ explained that he in no way wished to exclude this powerful guarantee contained in the treaty; but that he thought the treaty should also contain a military convention, giving at least a statement of the minimum forces which Great Britain would put into the field.

THE PRIME MINISTER said that such a Convention would make the treaty seem much less valuable than it really was. We were actually reducing our regular forces in England still further - below the level of 1914; but in point of fact our military strength was immensely greater than in 1914. Even in the first year of the war we had been much better than our word. The six Divisions which we promised were rapidly followed by immeasurably greater forces. There were 400,000 British soldiers in the field in France by the end of the first year, and we had maintained a strength of two millions in the field despite great casualties for the last two years of the war. Whatever, therefore, our paper strength might be, we could put a million men in the field in a very short time. They were trained; the organization and equipment were there. In such circumstances he thought a military convention relating to nominal forces almost absurd. It would be much better to

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trust to the honour of England. Monsieur Cambon had said in 1914 that he knew very well that if once a squadron of British cavalry went to France it would be followed by a million men. The important thing was Britain's pledge. He put this to Monsieur Poincaré for consideration; he would not press him for an answer in any way. He knew the difficulties of forming an administration, and he would much rather that Monsieur Poincaré did not give him a definite answer on the subject now.

MONSIEUR POINCARÉ said that he was not really thinking of giving a definite answer, or even of arguing the question, but he considered it important to say that the feeling of France about the treaty would be very cold if it contained no military convention. It was not necessary for such a convention to be published. All that was necessary was that the General Staffs of the two countries should examine the question and make their plans together, remaining afterwards in continuous touch, and re-examining their arrangements yearly.

THE PRIME MINISTER said that it would be impossible to refuse publication of the convention in England. In France it was possible to submit such a convention to private examination in a Committee. We had a different parliamentary method in England, and Ministers had to submit every day to searching questions under which the terms of such a convention would certainly have to be revealed. He was also against any concealment in principle, and he would regard a military convention as a great mistake. After all, the most important thing was for Germany to know exactly what she would have to face in a new

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attack on France. The guarantee was the thing that mattered. That was what Germany would look at. That was the only thing which might divert her from dreams of revenge. Monsieur Poincaré should also reflect that while the British Dominions might be willing to sign a guarantee (some had ratified the treaty of 1919) they would not dream of putting their signatures to a military convention, nor of pledging the despatch of a single battalion under such a convention. This method was against the spirit of the British Empire. It would be much better if France would take the word of the British Empire, the value of which, and the strength behind it, she knew. What mattered to her, surely, was not an arrangement between soldiers to move a few units here and there in such and such a time, but a definite undertaking from Great Britain that she would honour her pledge to France with the whole strength at her command.

MONSIEUR POINCARÉ objected that the difficulties made by the Prime Minister with regard to a military convention were unreal. Parliament, he thought, would not ask every year what the convention might be, provided that the Army estimates with which they were confronted were unobjectionable.

THE PRIME MINISTER said that the French Government must allow the British Government to adopt the method best suited to the English system. The right method with us was to submit all such plans to the Committee of Imperial Defence, where they would be thoroughly discussed. Of course French officers could come over to England to express their views to our soldiers, and British officers could go to France to consult Marshal Foch and the French military officers, and their conclusions could then be submitted to the Committee of Imperial Defence for examination.

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M. POINCARE said that he only wanted some reference in the Treaty to the existence of a military convention and the maintenance of co-operation between the Staffs of the two countries. Where would France stand without a military convention supposing Great Britain disarmed altogether ?

THE PRIME MINISTER asked what difference that would make. Our equipment, our reserves, our pledge, would still be there. We could not possibly bind curselves to maintain this or that military strength in peace. He could not present such a demand to the British people or to a British Parliament. If the word of the British people was not sufficient for France, he feared that the Draft Treaty must be withdrawn. The British people would honour their pledge, if France were attacked, with the whole of their strength, but they would never bind themselves by military conventions as to the forces which they would maintain in present conditions during a time of peace.

M. POINCARE said that it was really not a question of making conditions but rather of knowing whether the guarantee was sufficient or not. There were conventions before the war between the General Staffs. How could France calculate the strength which she would have to maintain if she had no idea of the strength to be maintained by Great Britain ?

THE PRIME MINISTER said that there had been no military conventions in existence before the war; at any rate within the knowledge of the British Cabinet. There had of course been conversations between soldiers, but they carried no obligations whatever. If France really preferred now a convention providing for conversations between Generals to a pledge by the British people and the British Government, he was afraid that it would be impossible to carry any Treaty through the British Parliament.

M. POINCARE explained that he asked for no more than had been

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been done before the war. He asked simply that the two countries should not be less united than in 1914. He would like something like the Agreements which passed in 1912.

THE PRIME MINISTER asked whether he would really prefer such an exchange of letters to the draft Treaty now proposed.

M. POINCARE said he would not.

THE PRIME MINISTER said that he must choose between the two. The British people would be totally unable to understand M. Poincare's insistence on a military convention as part of their pact.

M. POINCARE said that to him personally (and he gave it only as a personal opinion) the Treaty was useless without a military convention because the guarantee contained in it was illusory.

THE PRIME MINISTER said that in that case it only remained for M. Poincare to communicate those views when he had formed his Government. There would be then no more draft Treaty to discuss.

M. POINCARE said that in that case France would know that under the Treaty proposed she had had no real military guarantees. The French people would be greatly disturbed by this, and he would look with apprehension on the effect of it on the relations of the two countries.

THE PRIME MINISTER said that the French people were of course the only judges of their own interest, but that if France was not satisfied with the promise of England to put all her forces at France's side, there was really no possible basis for a genuine accord between the two countries.

M. POINCARE said he hastened to say that France did not doubt the word of England. France knew that England would do everything she could even were there no Treaty in existence, but if France had no idea beforehand on what the military situation would be at the outbreak of war, she could not possible measure the forces

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the forces which she would herself have to maintain.

THE PRIME MINISTER asked what difficulty there could possibly be in knowing the strength of the British Empire after the experience of the war. It seemed to him really preposterous to discuss military conventions regarding a sudden German attack on France when Germany had been almost completely disarmed and could not possibly re-equip her armies without long preparations which must be known. There had been much more reason for a military convention before the war than now. We were then confronted with a powerful Germany ready for attack. There was no such Germany in existence now, and France must know that the British Empire's great reserves of strength could be thrown into the field just as quickly as those of Germany; much more quickly indeed, since Great Britain had the equipment for millions of men while Germany had not. A "malentendu" between France and Great Britain on such a point appeared to him the height of unreason. It made him despair of any proper understanding with French statesmen since it looked like a refusal on their part to deal with realities. The time for a military convention might come if Germany again became formidable. Were it necessitated by a revival of German military power, Great Britain would not hesitate to make it. But to raise difficulties in England on such a point now was to him inexplicable. The Treaty was not altogether popular in England. It was being attacked by friends of the League of Nations and so on. He could carry such a Treaty through the present Parliament, but he would not undertake to say what would become of it in another Parliament. The reason for the French attitude as set out by M. Poincare must surely be

derived

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derived from political considerations of some kind. It could not possibly be derived from military facts.

M. POINCARE said that he would not venture to discuss political difficulties in England and he hoped that the Prime Minister would not discuss those of France. They should really not come into a discussion of this kind.

THE PRIME MINISTER said that stesmen should understand each other's political difficultios. He had his own, and he was quite prepared to meet those of M. Poincare where he could, but he could not understand such a Treaty as the one proposed failing on political grounds in France.

M. POINCARE referred again to the difficulty for France of regulating the effectives which she would have to maintain if Great Britain's effectives were not really known. He was only, however, indicating his personal opinions, and he would like to resume the discussion later through the medium of the Embassies. He felt, however, that loyalty and friendship had made it necessary for him to explain his view as early as possible to Mr. Lloyd George.

THE PRIME MINISTER thanked him. He was particularly anxious to know whether the change of government in France meant a change of policy also.

M. POINCARE said that the aims and desires of the French Government would be the same. The "nuances" might be different, but he believed that the relations between Great Britain and France would be even better than before.

THE PRIME MINISTER asked whether there were any other points which he wished to discuss.

M. POINCARE said that the period of ten years was thought to be badly chosen. The expiry of the ten years would

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coincide with the time for the withdrawal of British troops from the Rhine, and he thought that it might be a "coincidence genante".

THE PRIME MINISTER said that he would be quite ready to discuss that.

M. POINCARE added that he hoped arrangements would, at any rate, be made for permanent contact of the two Staffs so that the French Government might know where they stood.

THE PRIME MINISTER said he had no objection to that. Indeed, he assumed contact between the Staffs.

M. POINCARE said that he would think the matter over and communicate his views.

The conversation then turned to the Genoa Conference.

M. POINCARE said that the new French Government would of course honour the engagements of its predecessors but he was anxious regarding the preliminary acceptance by the Soviet Government of the conditions communicated by the Allied Powers.

THE PRIME MINISTER said that they had discussed at Cannes whether these conditions should be treated as preliminary to the meeting in conference or as preliminary to recognition of the Russian Government. They had decided on the latter. But M. Benomi was to call attention to the importance attached by the Allied Powers to these conditions in his notification to the Russian Government regarding the Conference. It would be made quite clear that these were the only conditions on which they could possibly hope to revive the trade of Russia with the rest of Europe.

M. POINCARE asked whether it was not very dangerous to attempt to initiate discussions with the Soviet Government until

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until they had accepted those conditions.

THE PRIME MINISTER explained that discussion of the conditions was exactly what was wanted and they had been put first by the Supreme Council for that reason.

M. POINCARE said he was afraid that the conditions might be amended in discussion. Would it not be safer to insist on acceptance beforehand ?

THE PRIME MINISTER said that the Ministers of the Allied Powers were surely capable of holding their ground, even against Lenin and Trotsky.

M. POINCARE pointed out that other than Allied Powers would be there.

THE PRIME MINISTER said that England and France must of course march together. If they marched together, everything went right; if they did not march together, everything went wrong. They must therefore have a clear understanding as to their course of action at Genoa beforehand. It would not do to have any appearance of disagreement between the French and British Prime Ministers there.

M. POINCARE agreed and said he understood there was no question whatever of allowing any discussion of the Treaty of Versailles and particularly of reparations.

THE PRIME MINISTER pointed out that reparations could only be raised if the United States came in prepared to discuss Inter-Allied debts. If these were discussed, the German debt would also inevitably be discussed; and France would stand to gain by that because any relief to Germany with regard to her obligations to other Powers would increase her capacity to pay reparations to France. He thought, however, that the United States were not likely to send any representative prepared for such discussions to Genoa. He thought that their

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their political situation made it impossible.

M. POINCARE said that his information was the same.

M. POINCARE then thanked the Prime Minister for stopping in Paris for this conversation and said he would like to take them up again later.

THE PRIME MINISTER said he knew what the pre-occupations of forming a Government were, and he thanked M. Poincaré sincerely for having found time to talk matters over. He wished to ask one other thing about reparations. What was M. Poincaré's view on the general question which had been discussed at Cannes ?

M. POINCARE said that France could accept no modification of her payments or reduction of her claim. He thought that the Reparations Commission should be instructed to carry on as decided at Cannes.

THE PRIME MINISTER pointed out that the provisional arrangements at Cannes only covered a short period, and that it would be necessary to discuss the reply of the German Government to the Commission's enquiries which would be due in 15 days. It would also be necessary to discuss the provisional decisions at Cannes regarding the partition of the payments. If these arrangements were not to stand, Great Britain would resume her right of claim to her full share under the Treaty: namely 22% of all payments, and the cost of her armies of occupation. The only way of dealing with the matter successfully was to enable Germany to get a big loan abroad. This could not be done until reparations were settled. It had already been tried in the London market and London had refused until reparations by Germany were quite clear.

M. POINCARE pointed out that Germany would not get a loan until her finances were set right and it might be necessary to compel

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to compel adjustment of her finances by means of sanctions.

THE PRIME MINISTER concurred, and pointed out that an elaborate series of provisions for putting Germany on a sounder financial basis had been agreed to at Cannes, though not finally ratified.

The conversation ended with the expression of a desire on the part of M. Poincare to leave the preliminary discussion of all questions to the ordinary channels and departments. Prime Ministers should meet in conference only when this was absolutely necessary.

THE PRIME MINISTER concurred but explained that while in his opinion conferences should deal only with principles and not with details, it was, in point of fact, practically impossible to make much progress in Europe at the present time unless responsible Ministers met face to face.

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British Embassy,
Paris,
14th January, 1922.

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E-1315B.
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C A B I N E T.

SECRET.

C.P. 3623.

DRAFT OF TREATY BETWEEN
THE GOVERNMENTS OF THE BRITISH EMPIRE
AND THE FRENCH REPUBLIC.

~~2nd Previse~~

9

WHEREAS the soil of France has been twice invaded by Germany within living memory, and is still suffering deeply from the devastation wrought by the enemy; and

WHEREAS the peoples both of France and of the British Empire have paid a heavy toll of their manhood and their wealth in overcoming the German armies of invasion; and

WHEREAS the welfare of the European peoples and the economic structure of the world have been profoundly disturbed by the protracted ordeal of war through which they have lately passed; and

WHEREAS guarantees of the security of France against any future invasion by Germany are indispensable to the restoration of European stability, the safety of Great Britain, and the peace of the world; and

WHEREAS the following safeguards contained in the Treaty of Versailles:

> "Article 42, Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilo. to the East of the Rhine.
>
> "Article 43. In the area defined above the maintenance and assembly of armed forces, either permanently or temporarily, and military manoeuvres of any kind, as well as the upkeep of all permanent works for mobilisation are in the same way forbidden.
>
> "Article 44. In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the Powers signatory of the present Treaty and as calculated to disturb the peace of the world,"

may not sufficiently provide for the defence of the essential common interests of the High Contracting Parties and the maintenance of peace in Western Europe:

His Britannic Majesty and the President of the French Republic having etc., etc., etc., HAVE AGREED AS FOLLOWS:-

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ARTICLE I.

In the event of direct and unprovoked aggression against the soil of France by Germany, Great Britain will immediately place her self at the side of France with her naval, military and air forces.

ARTICLE II.

The High Contracting Parties reassert their common interest in Articles 42, 43, and 44 of the Treaty of Versailles, and will consult together, should any breach of them be threatened or any doubt arise as to their interpretation.

ARTICLE III.

The High Contracting Parties undertake further to concert together in the event of any military, naval or air measures inconsistent with the Treaty of Versailles being taken by Germany.

ARTICLE IV.

The present Treaty shall impose no obligations upon any of the Dominions of the British Empire unless and until it is approved by the Dominion concerned.

ARTICLE V.

This Treaty shall remain in force for a period of ten years, and shall, if approved by both parties, be renewable at the end of that period.

CANNES, 13th January, 1922.

....

2 Whitehall Gardens, S.W.
17th January, 1922.

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-SECRET-

C.P. 3628. CABINET. 55.

ITALY AND ANGLO-FRENCH RELATIONS

AIDE-MEMOIRE

The Italian Delegation has taken cognisance of the Memorandum illustrating the proposed agreement between France and Great Britain by which the latter would undertake, for a period of ten years, to place her military, naval and air forces by the side of France in order to guarantee her Eastern frontier in the event of an unprpvoked aggression on the part of Germany, and to concert with France the necessary measures to protect the neutrality of Belgium in the event of any German invasion of the latter.

C.P.3621.

The Italian Delegation is thankful for the previous communication given to it by the British Delegation of the said memorandum, and is gratified to have had an opportunity, in these days, to talk over both with the British and the French Delegations the bearing and the significance of the agreement by which they propose to guarantee the safety of the Eastern frontier of France and the neutrality of Belgium, which represent vital interests for both parties.

The Italian Delegation, from its own point of view, cannot refrain from drawing attention to the fact that the

Cannes/

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Cannes Conference has been called to examine only two questions, namely, German reparations and the economic reconstruction of Europe, in the discussion and solution of which, Italy has placed herself above all selfish purposes in order to contribute with her fullest and warmest co-operation towards the establishment and maintenance of real peace and the economic reconstruction of Europe.

The third question, namely, the safety of France, is not included in the program of the present Conference (as it appears from the memorandum) and the agreement reached by France and Great Britain cannot, therefore, be considered as a result of the Cannes Conference.

The agreement has, on the contrary, originated from reiterated conversations which have taken place elsewhere between the two countries, which have always succeeded in finding a "terrain d'entente" when discussing their particular interests; the British memorandum itself gives to understand that the consent of France to the British plan of economic reconstruction of Europe has been a condition as against the British guarantee for the safety of the Eastern frontier of France.

In establishing, therefore, which are the results of the Cannes Conference proper, and which are the results of the agreement between two of the participants to it, the Italian Delegation feels that it would not be living up

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to the spirit of sincere friendship which has characterised the frequent meetings of all the Powers, which have won the great war, if it was not to express its views concerning the covenant of guarantee, which is being entered into by Great Britain and France.

Nobody can doubt the peaceful intentions with which the two countries propose to sign the agreement, which is to guarantee the safety of France against a possible unprovoked aggression by Germany. If, as the hope is expressed in the memorandum, the agreement will succeed in discouraging German attacks; if it will succeed in preventing Germany from seeking agreements and alliances in order to keep alive the sentiment of "revanche" of part of its people, the agreement will certainly be of the greatest help in preserving the world's peace.

Likewise, if the guarantee given by Great Britain to France will not affect the close cohesion of the Entente, which must survive for all the scopes for which it has been kept up, any weakening of the Entente will be avoided.

But, even granting all the above, the Italian Delegation cannot refrain from observing that, in order to attain the same results more effectually, it might have been preferable to follow a course which would have unquestionably strengthened the whole Entente (which has identical interests to support in full solidarity and equality), instead of proceeding to the conclusion of separate agreements for the safety of one particular frontier. In the opinion of the Italian Delegation the first course would have been more likely to discourage any aggressive intention of one Power, or of a possible new grouping of Powers and to better promote the maintenance of general peace.

It is gratifying, however, to find that this thought of the Italian Delegation finds its counterpart in the hope expressed by the British Government in the latter paragraphs of its memorandum, that, out of the next economic Conference, to which the victors and the vanquished will be invited, there will arise a broader, stronger and more durable understanding.

Carlton Hotel,
Cannes,
January 13th, 19..

2, Whitehall Gardens, S.W.
17th January, 1922.

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A.J.320.

2nd Revise.

DRAFT OF TREATY BETWEEN
THE GOVERNMENTS OF THE BRITISH EMPIRE
AND THE FRENCH REPUBLIC.

WHEREAS the soil of France has been twice invaded by Germany within living memory, and is still suffering deeply from the devastation wrought by the enemy; and

WHEREAS the peoples both of France and of the British Empire have paid a heavy toll of their manhood and their wealth in overcoming the German armies of invasion; and

WHEREAS the welfare of the European peoples and the economic structure of the world have been profoundly disturbed by the protracted ordeal of war through which they have lately passed; and

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> "Article 42, Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilo. to the East of the Rhine.
>
> "Article 43. In the area defined above the maintenance and assembly of armed forces, either permanently or temporarily, and military manoeuvres of any kind, as well as the upkeep of all permanent works for mobilisation are in the same way forbidden.
>
> "Article 44. In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the Powers signatory of the present Treaty and as calculated to disturb the peace of the world,"

may not sufficiently provide for the defence of the essential common interests of the High Contracting Parties and the maintenance of peace in Western Europe:

His Britannic Majesty and the President of the French Republic having etc., etc., etc., HAVE AGREED AS FOLLOWS:-

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2nd Revise.

DRAFT OF TREATY BETWEEN
THE GOVERNMENTS OF THE BRITISH EMPIRE
AND THE FRENCH REPUBLIC.

WHEREAS the soil of France has been twice invaded by Germany within living memory, and is still suffering deeply from the devastation wrought by the enemy; and

WHEREAS the peoples both of France and of the British Empire have paid a heavy toll of their manhood and their wealth in overcoming the German armies of invasion; and

WHEREAS the welfare of the European peoples and the economic structure of the world have been profoundly disturbed by the protracted ordeal of war through which they have lately passed; and

WHEREAS guarantees of the security of France against any future invasion by Germany are indispensable to the restoration of European stability, the safety of Great Britain, and the peace of the world; and

WHEREAS the following safeguards contained in the Treaty of Versailles:

> "Article 42, Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilo. to the East of the Rhine.
>
> "Article 43. In the area defined above the maintenance and assembly of armed forces, either permanently or temporarily, and military manoeuvres of any kind, as well as the upkeep of all permanent works for mobilisation are in the same way forbidden.
>
> "Article 44. In case Germany violates in any manner whatever the provisions of Articles 42 and 43, she shall be regarded as committing a hostile act against the Powers signatory of the present Treaty and as calculated to disturb the peace of the world,"

may not sufficiently provide for the defence of the essential common interests of the High Contracting Parties and the maintenance of peace in Western Europe:

His Britannic Majesty and the President of the French Republic having etc., etc., etc., HAVE AGREED AS FOLLOWS:-

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ARTICLE I.

In the event of direct and unprovoked aggression against the soil of France by Germany, Great Britain will immediately place herself at the side of France with her naval, military and air forces.

ARTICLE II.

The High Contracting Parties reassert their common interest in Articles 42, 43, and 44 of the Treaty of Versailles, and will consult together, should any breach of them be threatened or any doubt arise as to their interpretation.

ARTICLE III.

The High Contracting Parties undertake further to concert together in the event of any military, naval or air measures inconsistent with the Treaty of Versailles being taken by Germany.

ARTICLE IV.

The present Treaty shall impose no obligations upon any of the Dominions of the British Empire unless and until it is approved by the Dominion concerned.

ARTICLE V.

This Treaty shall remain in force for a period of ten years, and shall, if approved by both parties, be renewable at the end of that period.

CANNES
13th January 1922.

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ANGLO-GRENCH RELATIONS

MEMORANDUM BY THE BRITISH GOVERNMENT.

The British Government strongly desire that the Cannes Conference shall lead to definite results which will be approved by French and British sentiment and also by the opinion of Europe as a whole. In their judgment the indispensable condition of such success is a close preliminary understanding between the French and British Governments.

A public opinion is undeniably anxious and disturbed both in Great Britain and in France. Questions in which both countries are deeply interested are rightly believed to be at stake. There is a general feeling that some of the fundamental problems of the peace still await solution, and the critical temper of the public in both countries has given rise to public controversy. The suspicion and uncertainty thus produced have been reflected throughout Europe and even beyond Europe with unhappy results.

The failure of the Cannes Conference would therefore react with very bad effect on the relations of the two countries. Indeterminate or provisional decisions would be regarded as tantamount to failure, and would inevitably accentuate the divergence between French and British sentiment which has lately made itself felt. Europe would regard any such consequence with dismay, since its peoples realize that a close understanding between the British Empire and France is essential to European welfare and the peace of the world. The British Government desire to make it plain at the Cannes Conference that the British Empire and France stand together as firmly in the issues of peace as in the ordeal of war.

In their opinion this is not to be secured by any piecemeal

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treatment of the questions by which the Conference is faced. On the contrary, they consider it absolutely necessary that the problem should be treated as a whole; and with this object in view, they desire to state the position of both countries, as they see it, at the present time.

In their opinion there are two principal reasons for anxiety in France.

In the first place, French opinion is disquieted on the subject of reparations. France is endeavouring to repair her devastated area, and is obliged to advance great sums, which make a formidable gap in her budget, for that purpose. This expenditure should and must be met by Germany; but, in spite of settlement after settlement, satisfactory reparation by Germany is always postponed.

In the second place, French opinion is naturally anxious about the future safety of France. She has been invaded four times in a hundred and twenty years, and in spite of the losses of man-power suffered by Germany in the war and under the peace, France has still a population twenty millions less than that of the German Empire. Germany, moreover, possesses five million men trained to arms, and amongst them a very powerful corps of officers and non-commissioned officers. It is true that Germany has been deprived of nearly all her arms and equipment, but France cannot overlook the possibility that this deficiency may, by one means or another, be made good. It is therefore essential to her that the discrepancy between French and German man-power should be made up in such a way as to guarantee her soil from another devastating war.

In Great Britain there is also grave cause for anxiety and discontent. Britain is a country which lives by its exports, and its trade has been devastated as terribly as the soil of France. The consequences in human suffering and

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privation are very serious. Nearly two millions of the British working-class are unemployed, and their maintenance costs the country nearly £2,000,000 a week. This burden falls upon a community more heavily taxed than any other in the world and more hardly hit than France by the economic consequences of the war.

The hard ordeal through which the British people are passing is not, however, peculiar to them. France is in some ways the most fortunately situated of European countries. Owing partly to the large proportion of her population which lives upon the land, partly to the stimulus given to internal production by the needs of her devastated area, and partly also to the fact that the arrested condition of emigration to extra-European countries affects her population much less than those which sent large numbers of emigrants oversea before the war, she is suffering less than others from unemployment and from the collapse of international trade. In Italy and Belgium, however, the unemployment is serious. Belgium is a food-importing country, dependent upon the European markets for 80 per cent of her export trade. Italy is also very dependent upon foreign trade, and has a greater population to employ than before the war.

In Central, Eastern and South-Eastern Europe the collapse and confusion of the normal processes of economic life are even more marked. Millions are living in conditions of bitter privation and misery. Even where inflation has given employment and good wages to the working-class, the relief is temporary and reaction certain, unless measures are taken in time. The educated and the professional classes are suffering more terrible even than the working-class. The civilization of Europe cannot long survive such conditions. In its present state it is moving fast towards

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social and economic catastrophe.

Profoundly, therefore, as her own interest is engaged in the economic reconstruction of Europe, Great Britain appeals in no selfish spirit for the co-operation of France in that great human cause. It must be undertaken here and now. There is an awful aggravation of human misery, and in some parts of Europe an increasing menace to civilization itself, in every month of delay.

The problem before the countries is how to meet their respective necessities by common action. These must be met as a whole. Complete frankness between the statesmen of both countries is essential, if the problem is to be effectively solved. Great Britain fully recognises France's ground for anxiety, but she cannot agree to postponing the question of the reconstruction of Europe, while meeting France's desires in regard to her reparations and her security. In order to give satisfaction to French needs, the British Government must be able to tell the British people that the two countries are marching together to restore the economic structure of Europe and the general prosperity of the world.

With regard to reparations, His Majesty's Government are prepared to abide, so far as they are concerned, by the arrangement reached in London under which France would reap considerable advantages while Britain would make considerable sacrifices. They believe that this arrangement will meet the essential claims of France until such time as a wider financial settlement can be attained - perhaps in two or three years.

With regard to the safety of France, Great Britain is prepared to give her a guarantee that in the event of unprovoked German aggression against French soil the British Empire will put its forces at her side. There will be double value in this guarantee, since it will not only safeguard France in the event of German attack but will make any such attack extremely improbable. It is not likely that Germany would have attacked in 1914, had she realised the great forces which the British Empire would throw into the war. In 1914 Germany credited

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Great Britain with only six divisions; she knew little or nothing of the character or the resources of the British Commonwealth. She is wiser now, for she knows that, instead of six divisions only, the British Empire was maintaining 400,000 men in the field in France by the end of the first year of war. These numbers rose rapidly afterwards, and during the last two years the Empire had a strength of 2,000,000 men in France and Flanders despite a heavy drain of casualties. Great Britain called out a total of nearly 7,000,000 men for military service by land, sea and air. The self-governing Dominions called out more than one million and a half. The Indian Empire called out nearly the same. The total strength thrown by the British Empire into the war, was therefore over 10,000,000 men. The losses in killed, wounded and missing were 3,500,000.

It is inconceivable that Germany should forget these facts or their significance as a guarantee of French soil. What the British Empire did once for civilization, it will, if need be, do again. Germany, it is true, has great reserves of trained officers and men; but those of the British Empire will be available as long as those which Germany preserves from the old military régime. If,

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if, , therefore, she is certain that the British Empire will stand by France in a future war, she will not be tempted to keep alive any dreams of revenge. It is of great importance to divert the German mind from any such ambitions as well as to provide for the defeat of those ambitions should they mature. The British Government believe that both objects would be met by a British guarantee to France against invasion of her soil, and that such a guarantee must ripen and strengthen the friendship of the two nations as years go on.

There are two ways in which the guarantee could be given.

The first is by means of an offensive and defensive alliance. Though such an alliance might seem desirable to France, it would in reality not serve her interests well, because such alliances are contrary to British tradition. The British people understand the claim of France to be guaranteed against invasion of her soil; but they would not willingly be committed to military liabilities for breaches of the peace elsewhere, and they would not undertake responsibility of any kind for the defence of countries in Eastern or Central Europe, in which their interest is necessarily small. An alliance involving, or even appearing to involve, any such responsibility would not carry the whole-hearted concurrence of the British people. On the contrary, it would be strongly opposed by large sections of the community in all parties, and would therefore not be as valuable to France as an understanding in another form.

The second alternative is a definite guarantee that the British Empire would stand by her in the event of unprovoked aggression by Germany against French soil. This alternative was discussed at the Imperial Conference last summer, and it is probable that the opinion of the Empire would support that of Great Britain in giving such a guarantee to France. It would therefore have far greater weight, for it would, the British Government believes, carry with it the whole-hearted opinion, not of Great Britain alone, but of the Dominions, which put a million soldiers of first rank into the field during the war. The real danger to France is from German invasion. She cannot be invaded

by any

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by any other Power. A guarantee against German invasion secures her safety beyond doubt. This, therefore, is the alternative which His Majesty's Government prefer to adopt. They propose the draft Treaty between Great Britain and France attached to this Memorandum as the form of engagement best calculated to protect the common interests of both Powers in Western Europe.

In order, however, that effect may be given to it, it is necessary that the guarantee should be accompanied by a complete Entente between the two countries. This was the basis of the agreement of 1904, which gave France the support of Great Britain in the war, and it is equally essential now. For such an Entente to be achieved, three questions must be cleared away. These need only be indicated here.

The first is the settlement of the Eastern question and the attainment of a just peace between Greece and Turkey.

The second is the question of Tangier.

The third is the question of submarines. His Majesty's Government make no condition of this, and they fully understand that the divergencies of French and British views on the subject may be due to different ideas of the uses which submarines can serve. The British opinion, however, based on four years' war experience, is that submarines are effective only against merchant ships and are ineffectual otherwise as instruments either of attack or defence. British opinion would inevitably insist on a heavy programme of anti-submarine

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craft, if the French submarine programme were carried out, and the two countries would thus be launched on a course of competitive naval construction. The British Government cannot disguise the fact that any such development would react very seriously on British sentiment towards France Her sea communications are to Britain what her Eastern frontier is to France. Naval competition in any form between herself and France would corrode goodwill.

The fourth and last essential to the proposed Entente is that France should co-operate whole-heartedly with Great Britain in the economic and financial reconstruction of Europe. The British Government desire the agreement of France to the immediate summoning of an Economic Conference at which all the Powers of Europe, including Russia, would be represented. The economic collapse of Central, Eastern and South-Eastern Europe is now the most serious factor in the paralysis of European trade; and it cannot be remedied unless the produce and the markets of Russia are once more made available to the world. The presence of the real leaders of Russia is therefore necessary, in the opinion of the British Government, to the success of such a Conference. No useful object is served by discussing the Russian question with secondary representatives of Russia, or by forwarding conditions in writing to Moscow. It is most important to deal, if possible, with the heads of the Russian Government, and the Conference should be held as soon as possible at the most suitable centre for that purpose.

In order to trade with Russia, certain assurances and guarantees are essential. These may be briefly set forth here. The British Government would not propose to present them to the Russian Government in advance of a Conference, but to discuss them at the Conference itself in conjunction with the counter-proposals for recognition which they would undoubtedly call forth.

In summary, they may be stated thus:-

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(1) Nations can claim no right to dictate to each other regarding the principles on which they are to regulate their system of ownership, internal economy and government. It is for every nation to choose for itself the system which it prefers in this respect.

(2) Before, however, foreign capital can be made available to assist a country, foreign investors must be assured that their property and their rights will be respected, and the fruits of their enterprise secured to them.

(3) The sense of security cannot be re-established unless the Governments of countries desiring foreign credit freely undertake:

(a) That they will recognise all public debts and obligations which have been or may be undertaken or guaranteed by the State, by municipalities or by other public bodies, as well as the obligation to restore or compensate all foreign interests for loss or damage caused to them when property has been confiscated or withheld.

(b) That they will establish a legal and juridical system which sanctions and enforces commercial and other contracts with impartiality.

(4) An adequate means of exchange must be available, and, generally, there must be financial and currency conditions which offer sufficient security for trade.

(5) All nations should undertake to refrain from propaganda subversive of order and the established political system in other countries than their own.

(6) All countries should join in an undertaking to refrain from aggression against their neighbours.

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These are the four questions of which His Majesty's Government particularly desire a solution in connexion with the Treaty which they propose. They have indicated them because they consider agreement upon them to be indispensable to that complete Entente between Great Britain and France which they desire to maintain. The time has passed when statesmen could pledge their countries to engagements without full regard to the popular sentiment which they represent. In order that the Treaty of Guarantee proposed should be of lasting value to France, it is essential that the democracies of the British Empire and the French Republic should feel assured that they are guided by similar purposes and harmonious ideals. All questions, therefore, should be cleared away which may be capable of dividing the sentiment of the two countries and marring their ~~xx~~ accord. His Majesty's Government are confident that the four questions which they have indicated here can be solved in a manner satisfactory to both Governments, and that the Treaty of Guarantee between the two nations may thus be sealed and confirmed by a complete and durable Entente.

It is, moreover, their particular desire that this Entente between Great Britain and France, so far from excluding other nations, should form the basis of a larger scheme of international co-operation to ensure the peace and stability of Europe as a whole. The sixth clause of the stipulations put forward for discussion at the Economic Conference which they propose lays down a simple condition of international accord - "that all nations should join in an undertaking to refrain from aggression against their neighbours." Such an undertaking they are willing to give and to promote by all means in their power. It would lead, as they hope, not only to a temporary improvement of European relations, but also to a universal reduction of armaments; and this, in their belief, is the only/~~main~~ certain means of building up that sense of safety amongst nations, great and small, which Europe through the many centuries of its political history has never yet attained

Cannes.
9th January 1922.

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DEPARTMENT OF EXTERNAL AFFAIRS

THE SECRETARY OF STATE

FOR THE COLONIES

TO THE GOVERNOR GENERAL

No. D.22. 19th January, 19 22.

Memorandum on Anglo French Relations and of Draft of Proposed Treaty with France.

Submitted

~~Referred~~ to the Honourable

The Prime Minister.

By Command

Joseph Pope

Under-Secretary of State for External Affairs.

OTTAWA, 2nd February, 19 22.

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His Britannic Majesty's Government.

C 41039

CABINET
C.P. 3664
2, WHITEHALL GARDENS

SECRET

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I circulate to my colleagues the following account of my conversation with the French Ambassador concerning the suggested Anglo-French Agreement, together with the text * of the French proposal.

(Initialled) C. of K.

FOREIGN OFFICE,
28 JANUARY, 1922.

* Appendix

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"FRENCH DRAFT OF PROPOSED ANGLO-FRENCH TREATY"

The French Ambassador called on me by appointment on the evening of the 26th in order to hand to me Monsieur Poincaré's proposals with regard to the contemplated Pact between Great Britain and France, and to offer certain explanations as to the views of his Government thereon.

Commencing by an expression of the warm desire of Monsieur Poincaré to cement the friendly relations between the two countries by the conclusion of such an Agreement, he proceeded to call my attention to the principal features of the French draft, which he explained in the following fashion.

The British draft prepared at Cannes was of a unilateral character inasmuch as it had contemplated a guarantee against German aggression given by Great Britain to France without any corresponding obligation on the part of the latter.

Monsieur Poincaré proposed in Article 1 that the engagement should be reciprocal and that France should equally engage to come to the aid of Great Britain with all her naval, military and air forces in the event of an unprovoked attack by Germany, just as we were prepared to/in the case of a similar attack upon France.

When I enquired the reason for this change, the Ambassador told me that although it might be unlikely that a German attack upon Great Britain would take place, yet it was hardly consistent with the self-respect of the French Government to accept what had the air of being a favour, without entering into any corresponding obligation themselves. He felt that it would be better that the two nations should be put on the footing of absolute equality in the matter.

I said that in this respect as in all others I should not like at the first moment, without having examined

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the text or consulted my colleagues, to pledge the final views of the British Government upon the matter. At the same time, if we could do anything that would remove from the Agreement anything that was likely to be injurious to the "amour propre" of our great Ally, I thought the British Government would be entirely willing to consider the point in a most friendly spirit.

The Ambassador then proceeded to explain with a good deal of fulness the proposed second article in the French draft under which, differing from the British proposal, which had laid down that in the case of a violation of Articles 42 and 43 of the Treaty of Versailles Great Britain and France should concert together, the infringement of those Articles was to be considered as constituting a direct act of aggression against the security of France. He pointed out that, from the French point of view, the promise to consult or concert in the case in question was an altogether insufficient security against German aggression, and that Germany required to be deterred by something much more efficacious. He was aware that this proposal, which had leaked out in the newspapers, had met with a good deal of criticism, on the ground inter alia that Great Britain might be involved thereby in hostilities against Germany arising out of some petty local incident on the frontier for which the Germans might not be wholly to blame, and he went on to explain that such was not the least the sort of case that his Government had in view. It would be easy to provide that if owing to an incident of such a character on the frontiers of the Rhineland German police measures were required to be taken by Germany, she should

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be at liberty to carry them out after information to and in concert with the Allies.

What his Government had in view were direct and unprovoked acts of aggression upon the frontier of a serious nature.

I replied at once that the Ambassador must not be surprised if the British Government took serious objection to this proposal, for, after all, what was it that he proposed? What had been contemplated at Cannes and what the British Parliament and British people were, I believed, prepared to support, was that in the event of unprovoked aggression upon France by Germany, that is a repetition of the experience which she had before endured, Great Britain, regarding her eastern frontier as in a sense the outer frontier of Great Britain herself, would come to her aid. Now it was proposed that any violation of two particular Articles of the Treaty of Versailles, which had been signed by all the Powers and the duty of carrying out which belonged to all the Powers, should be regarded as if it were a matter that concerned Great Britain and France alone, and that we should take upon ourselves the obligation to sustain these Articles of the Treaty by action which might involve this country in the most terrible of obligations. Such was an obligation which I did not think the British people would be likely to accept. Moreover, was not the proposal to assume it entirely inconsistent with the new theory upon which it was generally believed that the policy of Europe was to be based after the War? Everywhere it had been preached that the old policy of rival groupings of great powers

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was to disappear and to be replaced by a concord of the nations. By another part of the Treaty of Versailles the League of Nations had been placed in charge of this new conception and was already endeavouring with limited powers to carry it out. Now apparently it was proposed that instead of the Triple Alliance, which had, we thought, disappeared altogether, there should be set up a new Double Alliance between Great Britain and France, which as the most powerful nations would dominate the scone, assuming the responsibilities which did not belong to them alone, and claiming a sort of hegemony in Europe.

I did not think that such a proposal was consistent either with the principles of the Treaty of Versailles or with our own conception of the duties devolving upon Great Britain.

The Ambassador replied by saying in the first place that he thought that such an alliance would of itself have the effect of inducing the other Powers of Europe to enter into close and friendly relations with each other, and that so far from desiring to ignore the League of Nations, the French Government would be quite willing that the League of Nations should be brought in at any stage that might be thought desirable. Information of the intended action might be conveyed to the League of Nations. Their approval or sanction might be sought and, so far from the projected alliance between Great Britain and France constituting a menace to Europe, he thought that it would tend to a consolidation of international relations, the other Powers grouping themselves round the two principal parties and being brought into

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their engagements in some manner which he did not clearly define.

I replied that Monsieur Briand had talked a good deal in a similar somewhat nebulous fashion, but I had never been able clearly to understand in what way this association between thw two Powers and the rest of Europe was to be effected. I thought that it would be much better and safer to regard the proposed Anglo-French Agreement from the angle from which we had hitherto approached it, and to confine it to the contingencies previously discussed.

I could not, therefore, encourage him to think that my Government would welcome this addition to the draft.

The Ambassador then passed to Article 3 of the French draft which proposes the maintenance of "une entente constante" between the General Staffs of the two countries, with a view to secure the efficacious fulfilment of the engagements already described.

He explained to me that this Article was designed to meet the objections against a military convention which had been definitely formulated by the British Prime Minister. All that the French Government suggested was that there should be concerted action between the two General Staffs of a character somewhat similar to that which had existed in a more informal fashion before the War. The two Staffs would meet and exchange information and make reports as to the manner in which their respective obligations could be discharged in the event of the necessity arising.

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I said at once that I did not quite see why a special article in the Treaty should be required in order to provide for these conversations which must necessarily be of a confidential character, and which could apparently quite well be pursued by existing methods.

The Count de Saint-Aulaire admitted in reply that this Article was introduced with a view to impress the Germans with the seriousness of the situation and with the reality of the danger to which they would be exposed in the event of hostilities.

I said that our Military Authorities would require to be heard upon the matter, but I did not quite see the point of introducing an article, the sole purpose of which appeared to be to act as a bogey to frighten the Germans.

In a Note which His Excellency left with me containing the heads of his argument, he explained that this proposal of his Government was intended as a substitute for the régime of the Cologne Conference of 1920. It was added that as in the latter case the French and British Staffs should contemplate an eventual co-operation with the Belgian Army.

His Excellency then passed on to Article 4, which provides for common action between the French and British Governments on all questions likely to jeopardise peace or "porter atteinte à l'ordre général établi par les traités de paix dont ils sont signataires." The two Powers were to examine together the proper steps to be taken to ensure with promptitude a pacific and

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equitable settlement of the question concerned.

In his expository Note this Article was explained by the Ambassador as implying the indirect guarantee for France which had not appeared in the British draft. Its object was described as being to provide for a rapid agreement between France and Great Britain with a view to facilitate the ulterior collective intervention of such a body as the League of Nations.

The Ambassador explained to me personally that this Article had been framed in order to meet the objection which had been raised to a possible call for military action by Great Britain under the Treaty, in the event of German aggression upon Poland or any of the outlying States of the Eastern parts of Europe. It had been pointed out that British interest in them was on an entirely different plane from their interest in the Franco-Belgian frontier, and that no British Government could accept obligations of so vague and compromising a character. Accordingly, this Article had been suggested, and it meant that, in the event of any such situation arising, the two great Allied Powers would at once consult together and then, if they were so agreed, would act in concert with the League of Nations in finding a pacific solution.

Here again, I said to the Ambassador, I thought that objections would probably be entertained to putting so ambiguous an Article into the Treaty.

To this he replied by suggesting that if we could not find a place for it there, we might prefer to give the assurance asked for in the form of a letter.

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This I pointed out would be inconsistent both with our practice and with the obligation which we had all entered into as regards publicity with the League of Nations.

Finally, the French Government asked that the duration of the Treaty, which we had fixed at 10 years in the British draft, should be extended to 30 years, the argument being advanced in the explanatory Note that, as the so-called "Naval holiday" is to terminate in 10 years, it would be to the interests of Great Britain to maintain her engagement with France for a longer period, because of its effect upon the question of naval armaments.

With regard to the proposed time limit I expressed some surprise at the term which was now suggested by the French Government. I said that I thought my colleagues would have been willing - if a good case could be made out - to contemplate an extension to 15 years or some similar period, and that I had been led by the Press to anticipate that such a request would be made. Nowhere had I seen the term of 30 years mentioned, and I thought it extremely unlikely that the British Government would agree to such a period.

Having listened to the above exposition by the French Ambassador, I then asked him what were the views of Monsieur Poincaré with regard to the manner in which the discussions upon it should take place. Monsieur Poincaré had been reported in the French Press as holding the view - which he had repeated both to Mr. Lloyd George and myself - that the Pact between Great Britain and France, which we were now discussing, should not be

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concluded until the main preliminary questions upon which we were not altogether united had been moved out of the path - in other words, that the Agreement should be the final rather than the first stage in our negotiations. Such, I said, had also been the view expounded by Mr. Lloyd George to Monsieur Briand at Cannes where, without laying down precise conditions, the Prime Minister had indicated that we should require to be satisfied as to the settlement of the Near Eastern question, the Tangier question, the question of the economic restoration of Europe, and the question of submarines, before we could accept the larger obligations entailed by the new Treaty. There was a good deal, I thought, to be said for this point of view, which after all was the precise method which had been followed by Lord Lansdowne in 1904. On that occasion the points at issue between the two Governments had been dealt with - and as far as possible settled - one by one, culminating in a final agreement covering the whole ground. It was with the object of removing one of these impediments that I was going to Paris next week. I hoped that other obstacles might be removed in a similar way, and in the interval there would be plenty of time to discuss such modifications in the draft Treaty as were required.

Greatly to my surprise the Ambassador informed me that such was not the view which he believed now to be entertained by the French Premier. On the contrary, the latter hoped that the Agreement might be concluded before the Genoa Conference took place, and his decision

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as regards attending it would no doubt be influenced to a large extent by the degree to which his hopes were fulfilled.

I said at once that it seemed to me quite out of the question that the question of the Pact could be settled in the next five weeks before any substantial progress had been made in the solution of the other matters, and that I preferred on the whole what I had understood to be the earlier method of Monsieur Poincaré.

This disclosure, however, on the part of the Ambassador is an indication of the extreme importance which the French Government attach to the conclusion of the Pact, upon which the existence of Monsieur Poincaré's Ministry may be said in fact to depend, and left me with the impression that while we hold it in suspense, as we have every reason for doing in view of the suggested extension given to it by Monsieur Poincaré, we may find in it a powerful lever for securing a favourable settlement of the other issues.

(Initialled) C. of K.

FOREIGN OFFICE,
28 JANUARY, 1922.

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Appendix

FRENCH DRAFT OF PROPOSED ANGLO-FRENCH TREATY.

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Considérant que le sol de la France a été deux fois envahi par l'Allemagne de mémoire d'homme vivant, et qu'il souffre encore profondément de la dévastation qui lui a été infligée par l'ennemi;

Considérent que la population de la France et celle de l'Empire britannique ont l'une et l'autre payé un lourd tribut de vies humaines et de richesses en repoussant l'invasion des armées allemandes;

Considérant que la prospérité des peuples européens et l'organisation économique du monde ont été profondément troublées par l'épreuve de guerre prolongée par laquelle ils viennent de passer;

Considérant que des garanties réciproques de sécurité contre une future agression de l'Allemagne sont indispensables à la restauration de la stabilité en Europe, à sécurité de la France et de la Grande Bretagne, et à la paix du monde;

Considérant que les mesures de sécurité suivantes contenues dans le Traité de Versailles, savoir:

Article 42. Il est interdit à l'Allemagne de maintenir ou de construire des fortifications, soit sur la rive gauche du Rhin, soit sur la rive droite, à l'ouest d'une ligne tracée à 50 kilomètres à l'est de.....

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de ce fleuve.

Article 43. Sont également interdits, dans la zone definie à l'Article 42, l'entretien ou le rassemblement de forces armées, soit à titre permanent, soit à titre temporaire, aussi bien que toutes manoeuvres militaires, de quelque nature qu'elles soient, et le maintien de toutes facilités matérielles de mobilisation.

Article 44. Au cas où l'Allemagne contrevien drait, de quelque manière que ce soit, aux dispositions des articles 42 et 43, elle serait considérée comme commettant un acte hostile vis à vis des Puissances signataires du Présent traité et comme cherchant `a troubler la paix du monde,
peuvent ne pas pourvoir suffisamment à la défense des intérêts communs essentiels des Hautes Parties Contractantes, ainsi qu'au maintien de la paix en Europe Occidentale,

SA MAJESTE BRITANNIQUE

et LE PRESIDENT DE LA REPUBLIQUE FRANCAISE,etc..

lesquels ont convenu des dispositions suivantes:

ARTICLE I. Dans le cas d'une agression non provoquée de l'Allemagne contre la France, la Grande Bretagne se rangera immédiatement aux côtés de la France avec ses forces navales, militaires et aériennes.

Réciproquement, dans le cas d'une agression non.....

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non provoquée de l'Allemagne contre la France, la Grande Bretagne, se rangera immédiatement aux côtés de la Grande Bretagne avec ses forces militaires, navales et aériennes.

ARTICLE II. Les deux Hautes Parties Contractantes affirment de nouveau l'intérêt commun que présentent pour elles les Articles 42 et 43 du Traité de paix de Versailles. Elles sont d'accord pour considérer, conformément à l'Article 44 dudit traité, qu'une violation quelconque desdits articles par l'Allemagne constituerait un acte d'agression contre la France et la Grande Bretagne.

Elles se concerteront s'il y avait une menace d'une violation quelconque desdits articles ou si un doute venait à s'élever quant à leur interprétation, ainsi qu'au cas où des mesures militaires, navales ou aériennes quelconques incompatibles avec le Traité de Versailles seraient prises par l'Allemagne.

Article III. Une entente constante sera maintenue entre les Etats-Majors respectifs des deux Hautes Parties Contractantes en vue d'assurer éventuellement aux dispositions

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qui précèdent leur efficacité.

Article IV. Le Gouvernement de la République française et le Gouvernement de Sa Majesté britannique conviennent de se concerter sur toutes questions de nature à mettre la paix en danger ou à porter atteinte à l'ordre général établi par les traités de paix dont ils sont signataires. Ils examineront en commun les mesures propres à en assurer rapidement un règlement pacifique conforme à l'équité.

Article V. Le Présent traité n'imposera aucune obligation à l'un quelconque des Dominions de l'Empire britannique, avant qu'il ait été approuvé par le Dominion intéressé.

Article VI. Le Présent traité restera en vigueur pendant une période de 30 années et sera d'un commun accord renouvelable à la fin de cette période.

Le Présent accord sera ratifié aussitôt que faire se pourra, etc..../.

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L'Ambassadeur de France a été chargé, avant tout de renouveler au gouvernement britannique les remerciements exprimé à Monsieur Lloyd George pas Monsieur Poincaré pour les intentions amicals dont témoigne le projet de pacte.

Préambule.

Il serait essentiel d'insérer dans le Traité une disposition lui enlevant son caractère unilatéral en prévoyant la réciprocité d'assistance en cas d'attaque. C'est en ce sens qu'ont été rédigés le préambule (Alinéa 4) et l'Article 1er (Alinéa 2).

Article Ier.

Une disposition ne prévoyant la coopération militaire franco-britannique qu'en cas d'agression contre le territoire francais serait insuffisante pour protéger la France contre une nouvelle invasion allemande. Il serait nécessaire que l'Alliance entrait en jeu dès que la menace allemande se dessinera contre la zone dans laquelle le Traité de Versailles a interdit à l'Allemagne d'avoir des troupes et des forteresses (Articles 42 et 43). En outre, une tentative d'agression peut se produire non pas contre le sol, mais sur mer et dans les airs.

Article 2.

L'article 2, du projet anglais, stipule qu'au cas d'une menace de violation des Articles 42 et 43 du Traité de paix les Puissances se concerteront. Une

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telle disposition est insuffisante et il est nécessaire que la violation des Articles 42 et 43 du Traité de Versailles soit considérée comme constituant un cas d'agression directe contre la sécurité de la France. Cet article 2 saurait diminu la garantie de l'article 44 du Traité de Versailles.

Article 3.

Il ne s'agit pas de régler d'une manière définitive et immuable par une Convention militaire nombre et nature des unités militaires qui entreront en jeu. Mais, grace à une entente des deux Etats Majors susceptible de s'adapter aux modifications de l'organisation militaire des deux pays, on prévoit les moyens d'exécution qui seront mis à la disposition de la défense commune. Cette entente, déjà intervenue en 1911, en l'absence de tout accord politique, se substituerait au régime de la Conférence de Cologne (1920). Comme pour celle-ci les Etats Majors francais et anglais devraient envisager une coopération éventuelle avec l'Armée belge.

Article 4.

Implique pour la France la garantie indirecte qui ne figurait pas dans le projet anglais. Rédigé de manière à permettre établissement d'un accord rapide entre la France et l'Angleterre, il facilitera ultérieurement interventions collectives telles que celles de la Société des Nations.

Article 6.

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Article 6.

Le "naval holiday" doit finir dans dix ans. L'Angleterre semble avoir intérêt à maintenir pour une plus longue durée, avec la France, une entente, qui doit avoir répercussion sur armements maritimes.

Donc on ne stipulera aucune durée comme pour accord avec Belgique ou porter à trente ans termes du Traité.

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COPIE.

AMBASSADE DE FRANCE

A LONDRES.

Dimanche, le 29 Janvier, 1922.

Cher Sir Eyre,

Lors de ma dernière conversation avec Lord Curzon, je lui ai remis, sur les modifications proposées par mon gouvernement au projet anglais de pacte, un papier qui est vraiment trop sommaire et difficilement utilisable dans les délibérations du Cabinet. Je crois donc devoir le compléter par la note verbale ci-jointe que je m'empresse de vous adresser afin que Lord Curzon soit à même de la communiquer, s'il le juge bon, au Cabinet qui, je crois, doit se réunir de nouveau domain.

Veuillez me croire, cher Sir Eyre, votre bien sincérement dévoué,

(Signé) SAINT AULAIRE.

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Londres. le 28 Janvier 1922.

Note relative
au projet français de Traités.

Les Chefs des Gouvernements britannique et français ont échangé récemment leurs vues sur l'opportunité et les conditions d'un accord politique entre la Grande Bretagne et la France.

A Cannes, notamment, la Délégation britannique a rédigé, après la conversation du 4 Janvier, entre M. Lloyd George et M.Briand, un mémoire relatif à la conclusion d'un traité d'alliance anglo-français, tandis que, le 8 Janvier, un exposé des vues du Gouvernement français était remis au Premier Ministre. Au cours de la négociation qui s'engagea à la suite de ce premier échange de documents, le Gouvernement britannique précisa ses vues dans un projet de Traité, que M. Lloyd George remit à M. Briand le 11 Janvier, tandis qu'un projet français était communique par l'Ambassadeur de France à Londres à Sa Seigneurie le Marquis Curzon de Kedleston, le 26 du même mois.

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Les duex projets traduisent le désir commun des deux Gouvernements d'assurer une entente étroite entre l'Empire britannique et la France "indispensable au bonheur de l'Europe et à la paix du monde". Comme l'affirme l'aide mémoire britannique du 4 Janvier, "le problème, en présence duquel sont les deux pays, est de savoir comment ils pourront servir leurs nécessités respectives par une action commune. Ces nécessités doivent être considérées comme un tout. Une franchise absolue est nécessaire aux Gouvernements des deux pays, même jusqu'à la brutalité, si l'on veut résoudre effectivement le problème". Une des conséquences de cette situation, si clairement définie par le mémorandum britannique, a été de donner aux projets échangés entre les Cabinets de Londres et de Paris des caractères différents qui font apparaitre les difficultés de la négociation. Sans vouloir insister sur le caractère inévitable de ces divergences, qui ne doivent pas faire perdre de vue le but à atteindre, il a paru utile à l'Ambassadeur de France d'exposer les raisons qui ont inspiré le projet soumis au Gouvernement britannique, le 26 Janvier.

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Réciprocité des engagements. M. Briand, puis M. Poincaré, ont eu l'occasion de faire connaître au Premier Ministre leurs sentiments sur la nécessité de ne pas donner au Traité le caractère d'une simple garantie unilatérale ne mettant pas les deux pays sur un pied d'égalité. Cette conception, qui se justifie par la nécessité d'affirmer la solidarité de la France et du Royaume-Uni, dans toutes les hypothèses, n'a pas été envisagée lors de la rédaction du pacte de garantie de 1919. Depuis lors, et comme le fait remarquer l'exposé des vues du Gouvernement français, en date du 8 Janvier, la situation générale s'est modifiée, entrainant également des modifications dans l'opinion publique française. Ce sont ces modifications dont il a été tenu compte dans la rédaction du préambule et de l'Article Ier du projet du 26 Janvier.

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Etendue des engagements. (Art.42,43 et 44 de Versailles). En second lieu, le Gouvernement de Sa Majesté estimant que l'Empire britannique devrait soutenir la France en cas d'une agression non provoquée de la part de l'Allemagne, a proposé à la France un secours immédiat au cas où son territoire serait violé, tandis qu'il lui proposait de se concerter avec elle en cas de menace, de violation ou de contestation par l'Allemagne des Articles 42 et 43 du Traité de Versailles.

Les sentiments de la France, quant à la sauvegarde de sa frontière de l'Est, ont été parfaitement dégagés dans l'aide mémoire britannique du 4 Janvier. La France doit absolument éviter dans l'avenir le retour de

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l'invasion, Or si l'intervention anglaise se produit seulement lorsque l'attaque allemande atteindra le sol français, la France subira une nouvelle invasion avec toutes ses terribles conséquences.

Pour les Français, les véritables garanties stratégiques vis à vis de l'Allemagne sont donc constituées par les Articles 42, 43 et 44 du Traité de Versailles. La portée utile d'une alliance qui n'entrerait pas en jeu, dès que la menace allemande se dessinerait dans la zone rhénane, militairement neutralisée, echapperait donc au grand public français. Les échanges de vues prévus par le projet britannique du II Janvier ne lui paraîtraient pas apporter de garanties supérieures à celles que conferent à la France les termes du Traité de Versailles ou l'article 10 du pacte de la Société des Nations, qui imposent forcément ces échanges de vues. L'opinion française considère en outre qu'un acte hostile (Article 44, du Traité de Paix), commis à l'egard d'une Puissance alliée, doit provoquer la mise en oeuvre des moyens prévus par l'alliance. C'est pour répondre à ce sentiment que le Gouvernement français demande que la violation même des Articles 42 et 43, et non pas seulement une nouvelle invasion du territoire national, soit considérée comme constituant un cas d'agression directe contre la sécurité de la France et détermine la Grande Bretagne à faire jouer

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le "casus federis".

Il est d'autant plus essentiel d'imposer à l'Allemagne la stricte observation de ces articles que, dans le cas contraire, les progrès de la science et les transformations des méthodes de guerre, lui permettraient d'entreprendre avec plus de succès, qu'en 1914, cette attaque brusquée, que les partisans de la revanche annoncent déjà. En effet, selon les prévisions les mieux fondées, la nouvelle guerre serait, selon une expression déjà consacrée, une "guerre chimique", permettant, en quelques heures, d'opérer d'effroyables dévastations à longue distance. Il faut éviter de pareils risques. L'accord, tel qu'il est proposé par le Gouvernement français, est le plus sûr moyen de démontrer à l'Allemagne l'impossibilité d'une pareille agression et d'épargner aux Alliés des catastrophes pires que celles de la dernière guerre.

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Exécution éventuelle de l'accord.

La question technique des dispositions militaires à envisager pour permettre à l'alliance franco-anglaise de remplir son rôle stabilisateur et défensif dans l'Europe actuelle a provoqué des commentaires injustifiés dans la Presse, contre lesquels les deux Gouvernements ne sauraient trop réagir. Comme le sait le Gouvernement britannique, il n'est pas question dans le projet français ~~xxxxxx~~ d'une Convention

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militaire, mais le Gouvernement français envisage simplement le maintien d'un contact constant entre les Etats-Majors. On concevrait difficilement qu'un traité d'alliance entre la France et la Grande Bretagne eût pour conséquence de mettre fin aux rapports étroits qui existent actuellement entre la commandement des deux pays, d'obliger ce commandement, au cas où l'alliance jouerait contre l'Allemagne, à improviser les conditions militaires de la coopération franco-anglaise. D'autre part, la Convention militaire défensive franco-belge, l'accord que le Gouvernement britannique négocie actuellement avec la Belgique, ne peuvent jouer efficacemont que si des mesures sont prises pour coordonner l'exécution éventuelle de ces divers engagements, qui ont tous le même objet: protéger la France, la Belgique et l'Angleterre contre une agression allemande, qui ne pourrait être dirigée contre l'un quelconque de ces trois pays, sans menacer immédiatement les deux autres; constituer un système défensif assez fort pour décourager toute velléité de guerre et mettre ainsi fin à la crise de confiance en Europe et qui s'y oppose à toute reconstruction économique efficace.

La rédaction de l'Article III, du projet français, répond à ces préoccupations. Le Gouvernement britannique se souvient, qu'en 1911, alors que les Cabinets de Paris et de Londres n'avaient pris aucun engage-

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ment vis à vis l'un de l'autre, les deux Etats-Majors avaient été autorisés à accorder leurs plans en vue de certaines éventualités. Une entente entre les Etats-majors français et anglais n'est donc pas une chose nouvelle. Si une telle entente a été jugée nécesaaire, alors que la coopération des deux Gouvernements restait facultative et incertaine, elle s'impose encore davantage quand cette coopération est expressément prévue dans des cas déterminés. Il va de soi que l'état des ressources militaires de la Grande Bretagne ne correspond pas à l'immense effort qu'elle peut fournir en temps de guerre. Encore faut-il qu'à l'avance des dispositions soient prises pour utiliser cet effort. Ces dispositions n'auraient aucun caractère définitif, immuable, mais s'adapteraient aux modifications de l'organisation militaire de chacun des deux pays les moyens d'exécution qui seraient mis à la disposition de la défense commune.

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Concert franco-anglais en vue de certaines éventualités.

L'Article III, du texte anglais, prévoit que les hautes parties contractantes ne se concerteront que dans le cas "où des mesures militaires, navales ou aériennes quelconques, incompatibles avec le Traité de Versailles, seraient prises par l'Allemagne". Il a

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paru utile au Gouvernement français (projet de traité du 26 Janvier, Article IV) d'affirmer que la France et l'Angleterre sont résolues à rester étroitement unies pour assurer la paix et à se concerter dans le cas où celle-ci serait menacée. Pareille affirmation contribuerait à garantir la paix, en constituant un avertissement efficace pour ceux qui songeraient à la troubler. Il ne s'agit pas de substituer une responsabilité franco-anglaise à celle plus générale prévue par le pacte de la Société des Nations, mais plutôt d'arrêter une doctrine franco-britannique, de nature à faciliter ultérieurement les interventions collectives, telle que celle de la Société des Nations.

Une disposition en ce sens paraît indispensable pour donner toute sa valeur à la garantie de paix que la France et la Grande Bretagne ont en vue. En effet, il est probable que, pendant de longues années, l'Allemagne ne sera pas en état de se livrer à une agression directe contre l'une de ces deux grandes Puissances. Mais la force des choses et les leçons de l'histoire ne permettent pas de douter qu'elle envahira la Pologne, ou la Tcheco-Slovaquie, ou incorporera l'Autriche, si elle croit pouvoir le faire impunément. Pareil

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attentat, où l'Allemagne trouverait des encouragements et des forces nouvelles, serait évidemment la préface de l'agression, que le pacte envisagé a pour objet de rendre impossible. Or, si un danger aussi grave n'y est pas mentionné, ce silence risque de donner à l'Allemagne une tentation, contre laquelle il importe de la prémunir. C'est pourquoi la paix resterait précaire si la Grande Bretagne et la France, sans garantir elles-mêmes le territoire des Etats de l'Europe Centrale et Orientale, ne s'engageaient à se concerter afin de faciliter, par exemple, sous les auspices de la Société des Nations, une action collective, destinée à assurer le respect de l'ordre nouveau fondé sur les traités.

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Durée du pacte.

Le Gouvernement français estime enfin que la limitation du Traité à 10 ans, prévue dans le projet anglais, est trop courte. Elle est insuffisante pour assurer à cet accord une stabilité qui l'élève au-dessus des difficultés politiques présentes. Ainsi cette durée se trouverait coincider avec celle du Naval Holiday. Or, il semble que la Grande Bretagne

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ait tout intérêt à maintenir au-delà du terme du Naval Holiday une entente avec la France, qui doit avoir une répercussion sur les armements maritimes. Dans ces conditions, il convient d'examiner s'il ne serait pas préférable de s'inspirer des garanties que le Traité de Versailles, le pacte de la Société des Nations, ainsi que le projet de pacte anglo-belge, stipulent sans limitation de durée, ou de porter à 30 ans le terme du Traité.

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Après l'exposé de ces considérations, qui sont toutes inspirées du désir de consolider la paix et de donner à la coopération franco-britannique une base inébranlable, l'Ambassadeur de France tient, conformément aux instructions de M. Poincaré, à renouveler très cordialement au Gouvernement britannique les remerciements exprimés par le Président du Conseil français au Premier Ministre anglais, pour les sentiments amicaux dont témoignent les propositions faites au Gouvernement de la République.

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C.P. 3691.

[W 1162/50/17]

No. 1.

Mémorandum concernant les Modifications à apporter au Projet britannique de Traité entre la France et la Grande-Bretagne.—(*Communicated by the French Ambassador, February* 2, 1922.)

LE Gouvernement de la République française a pris connaissance avec le plus vif intérêt du projet de traité qui a été remis à Cannes par le Premier Ministre britannique à M. Briand.

Le Gouvernement français tient tout d'abord à marquer combien il a apprécié le sentiment dont s'est inspiré Mr. Lloyd George dans la rédaction de ce projet. Tout ce texte prouve que le Gouvernement britannique comprend les légitimes préoccupations de la France en ce qui concerne sa sécurité, et est empreint d'un profond sentiment d'amitié envers notre pays.

Ce projet de traité démontre en outre que le Gouvernement britannique se rend compte que la sécurité de la Grande-Bretagne est intimement liée à celle de la France et que toute menace de l'Allemagne contre le territoire français serait dirigée en même temps contre l'Angleterre.

La rédaction des considérants qui précèdent le projet de traité montre que le souvenir des sacrifices communs faits par les deux nations au cours de la lutte glorieuse qu'elles ont soutenue côte à côte, pendant toute la durée de la plus cruelle des guerres, est aussi vif en Angleterre qu'en France.

Le Gouvernement français tient à exprimer ses remerciements au Gouvernement britannique pour avoir ainsi spontanément défini l'esprit dans lequel le Pacte projeté doit être conçu, de telle manière que le Gouvernement français n'a rien à ajouter aux motifs invoqués d'une façon si saisissante dans la rédaction anglaise pour justifier la conclusion du traité entre les deux Gouvernements.

M. Briand avait voulu donner à Mr. Lloyd George l'occasion de préciser ses vues sur le traité en négociation, en lui demandant de rédiger un texte à titre de projet. Le Gouvernement français avait jugé, dans ces conditions, qu'il était préférable d'attendre, pour formuler lui-même un projet, de connaître le texte britannique. Les vues du Gouvernement français à cet égard avaient, d'ailleurs, été exposées au Premier Ministre britannique dans le mémorandum qui lui fut remis le 8 janvier. Le Gouvernement français, étant maintenant en possession des propositions anglaises, les a soigneusement examinées. Ainsi qu'il vient d'être indiqué, il a constaté avec une grande satisfaction qu'elles présentaient déjà d'heureuses garanties contre une agression de l'Allemagne. L'esprit même dans lequel le projet anglais a été conçu lui donne le plus ferme espoir que les modifications qu'il jugerait utile d'apporter à ce projet seront pleinement agréées par le Gouvernement britannique.

1.—*Clause de Réciprocité.*

La première de ces modifications porte sur l'insertion d'une clause de réciprocité.

Dans l'esprit du Gouvernement français, une telle clause est tout d'abord motivée par la nécessité de marquer publiquement aux yeux de l'Allemagne la solidarité de la France et de l'Angleterre vis-à-vis d'une agression allemande éventuelle. On doit comprendre outre-Rhin que si l'Angleterre se sent menacée par une agression dirigée contre la frontière est de la France, la France se sentirait également menacée si l'Allemagne attaquait l'Angleterre.

Il n'est pas moins nécessaire—le Gouvernement britannique qui a une si profonde intuition des sentiments de la nation française le comprendra également—que, dans un traité aussi important pour les relations des deux pays, ceux-ci soient placés sur un pied de parfaite égalité. D'autre part, bien que l'Angleterre puise dans sa situation insulaire et dans sa puissance navale un sentiment de sécurité contre toute attaque allemande qui ne chercherait pas à l'atteindre à travers la France et la Belgique, la rapidité avec laquelle se transforment les armements est telle qu'il n'est pas impossible de prévoir d'autres formes d'agression, par la voie des airs, par

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exemple, qui seraient de nature à priver éventuellement la Grande-Bretagne des avantages qu'elle tire de ses défenses naturelles.

Le Gouvernement français est persuadé que le Gouvernement britannique, mesurant la portée de ces considérations, ne fera pas d'obstacle à l'insertion d'une clause stipulant que la France se rangera aux côtés de l'Angleterre, comme celle-ci se rangera aux côtés de la France, en cas d'agression de l'Allemagne.

2.—*Caractère de l'Agression.*

L'article 1er du projet britannique spécifie que la Grande-Bretagne se rangera immédiatement aux côtés de la France avec ses forces navales, militaires et aériennes, dans le cas d'une agression directe et non provoquée de l'Allemagne "contre le territoire de la France" ("against the soil of France"). Il a paru au Gouvernement français que les termes employés restreignaient d'une manière dangereuse, et qui ne correspondait certainement pas aux intentions du Gouvernement britannique, les conditions dans lesquelles l'assistance de la Grande-Bretagne était envisagée.

A s'en tenir aux mots employés, il serait nécessaire, pour que le *casus fœderis* joue, que l'attaque allemande atteigne le territoire français. Dans ces conditions, la France serait exposée, avant que l'intervention anglaise se manifeste, à subir une nouvelle invasion avec ses terribles conséquences. Or, il peut y avoir agression avant que l'attaque contre le territoire se produise matériellement. Une déclaration de guerre, un ultimatum adressé à la France, ou même la concentration de troupes en marche vers la France ne constituent-ils pas une agression? Celle-ci ne peut-elle se produire sous mer ou dans les airs? En subordonnant l'assistance britannique au franchissement de la frontière française par l'armée allemande, on risquerait d'affaiblir singulièrement la sécurité que la France doit retirer du traité qui fait l'objet de la présente négociation.

Pour éviter toute équivoque à cet égard, le Gouvernement français propose donc de supprimer le mot "territoire" et d'adopter comme formule: "dans le cas d'une agression directe et non provoquée de l'Allemagne *contre la France*," expression parfaitement claire et qui se suffit à elle-même.

3.—*Articles* 42 *à* 44 *du Traité de Paix.*

L'article 2 du projet britannique contient une disposition qui a été hautement appréciée par le Gouvernement français. Sa portée est définie dans le préambule. D'après ce préambule, les hautes parties contractantes considèrent que les mesures de sécurité contenues dans les articles 42, 43 et 44 du Traité de Versailles *peuvent ne pas pourvoir suffisamment* à la défense des intérêts communs essentiels, ainsi qu'au maintien de la paix en Europe occidentale. Les articles 42 et 43 du Traité de Versailles créent, en effet, une zone située à l'est de la frontière française, dans laquelle l'Allemagne ne peut ni construire de fortifications, ni entretenir ou rassembler de troupes, ni préparer la mobilisation.

L'article 2 du projet de traité anglais est fondé avec raison sur l'idée que, dans certains cas, il serait indispensable pour la sécurité de la France et de l'Angleterre de ne pas attendre que l'Allemagne ait effectivement violé les dispositions des articles 42 et 43, et qu'il conviendrait d'agir préventivement dès qu'il serait évident que l'Allemagne se prépare à une violation desdits articles. C'est pourquoi le texte anglais prévoit que, en pareil cas, les deux Gouvernements se concerteront. Il en est de même au cas où un doute viendrait à s'élever quant à l'interprétation des articles 42 à 44.

Le Gouvernement français ne peut que souscrire à une précaution aussi nécessaire et il fait sienne à cet égard la disposition de l'article 2 du projet britannique.

Toutefois, il estime que ce projet contient une importante lacune en tant qu'il ne prévoit aucune action franco-britannique dans le cas le plus grave, c'est-à-dire dans le cas où l'Allemagne violerait effectivement les articles 42 et 43. Or une telle violation doit constituer au premier chef un *casus fœderis*, puisque les articles 42 et 43 ont été précisément insérés dans le Traité de Paix pour empêcher que la France ne soit l'objet d'une attaque brusquée la livrant de nouveau à l'improviste aux dévastations de l'ennemi.

Il semble que l'on se soit mépris à Londres sur la portée de cette demande, qui a trouvé son expression dans le projet français de traité remis par l'Ambassadeur de

la République au Principal Secrétaire d'État britannique. On paraît craindre que la France ne veuille faire jouer le *casus fœderis*, même dans le cas où des opérations de police licite seraient entreprises par le Reich dans la zone démilitarisée, ou dans le cas de simples préparatifs militaires.

Telle n'est pas la pensée du Gouvernement français. Un simple examen de différents cas qui pourraient se présenter suffira à éclairer le Gouvernement britannique sur le sens de la disposition insérée dans le texte français, à l'alinéa 1 du nouvel article 2.

Ou bien l'Allemagne sollicite l'autorisation des Puissances alliées, en invoquant tel motif qui lui paraît de nature à justifier une infraction provisoire aux dispositions des articles 42 et 43 du Traité de Versailles, par exemple pour faire pénétrer des forces de police dans la zone démilitarisée, afin de réprimer des troubles. Dans ce cas, il n'y a ni violation, ni même menace de violation. Si l'autorisation est accordée, la question ne se pose pas. Si les Alliés refusent l'autorisation et si l'Allemagne manifeste l'intention de passer outre, il y a menace de violation et, conformément à l'alinéa 2 de l'article 2 (projet français), la France et l'Angleterre se concertent. Si l'Allemagne passe outre, il y a évidemment agression caractérisée de sa part et le *casus fœderis* doit jouer.

Ou bien la France et l'Angleterre sont informées de certains actes du Gouvernement allemand qui sont l'indice qu'il se prépare à transgresser les articles 42 et 43; par exemple, le Reichstag vote des crédits pour l'élévation de forteresses dans la zone démilitarisée; des troupes se rassemblent en nombre inusité à proximité de cette zone dans des conditions qui permettent de croire que le Gouvernement allemand a l'intention de les y faire entrer. En pareil cas, il n'y a pas *violation* des articles 42 et 43, par conséquent pas d'agression et le *casus fœderis* ne joue pas. Par contre, il y a *menace* de violation et, conformément à l'alinéa 2 de l'article 2 français, qui reproduit l'ancien article 2 anglais, les Gouvernements français et britannique *se concertent* pour examiner la situation.

Ou bien l'Allemagne transgresse délibérément les dispositions des articles 42 et 43, ce qui suppose qu'elle ne s'est pas souciée de demander l'autorisation des Alliés, par exemple pour faire pénétrer dans la zone neutre des forces de police, ou encore qu'elle y a fait pénétrer d'autres forces que celles qu'elle avait été autorisée à y introduire. Cette transgression délibérée constitue un acte hostile aux termes de l'article 44. Le Gouvernement français est fondé, en raison des considérations si graves qui ont amené la rédaction des articles 42 et 43 et auxquelles il est fait allusion plus haut, à demander que cette violation constitue un acte d'agression, sous peine de se trouver exposé à voir le territoire français envahi, puisque la protection qui lui est assurée par le traité n'existerait plus. C'est donc le cas de l'alinéa 1 de l'article 2 français. En considérant une telle violation comme un acte d'agression, le Traité franco-britannique emploiera le meilleur moyen pour empêcher que cette violation ne se produise.

Il n'est pas besoin de rappeler d'ailleurs qu'aux termes de l'article 2 du projet anglais, reproduits dans l'alinéa 2 de l'article 2 français, toutes les fois qu'il y a doute quant à l'interprétation des articles 42 et 43, les deux Gouvernements doivent se concerter. L'Angleterre n'a donc à redouter aucune surprise du jeu du *casus fœderis* en cas de violation de ces articles: c'est en effet une violation caractérisée évidente que le Gouvernement français a entendu viser, car il estime qu'elle constituerait pour la sécurité de la France un grave danger contre lequel il est indispensable de se prémunir.

4.—*Entente entre les États-Majors.*

Le Gouvernement français a estimé que l'engagement pris par les deux nations de s'assister en cas d'agression de l'Allemagne contre elles ne pouvait être efficace aux yeux de l'Allemagne elle-même que si l'on prévoyait des dispositions nécessaires pour rendre effective la coopération éventuelle des forces militaires, navales et aériennes des deux pays expressément envisagée dans le projet de traité.

Cela est si vrai qu'en 1911, alors que les Gouvernements français et britannique n'avaient pris aucun engagement vis-à-vis l'un de l'autre, les deux États-Majors avaient été autorisés à conclure entre eux une véritable entente. Au cours d'une conférence entre le Général Dubail et le Général Wilson, on avait, suivant le procès-verbal de cette réunion, "élucidé des questions essentielles et prévu des mesures préparatoires indispensables pour assurer, le cas échéant, dans les meilleures con-

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ditions possibles, la coopération effective des armées coalisées." Dans cet ordre d'idées, l'accord s'était établi entre les deux États-Majors sur les points suivants: (1) Composition de l'armée anglaise de débarquement; (2) transports maritimes; (3) Débarquements sur le territoire français et séjour dans des camps temporaires; (4) transports en chemin de fer; (5) zone de concentration, date de l'achèvement des transports; (6) alimentation.

Au mois de septembre 1912, un échange de lettres entre Sir Edward Grey et M. P. Cambon précisa que les deux Gouvernements, dans le cas où l'un d'entre eux aurait un motif grave d'appréhender une agression ou quelque événement menaçant la paix générale, examineraient " s'ils doivent agir de concert pour prévenir l'agression ou sauvegarder la paix." Au cas où ils jugeraient nécessaire d'agir en commun, " ils prendraient en considération les plans de leurs États-Majors et décideraient alors de la suite qui devrait leur être donnée."

Une entente entre les États-Majors français et anglais n'est donc pas chose nouvelle ou impossible. Si une telle entente a été jugée nécessaire alors que la coopération des deux Gouvernements restait facultative et incertaine, comment ne le serait-elle pas quand cette coopération sera expressément prévue dans des cas déterminés?

Il y a lieu de rappeler, en outre, qu'en 1920 une conférence, qui a eu lieu à Cologne entre le Maréchal Foch, le Maréchal Wilson et le Général Maglinse, a déterminé les renforcements éventuels que les armées françaises, anglaises et belges pourraient, après décision de chacun des Gouvernements, fournir aux armées d'occupation " dans le cas où une menace ou des actes de l'Allemagne rendraient ces renforcements nécessaires." Alors qu'une entente militaire s'est déjà établie sur ce point, l'absence de tout corollaire de ce genre au Traité d'Alliance défensif actuellement négocié mettrait la France dans une situation moins bonne que celle dans laquelle elle se trouve.

En effet, il appartient aux Gouvernements de décider dans quelles circonstances doit se produire la coopération militaire des deux nations. Mais si cette décision peut être prise sans délai, la rapidité de son exécution dépend essentiellement des mesures préparatoires qui auront été adoptées. On doit déterminer d'avance quels sont les premiers apports de troupes qu'il y aurait lieu de faire de part et d'autre, soit sur la base actuelle du Rhin, soit, après l'évacuation des territoires rhénans, sur la ligne frontière, pour garantir l'arrivée de l'ensemble des ressources alliées. Sinon, les États-Majors seraient obligés de se concerter sous la menace de l'ennemi et dans des conditions qui risqueraient de rendre la coopération britannique inopérante pendant la période la plus critique peut-être, celle du début des hostilités. De même, il faut prévoir, comme on l'a fait en 1911, les moyens de transport, de séjour, de ravitaillement et d'alimentation des troupes anglaises. Une entente entre les États-Majors est donc indispensable.

Il va de soi que le Gouvernement français se rend parfaitement compte que l'état des ressources militaires de l'Angleterre en temps de paix ne correspond pas à l'immense effort qu'elle peut fournir en temps de guerre. Encore faut-il que, à l'avance, des dispositions soient prises en vue d'utiliser cet effort. Il ne s'agit point de régler d'une manière définitive et immuable dans une Convention militaire le nombre et la nature des unités en jeu, mais de prévoir, grâce à une entente constante des deux États-Majors susceptible de s'adapter aux modifications de l'organisation militaire de chacun des deux pays, les moyens d'exécution qui seraient mis, le cas échéant, à la disposition de la défense commune.

Cette entente sera d'autant plus nécessaire que les deux États-Majors devront, de toute évidence, envisager non seulement une collaboration franco-britannique, mais aussi la coopération éventuelle des forces des deux pays avec l'armée belge. La Convention militaire défensive conclue par la France avec la Belgique, le traité que le Gouvernement anglais négocie en ce moment avec celle-ci, ne peuvent jouer efficacement que si des mesures sont prises pour coordonner l'exécution éventuelle de ces divers engagements, qui ont tous le même objet, à savoir la protection de la France, de la Belgique et de l'Angleterre, contre une agression allemande, qui ne pourrait être dirigée contre l'un quelconque de ces trois pays sans menacer immédiatement les deux autres.

Si le Gouvernement britannique estime préférable de ne pas insérer de dispositions relatives à l'entente entre les États-Majors dans le texte même du traité, le Gouvernement français serait prêt à accepter que ces dispositions figurent dans des lettres annexes qui seraient signées en même temps que le traité auquel elles se référeraient, lettres qui devraient être publiées comme le traité lui-même.

5.—*Durée.*

Le Gouvernement britannique avait, dans son projet, limité à dix ans la durée du pacte, qui pourrait être renouvelé d'un commun accord.

Le Gouvernement français estime que cette période est insuffisante. En premier lieu, elle est plus courte que la durée d'occupation des territoires rhénans et correspond à une période pendant laquelle cette occupation rend difficile toute agression allemande. En outre, si une durée aussi courte est assignée au traité, l'Allemagne pourra concevoir l'espoir qu'au bout de ces dix années le pacte ne sera pas renouvelé; et les éléments nationalistes pourront y préparer les esprits à l'idée d'une agression contre la France à l'expiration de ce délai. L'Allemagne ne sera-t-elle pas dans dix ans plus à redouter qu'à l'heure présente? Il serait difficile de le nier. C'est pourquoi les traités de garantie qui avaient été offerts à la France en 1919 par le Gouvernement britannique et par le Gouvernement américain ne comportaient aucune clause limitant leur durée. Si les informations données par la presse sont exactes, il en serait de même pour le Traité de Garantie actuellement négocié entre l'Angleterre et la Belgique.

Le Gouvernement français ne pense pas qu'il y a lieu pour lui d'insister pour que le Traité franco-britannique ne contienne pas de clause limitant sa durée. Le caractère même qu'il entend donner à cet acte, à savoir l'affirmation de la solidarité unissant les Gouvernements français et britannique et de leur résolution de rester unis, est compatible avec la limitation de cet engagement dans le temps. Les deux Gouvernements pourront ainsi librement, à l'expiration du délai fixé, réexaminer de nouveau les clauses du traité et lui redonner par cet examen une vigueur nouvelle.

Le Gouvernement français avait d'abord pensé qu'il conviendrait, pour affirmer plus clairement l'amitié des deux pays, de porter cette durée à trente ans. Si le Gouvernement britannique trouve cette période trop longue, elle pourrait être fixée à vingt ans, étant entendu et indiqué qu'elle serait renouvelable d'un commun accord.

6.—*Entente générale.*

Le projet anglais de traité a pour objet de prémunir la France et l'Angleterre contre une attaque directe de l'Allemagne et il envisage les conditions dans lesquelles, en conséquence, les deux pays seront amenés à faire coopérer pour leur défense commune leurs forces militaires, navales et aériennes.

Le Gouvernement français, dès le début des pourparlers n'a cessé de considérer que le traité à intervenir ne devait pas se borner à cette fin, mais qu'il devait rendre manifeste une entente générale entre les deux pays pour le maintien de la paix.

Dans la pensée du Gouvernement français, en effet, il ne s'agit point seulement de garantir la sécurité de la France et celle de l'Angleterre contre une agression directe de l'Allemagne. Ce que recherche actuellement le Gouvernement de la République, c'est de consolider la paix en établissant sur des fondements solides l'union durable de la France et de l'Angleterre.

Tant que les éléments intéressés à modifier ou à détruire l'ordre de choses créé par le Traité de Paix auront l'espoir de diviser la France et l'Angleterre, la paix européenne ne reposera pas sur des bases solides. Si elle est sûre de se heurter à la France et à l'Angleterre unies, prêtes à coopérer par surcroît avec la Belgique, ce n'est pas en attaquant directement l'un de ces trois pays que l'Allemagne cherchera à troubler la paix.

Sans doute, on ne peut penser que la France et l'Angleterre n'aient pas chacune leur point de vue sur les grands problèmes internationaux. Mais quand ces problèmes seront de nature à mettre la paix en danger, si la France et l'Angleterre se concertent, une conversation à deux les conduira certainement à mettre d'accord leurs vues en mettant au premier plan les intérêts généraux.

Le Gouvernement français, pense qu'après avoir envisagé le cas le plus pressant, c'est-à-dire l'éventualité d'une agression directe de l'Allemagne contre l'un des deux pays, le traité à intervenir devrait, par voie de conséquence, affirmer aux yeux du monde la résolution de la France et de l'Angleterre de rester intimement unies pour assurer la paix, en s'engageant à se concerter, dans le cas où celle-ci serait menacée, sur les moyens d'assurer rapidement le règlement équitable et pacifique du conflit et le maintien des traités signés par elles.

Une entente de ce genre n'exclut aucune autre entente plus générale, pas plus qu'elle ne fait double emploi avec le Pacte de la Société des Nations. Elle doit avoir

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pour but de hâter les solutions pacifiques, par l'effet qu'aura toujours sur l'opinion du monde une action commune de la France et de l'Angleterre.

Le Gouvernement britannique envisage avec raison que la restauration économique de l'Europe ne peut être obtenue si l'on ne prend pas les précautions nécessaires pour empêcher les agressions entre États voisins. Le Gouvernement français partage ce sentiment, mais il pense qu'on atteindrait plus rapidement ce but si auparavant la France et l'Angleterre se déclaraient résolues à le poursuivre de concert.

Ce n'est point à dire que la collaboration d'autres pays en vue du maintien de la paix ne puisse être hautement désirable; mais la communauté de vues préalablement établie entre la France et l'Angleterre est le moyen le plus efficace pour favoriser de telles collaborations. La volonté des deux pays d'arriver à cette communauté de vues préalable, si elle est affirmée expressément et publiquement comme une résolution durable, découragera les éléments malintentionnés ou hostiles et, en habituant les deux pays à une confiance mutuelle, rendra la conciliation de leurs points de vue plus facile.

Le Gouvernement français insiste donc pour que le projet de traité comprenne la clause figurant à l'article 4 du projet franco-anglais, qui aura pour effet d'assurer l'unité de la politique des deux pays toutes les fois que la paix générale se trouverait en danger.

Le Gouvernement français serait toutefois disposé, si le Gouvernement britannique mettait cette condition à son assentiment, à faire figurer cette clause dans des lettres séparées, échangées, signées et publiées en même temps que le traité. Cette procédure marquerait notamment la différence existant entre un traité qui prévoit la coopération militaire des deux pays dans une guerre défensive, et un accord d'ordre politique qui a pour objet de concerter l'action des deux Gouvernements dans tous les problèmes de nature à mettre la paix en danger.

Telles sont les raisons pour lesquelles le Gouvernement français a cru devoir soumettre au Gouvernement britannique certaines modifications qu'il croit utile d'apporter au projet anglais de traité, pour que ce projet puisse répondre au but poursuivi par les deux Gouvernements et contribuer ainsi efficacement à établir sur des fondements solides et durables la collaboration amicale et pacifique des deux nations.

Le 1er février 1922.

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CENTRAL EUROPE. [February 9.]

CONFIDENTIAL. SECTION 1.

[C 2000/458/62] No. 1.

The Marquess Curzon of Kedleston to Lord Hardinge (Paris).

(No. 405.)

My Lord, *Foreign Office, February* 9, 1922.

THE French Ambassador called upon me this afternoon, and in the course of our conversation touched upon three questions which are under discussion between our two Governments, namely, the Genoa Conference, the Near Eastern Conference and the proposed Anglo-French Guarantee. I will record in turn what passed between us upon each of these subjects.

Firstly, as to the Genoa Conference, his Excellency asked me whether the Cabinet had yet had time to consider the note from the French Government which the French Chargé d'Affaires had presented to the Foreign Office on the 6th February.

I was obliged to tell him that owing to the pressure of work arising out of the opening of Parliament, neither in this case nor in that of the so-called "Pact" had the Cabinet yet found time to arrive at a final decision. I was, however, quite prepared to make certain preliminary observations to him about each.

Concerning the Genoa Conference, I asked at once whether I was right in believing that the French Government intended to be represented.

The Count de Saint-Aulaire answered this question unhesitatingly in the affirmative, stating that the French Government held themselves absolutely bound by the decisions arrived at at Cannes with the consent of the late French Premier, although he did not conceal from me that M. Briand's successor held somewhat different views on the matter from those which had been entertained by M. Briand himself. The Ambassador further added that as the French Government had decided to take part it was indispensable in the interests of our own two countries in particular, and of Europe in general, that the conference should not be a failure. Such a result would be an immeasurable disaster to Europe. Any steps that could be taken to prevent such a calamity ought, therefore, to be taken in advance, whether by due preparation, investigation or otherwise.

Accepting these propositions, I went on to say that M. Poincaré's note seemed to me to admit of two possible interpretations, and the way in which it should be met must depend entirely on the question which of the two was right. For instance, the note might be regarded as containing a number of perfectly legitimate questions put by the French Government in order to remove obstacles or elucidate doubts. As such, it would deserve the fullest consideration, which we should be glad to give to it. On the other hand, it might be thought—and had indeed been suggested in some quarters—that by raising the number of points which were contained in the note the French Government was adopting—whether consciously or unconsciously—the best method for postponing the meeting of the conference, and perhaps even preventing it from being held. Furthermore, the latter point of view might find some justification in the suggestion, with which the note had ended, that the Genoa Conference should be postponed for at least three months.

As to this suggestion, I told the Ambassador quite frankly that I did not conceive that it would be entertained for a moment, either by my Government or by the Italian Government, who had issued the invitations. Nor could I see why the preliminary examination which the French had suggested should involve so protracted a delay. Indeed, postponement for three months, with the great issues at stake and with the present unsettled position of affairs, would certainly be regarded in some quarters as postponement *sine die*, and might end in the complete disappearance of the project. As a matter of fact, the date of the meeting did not rest either with the French Government or with ourselves. It rested with the Italian Government, who were the conveners of the meeting. So far as my information went, they had not even, in spite of the fall of Signor Bonomi's Ministry, expressed any desire to make a change, and I felt sure that the new Government, whoever might be its head, would feel disposed in this respect to adhere to the plans of its predecessor. On the other hand, a delay in forming a Government might, if much further protracted, render some slight postponement necessary. For that we must await the initiative of the new

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Italian Ministry, whenever constituted. If they thought that postponement for two weeks, or three weeks—to the end of March, for instance—was necessary, we should be quite prepared, as no doubt would be the French, to consider their views. But I did not think that the British Cabinet would favour a proposal for any longer or indefinite extension of time.

As regards the main question which I put, the Count de Saint-Aulaire said that my first interpretation of the note was unquestionably the right one, and that the French Government had no desire, by inventing obstacles, to retard indefinitely, much less to defeat, the conference to which all had agreed.

In that case, I replied, it seemed to me that the sooner the points about which the French Government had doubts, or were in apprehension, could be removed, the better, and I felt sure that if the French Government were disposed to send over their experts to London to examine the matter with our own, we should be delighted to receive them. A committee had, I said, been sitting here to report upon the work in the economic sphere that would lie before the conference, and its members would, I felt sure, be prepared to join without delay in conversations with colleagues from France, if the latter were disposed to come over.

When the Ambassador asked me how soon such discussions might take place, I replied as soon as he liked, and as soon as the French delegates found it convenient to attend. I further informed the Ambassador that the Prime Minister had just delivered an answer in the House of Commons to a question put by Commander Kenworthy with regard to the conditions under which the Soviet delegation was likely to attend at Genoa. The Prime Minister had just informed me that he had stated in his reply that he regarded the acceptance of the invitation by the Soviet Government as an acceptance of the conditions which had been laid down at Cannes for their attendance, and I suggested to his Excellency that he should read the terms of the answer in the newspapers to-morrow morning.

Passing to the question of the Near East, the Ambassador asked me if I was satisfied with the note which I had received from M. Poincaré himself in reply to the despatch which I had written to Paris.

I replied that I gladly recognised its courteous and conciliatory character, and that it rendered me more hopeful of the impending conference than I had previously felt inclined to be.

The Ambassador added that the necessity of finding real and substanial guarantees for the protection of the minorities in Turkish territory was fully recognised by the French, and that difficult as might be the task they would lend us every support in endeavouring to secure them. They would also be quite willing to discuss in Paris the various steps that might be possible for putting pressure upon the Turks, always premising that the French could not be called upon to put troops into the field against them—a condition which, he believed, equally applied to ourselves. Any other forms of sanction they were anxious to discuss in a favourable spirit.

Without pursuing the question now, I said it was a question which we were still engaged in studying, and that I had hoped at a later date to have some proposals to make.

His Excellency then passed to the question of the proposed Anglo-French Treaty, and asked whether His Majesty's Government was yet in a position to reply to the full note which M. Poincaré had recently sent in.

I said that though I had not yet had time to go into this in detail with the Cabinet, as I hoped in a day or two to do, I was in a position, after the last two days' debate in both Houses of Parliament, to state even more clearly and frankly to the French Ambassador what the attitude, not merely of the British Government, but of public opinion in England, upon the question was likely to be. If his Excellency had looked at the papers he would have seen that while no speaker had expressed any feelings but those of the warmest respect and regard for France and of the necessity for continuing the friendship and close understanding between the two nations, there were definite and not negligible sections of opinion who had not merely objected to any extension of the draft proposal of 1918, but had actually protested against any guarantee being given at all. Among the latter class was no less a person than Lord Robert Cecil. The Ambassador would, therefore, be able to appreciate the different currents of thought in this country, and would realise the impossibility for the Government to go beyond that in which they would be supported by public opinion in granting. In fact, I said, I must tell his Excellency quite frankly that I did not think the Cabinet would be moved to go in substance at all outside the

boundaries of the Treaty of 1918. Nothing would be more unfortunate than to put a treaty before the House of Commons against which there voted a considerable minority. It would destroy not only the graciousness of the gift, but would permanently weaken its value. I should like, if the Pact were concluded, to hand it to France by the unanimous voice of both Houses of Parliament, but, if this were found to be impossible, at any rate let the minority be small and inconspicuous.

The Ambassador expressed a very strong hope that we might be able to meet the French case over articles 42 and 43 of the Treaty of Versailles.

I said, in reply, that while I could not dispute the right of the French Government to raise and to press this question, and while situations might arise out of the violation of those two articles which might be tantamount to acts of aggression against France, I could not hold out the slightest hope that we should be able to accept the French proposal. It would be regarded by British opinion as embarking upon a policy of military adventure and potential danger.

His Excellency felt confident that even in this respect we should be able to find a formula, a refuge to which he has an extraordinary fondness for retreating when in difficulty.

I expressed the gravest doubt as to whether any formula could be found to cover the situation, and told him that I thought he must contemplate refusal on that point.

In leaving, his Excellency told me, "à titre personnel" (a qualification which he habitually employs when he is at all afraid of getting a rap over the knuckles at Paris) that he did not attach any value to the suggested consultations between the two General Staffs. As a matter of fact, they would in the ordinary course of business—granted that the agreement existed between us—confer from time to time, and he did not see the necessity of putting any provision to this effect into the treaty. On the other hand, he urgently requested me not to repeat these personal views at Paris.

I am, &c.
CURZON OF KEDLESTON.

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SECRET.

C.P.-3760.

CABINET. 49

THE ANGLO-FRENCH AGREEMENT.

MEMORANDUM BY THE SECRETARY OF STATE FOR FOREIGN AFFAIRS.

THERE have been circulated to the Cabinet at different times in the last few weeks, both the French Draft Pact in its latest form and a number of explanatory notes by or from the French Government on the subject. These culminated in a lengthy French memorandum dated the 1st February (an English translation of which has also been circulated) repeating and summarising the arguments previously advanced. This must be regarded as the final and reasoned exposition of the French views, and it is the document which sooner or later I must answer. I desire to consult the Cabinet as to the form of reply.

The French draft treaty commenced with a Preamble of five clauses, which, except in one particular, is identical with the draft Preamble of the original British draft put forward by us, and accepted by M. Briand, at Cannes.

The exception is the introduction of reciprocity into the 4th clause. The original British draft ran thus :—

> " Whereas guarantees of the security of France against any future invasion by Germany are indispensable to the restoration of European stability, the safety of Great Britain, and the peace of the world ; "

The French draft runs as follows :—

> " Whereas reciprocal guarantees against a future aggression by Germany are indispensable to the restoration of European stability, the safety of France and Great Britain, and the peace of the world ; "

The decision whether reciprocity shall be admitted in the Preamble depends upon our acceptance or the reverse of Article 1 of the Pact itself, which raises the question in a more direct form.

Article 1 of the British draft ran thus :—

> " In the event of direct and unprovoked aggression against the soil of France by Germany, Great Britain will come to the immediate assistance of France with her naval, military and air forces."

On the other hand, Article 1 of the French draft runs as follows :—

> " In the event of an unprovoked aggression by Germany against France, Great Britain will place herself immediately at the side of France with her naval, military and air forces.
>
> " Reciprocally in the case of an unprovoked aggression by Germany against Great Britain, France will place herself immediately at the side of Great Britain with her military, naval and air forces."

It will be observed that the differences between the French and British drafts are three in number.

The most important of these is the introduction of the reciprocity clause. M. Poincaré explains and justifies this on three grounds :—

(*a.*) The necessity of demonstrating clearly to Germany the solidarity of our two countries in the event of a German aggression against either.

(*b.*) The *amour-propre* of France, demanding that the two countries shall be placed on a footing of equality.

(*c.*) The possibility that with the development of air attack, Great Britain may be as much exposed as France to German attacks in the future. Of these reasons the second is, doubtless, in the French mind the more important. But the third is not without force. I recommend that as such a clause can do no possible harm, is demanded by the self-respect of France, and may conceivably be of future advantage to ourselves, we should agree to it. This decision will carry with it the amendment of the Preamble previously referred to.

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The second and third alterations are that the French propose to omit the word "direct" before "attack," and to substitute "France" for "the soil of France."

At least I assume that M. Poincaré desires to make the former omission, because his argument is directed to that point, although in the text as forwarded by him the adjective "direct" has slipped back into its place.

His argument for both these changes is this. He thinks that the British formula would dangerously restrict the conditions in which British help would be given. The *casus fœderis* would only arise, under our terms, if French territory were actually and directly invaded, whereas German aggression might equally and at an earlier stage be involved by a declaration of war, an ultimatum, or a concentration of forces marching towards the frontier.

I do not say that the French arguments are without force. But at the same time I am indisposed to yield to them for the following reasons :—

(*a.*) I am clear in my own mind that in so far as British public opinion will endorse our guarantee, it will be in the belief that it can only become operative in the event of a German army actually crossing the French frontier and invading French soil.

(*b.*) If we envisage British action at an earlier stage, I foresee serious and even dangerous disputes as to what constitutes an act of aggression, and at what stage mobilisation or concentration or advance develops into attack. We remember how, in the early days of August 1914, it was the Russian decree of mobilisation that was regarded by the German Government as tantamount to a declaration of war.

(*c.*) I rather mistrust the substitution of the word "France" for the words "the soil or territory of France." M. Poincaré argues that aggression can take place by sea or air as easily as by land. This is true. But the attack is equally against the territory of a country in all three cases. What I fear about the more general phrase is that a future French Government might claim a good many things as constituting an aggression against France (*e.g.*, an attack by a German force upon a French colony) which were not an aggression upon the soil of France. Other cases can also be imagined.

I am therefore disposed, in respect of both these proposals, to adhere to our original text.

I now come to a much more serious suggestion. Our Article 2 ran thus :—

"The High Contracting Parties reassert their common interest in Articles 42, 43 and 44 of the Treaty of Versailles, and will consult together should any breach of them be threatened or any doubt arise as to their interpretation."

The French Article 2 is as follows :—

"The two high contracting parties reaffirm their common interest in Articles 42 and 43 of the Treaty of Peace of Versailles. They agree, in conformity with Article 44 of the said treaty, to consider any violation whatever by Germany of the said Articles as constituting an act of aggression against France and Great Britain.

"They will concert together in the event of any threat of violation of the said Articles, or of any doubt arising as to their interpretation, as well as in the event of any military, naval or air measures imcompatible with the Treaty of Versailles being taken by Germany."

M. Poincaré's argument in favour of this very important change is as follows. He observes that the French Government highly appreciate the fact that the British Government realise that the above Articles of the Peace Treaty may not in themselves be sufficient to maintain peace ; but the British draft providing that the two Powers should consult together in the event of a violation of those articles contains an important lacuna. This lacuna the French Government desire to fill by stating in the Pact that any violation of Articles 42 and 43 by Germany will in itself constitute the aggression contemplated by Article 1 of the Pact. In other words, if Germany violates Articles 42 and 43 it will not be a matter for consultation : it will automatically mean war.

M. Poincaré states that there seems to be some misapprehension in London in regard to this proposal, and he proceeds to explain what the French Government mean by giving three instances :—

(*a.*) Germany demands the authorisation of the Allied Powers to introduce police forces into the area in order to suppress riots. In this event there is neither violation nor threat of violation. If the authorisation is given, the question does not arise. If the Allies refuse their authorisation and Germany shows the intention to continue, there is then a threat of violation and, in conformity with clause 2 of the French Article 2, France and England will consult together. If Germany does continue, there is an evident open aggression and the *casus fœderis* arises.

(*b.*) France and England learn that Germany contemplates violating Articles 42 and 43, since the Reichstag have voted funds for the construction of fortresses in the area and unusual numbers of troops are assembled in proximity to the area in circumstances which give rise to the belief that Germany intends to introduce them into the area. In this instance there is no *violation* of Articles 42 and 43 and consequently no aggression ; the *casus fœderis*, therefore, does not arise. On the other hand, there is a *threat* of violation and, in accordance with clause 2 of the French Article 2, the French and British Governments consult together.

(*c.*) Germany deliberately violates Articles 42 and 43 by introducing police forces into the area without the authorisation of the Allies, or by introducing into the area forces in greater numbers than those authorised. This deliberate violation constitutes a hostile act in the terms of Article 44. The French Government are justified in asking that such violation should constitute an aggression, or they will find themselves exposed to seeing French territory invaded, since the protection assured by the treaty will no longer exist.

The area to which Articles 42 and 44 of the Peace Treaty refer is at present in Allied occupation. Under Articles 428–432 of the Peace Treaty it will remain in Allied occupation for a period of fifteen years from the date of the treaty, but if the conditions of the treaty are faithfully carried out by Germany the occupation will be successively restricted as the years go by. If, however, the guarantees against unprovoked aggression by Germany are not considered sufficient by the Allied Governments, and if the Reparation Commission finds that Germany refuses to observe the whole or part of her obligations with regard to reparations, the evacuation of the occupied troops may be delayed, or such part of the area as has been evacuated reoccupied.

Of course, if the duration of the Pact were confined to ten years the British obligation would be practically nil. But if we agree to extend it to fifteen or twenty years, and still more if its duration be then prolonged by mutual consent, the proposed obligation would assume a very different complexion. Who could say at what point or stage or in what exact measure the appearance of a German force or the building of a German gun emplacement in the area in question ought to constitute a *casus belli* ? It is easy to foresee endless difficulties and causes of dispute.

But my objections are even more fundamental.

In the first place, I do not believe that British public opinion will for a moment stand the treatment of the Cis-Rhenish territory as though it were a part of the soil of France, or that they will consent to go to war automatically for its defence if it were assailed. I do not say that on an appreciation of the circumstances of the case, if and when it arose, they might not both be willing and be bound to do so. But they would not accept in advance an obligation so formidable and so ill-defined.

And there is a further reason for their refusal, viz., that in Article 44 of the Treaty of Versailles the violation of this territory is expressly described as a hostile act, not against France or Great Britain alone or even particularly, but against all "the Powers signatory of the present treaty," from which it follows that the obligation of defending the treaty and of punishing its violation is one that belongs to all the signatory Powers, and cannot properly be appropriated by two of their number.

Accordingly, this plan of superseding the Powers and overriding the treaty appears to me to be unsound and indefensible. I might add a third consideration, namely, that a military alliance of this description between Great Britain and France could only result in rival and, it might be, hostile combinations between other Powers (conceivably even between Germany and Russia), and that it is entirely

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inconsistent with the theory upon which it has hitherto been assumed that the post-war polity of Europe is to be based.

The second part of the French draft of Article 2 is intended to take the place of the second part of our draft of the same Article.

The British words were :—

> "Will consult together, should any breach of them (*i.e.*, Articles 42, 43 and 44) be threatened or any doubt arise as to their interpretation."

The French words are :—

> "Will concert together in the event of any threat of violation of the said Articles or of any doubt arising as to their interpretation."

These words may, I think, be accepted.

The French draft then goes on to incorporate in the same Article the undertaking which was contained in our Article 3, with the difference that the words "naval" and "air" are added to the word "military," the French draft accordingly running as follows (after the words above quoted) :—

> "As well as in the event of any military, naval or air measures incompatible with the Treaty of Versailles being taken by Germany."

This may be accepted.

I now come to the proposed new Article about consultation between the two General Staffs. This is the French draft :—

> "Constant and friendly intercourse will be maintained between the respective general staffs of the two high contracting parties with the view of ensuring the eventual efficacy of the foregoing dispositions."

M. Poincaré argues at great length in favour of his proposal, on the ground that the Anglo-French Agreement will only be taken seriously by Germany if she knows that the requisite dispositions have been settled in advance. He recalls that during the years preceding the war such an *entente* between the British and French Staffs existed, and he points out that if such a state of thing existed when the co-operation of the two Governments was optional and uncertain, it can surely be allowed when the two Governments have pledged themselves to co-operate. Otherwise France would be in a worse position than she was before the war. It is inconceivable, he says, that the conclusion of an alliance between France and Great Britain should result in the termination of the close relations now existing between the two Staffs and should compel them in the event of war to improvise the conditions of military co-operation. He is careful to point out that the French Government are perfectly aware that British military forces in times of peace do not correspond with the immense forces which she can furnish in war time. There is no question of fixing in a definite manner in a military convention the number and nature of the units available, but of taking into account by constant communication between the two Staffs the forces which would, if the case arises, be available for the common defence. Such an *entente* is all the more necessary as probably the two Staffs will have to contemplate not only Anglo-French co-operation, but also that of the Belgian army, in view of the military convention already concluded by France with Belgium and the Anglo-Belgian Pact which the British Government are now negotiating. If, however, the British Government prefer not to insert such a provision in the text of the treaty itself, the French Government would be ready to agree that such a provision should figure in notes annexed to the treaty, which would be signed and published at the same time as the latter.

M. Poincaré in the course of his argument alludes to the exchange of notes between Sir E. Grey and M. Cambon in 1912. As a matter of fact, the *entente* between the two Staffs really dates from 1906, just before the Algeciras Conference. There was no written agreement, but the military and naval experts of the two Governments were authorised to enter into confidential conversations as to the manner in which the two countries might give each other support in the case of a joint war, "on the distinct understanding that nothing which passed between the military or naval experts should bind either Government or restrict in any way their freedom to make a decision as to whether or not they would give that support when the time arose." (See statement by Sir E. Grey in the House of Commons, 3rd August, 1914.)

I do not imagine that there can be any objection to such confidential conversations in the future any more than in the past. On the contrary, they will probably be very useful in order to keep ourselves acquainted with the military programme or ambitions of France. The question is whether it is necessary to provide for this intercourse either by a special Article in the treaty or by an exchange of notes to be appended to the treaty and published with it.

I am opposed to either course. In conversation with me the French Ambassador defended the proposal of his Government because of the terrifying effect it would have upon the Germans. I cannot see that it would make the smallest difference to them. When our two General Staffs meet the Germans will be aware of the fact, whether the meeting is provided for in a treaty or not.

Upon the other hand, I do see a positive objection to the insertion of such a provision in the treaty. It will lead to the impression, and almost certainly to the demand, put forward by the soldiers that each country shall maintain a certain proportion of forces, to be provided or utilised in a particular way. It will convey the idea, in a more concrete form than it would be prudent or safe to admit, of a military obligation the definition of which will rest, not with Cabinets or Parliaments, but with the General Staffs. It will take the agreement out of the political sphere and transfer it across the military frontier. I cannot help thinking that this would be disadvantageous both in the hopes and in the fears that it might arouse.

I now come to a new Article (IV in the French draft), which runs as follows :—

> "The Government of the French Republic and the Government of His Britannic Majesty agree to concert together on all questions of a nature to endanger the peace or to jeopardise the general order of things set up under the treaties of peace of which they are signatories. They will examine in common the measures necessary to ensure speedily a peaceful and equitable settlement."

At first sight this clause seems to embody a quite innocent proposition. But it must be read in the light both of its history and of its real significance. It is the heir, or rather the substitute, of the proposal put forward by the French Ambassador in his first conversations with me last year, that the Anglo-French Agreement should apply in some undefined way to the frontiers of Poland and other East European States which are regarded by the French as the outer frontier of their country. That proposal was unhesitatingly turned down both by myself at that time and by the Prime Minister in his conversations with M. Briand at Cannes. Now we have a vaguer and more diluted formula, which M. Poincaré thus explains,

He observes with truth that the English draft aims only at preventing a direct aggression by Germany. The French Government want to go further and to consolidate peace by establishing on a solid foundation a lasting union between France and England. So long as there is hope of dividing our two countries, peace will not be assured. Certainly France and England hold different views on various international problems ; but if they engage to consult together when those problems become acute such consultation will surely lead to a solution of the difficulties.

M. Poincaré goes on to deal with the criticism which will almost certainly be made against the Pact that it supplants the League of Nations, and that England and France are between them undertaking duties which fall properly to the League. The French thesis, which was elaborated in greater detail in the Comte de Saint-Aulaire's memoranda, is that no general *entente*, whether it take the form of the League of Nations or any other shape, can be really effective unless England and France are in close accord. The temptation to certain Powers included in a general *entente* to exploit differences between France and England must be removed. England and France should form an inner nucleus of the League of Nations and afford the strong support of Allied military backing when necessary in those cases which are covered by the Pact.

My view of these arguments is as follows: It might, of course, be said that nothing but good could come from an engagement to consult with the French and concert measures to be taken in common with them on all questions likely to endanger peace. It has been one of our chief grievances against them in the case of the occupation of the five German towns and of the Franklin-Bouillon Agreement that they acted behind our backs. Nevertheless the obligation to consult together and decide on common action in the event of peace being threatened is one which, under the covenant, is imposed on all the members of the League; and Article 4 of the French draft as it stands at present will undoubtedly be attacked by ardent partisans of the covenant as an affront to the League.

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Apart from this, the formula suggested, whether it be incorporated in the treaty or annexed to it (as suggested by the French), appears to me to take us further forward in the direction of an Anglo-French alliance than I believe we are prepared to go. If General Smuts' apprehensions are so seriously aroused at a mere guarantee of the frontier, what would he not say at this wide and indefinite extension of our responsibilities?

It must further be observed that the new obligation is not confined to the maintenance of the Treaty of Versailles, but to all the treaties of peace of which France and Great Britain are signatories. In other words, if there is trouble on the Bulgarian frontier or at Budapest, or, it may be later, at Constantinople, the two Powers, not waiting for anyone else, are "to examine in common the measures necessary to ensure speedily a peaceful and equitable settlement." Of course, this might mean that they would jointly refer the case to the League of Nations. But, if so, the provision is unnecessary. On the other hand, it could be taken to mean, and is probably intended by the French to mean, that the settlement of future European disputes is a matter primarily for Great Britain and France, and that the rest of the world is to look on until our two Governments have made up their minds what they will do. This might prove a very powerful and effective form of European hegemony. But I do not think either that we want it or that the rest of Europe would stand it.

For instance, while I read the French proposals I find myself constantly saying: But what of Italy? What will the Italians say? Now Italy, though she may not be a very stable or reliable element, is nevertheless one of the great trinity of European Powers, a by no means negligible factor, and a factor which in spite of its temperamental instability is on the whole inclined towards the British side. If Italy found herself thus pushed into the background she could not but resent it, and her opportunities for dangerous intrigue would be indefinitely multiplied.

Article 5 of the French draft, exempting the British Dominions, is identical with the same Article in the British draft and calls for no comment.

Article 6 proposes to extend the duration of the Pact from ten years to thirty, renewable (as in our draft) by common agreement at the end of that period.

M. Poincaré's argument is as follows. He points out that—

1. At the end of ten years the demilitarised area under Articles 42 and 43 of the Peace Treaty will still be in Allied occupation, thus rendering any German aggression impossible.
2. Germany may hope that at the end of ten years the Pact will not be renewed, and the Nationalist Party may promote the idea of a war of revenge against France at that moment.
3. Germany will be more redoubtable in ten years' time than she is at present. For these reasons the Anglo-American Guarantee Treaty had no time limit. The French Government urge that the object they have in view, namely, the affirmation of the solidarity of the two Governments and their determination to remain united is incompatible with a time limit.

M. Poincaré does not raise a point made in one of the explanatory memoranda communicated to me by the Comte de Saint-Aulaire, *i.e.*, that a duration of ten years would coincide with that of the naval holiday, and that Great Britain has every interest in maintaining beyond the duration of the naval holiday the agreement with France which will react on naval armaments.

The French Government thought at first that it would be suitable to fix the time limit at thirty years. If, however, the British Government find this period too long it might they say be fixed at twenty years on the distinct and written understanding that the Pact will be renewable by common agreement.

Whilst British public opinion would almost certainly be hostile to tying our hands for thirty years, it must be admitted that from the French point of view ten years is too short. If danger from Germany arises for the French it will arise for us too, and we shall not be able to afford to see France crushed in 1932 any more than we could in 1914. I think, therefore, that we can afford to meet the French on this point by an extension either to fifteen or even to twenty years.

The Cabinet will have seen from the report of a recent conversation of mine with the Belgian Ambassador that upon the answer to many of the questions which I have here discussed will depend the form of the Anglo-Belgian Agreement, which it is proposed to conclude, either independently or at the same time. The Belgians will do what we wish in respect of all the disputed points, being very anxious to get their agreement as a set-off against the often uncomfortable predominance that France claims to exercise in Belgium.

There remains a question of very great and capital importance, viz., whether the Anglo-French Pact should be concluded independently and on its own merits before we have arrived at a common understanding with France upon the most urgent of the questions on which we now differ or a settlement of which by mutual accord is still delayed. When the Prime Minister first discussed the plan of an Agreement with M. Briand at Cannes he very clearly indicated that its conclusion must be dependent upon a satisfactory solution of these difficulties, whether they related to the Near East, the Genoa Conference, or the question of submarines. M. Briand did not contest this condition. But it has ever since been sharply criticised in France, as implying a bargain which was wounding to the susceptibilities of a great Allied nation, and there are mischief-makers in this country (*vide* the "Times" of the 16th February) who take the same view.

Believing as I do that, in the last resort, the life of M. Poincaré's Ministry will depend upon the conclusion of the Pact with England in some form, I think it would be unwise on our part to abandon the very powerful form of pressure which its non-conclusion enables us to exercise. Without definitely stating that we can only sign it when we have been satisfied on this or that point, I would, nevertheless, make it the concluding, rather than the opening or middle stage in our negotiations, and would find excellent reasons for prolonging the discussion upon it until we are nearer a friendly solution of the many difficult problems by which we are still confronted.

C. OF K.

February 17, 1922.

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CENTRAL EUROPE. [February 21.]

CONFIDENTIAL. SECTION 1.

[C 2673/458/62] No. 1.

The Marquess Curzon of Kedleston to Lord Hardinge (Paris).

(No. 528.)

My Lord, *Foreign Office, February* 21, 1922.

WHEN the French Ambassador called upon me this afternoon he had apparently not received the latest information from Paris to the effect that M. Poincaré, in response to my suggestion, had indicated his willingness to meet a British Minister at an early date in France Nor had he apparently seen the telegram from your Lordship in which, in place of the nine points enumerated by the Ambassador on Saturday last as in the opinion of the French Government needing an immediate reply before the Genoa Conference could be held, M. Poincaré had now sought assurances on three points, namely, that the Genoa meeting should not be in any way interpreted as an attack upon the Treaty of Versailles, as an infringement of the Covenant of the League of Nations or as an interference with the question of reparations.

I said to the Ambassador that I thought that there would not be the slightest difficulty in reassuring M. Poincaré on these three points, and that this was the first I had heard of any doubt being raised in that respect. However, a new aspect had been put upon the entire situation by the suggested visit to France, and I had every reason to hope that the Prime Minister himself would take advantage of the occasion and offer to go to France to meet M. Poincaré in a few days' time. In these circumstances I thought it useless to pursue the discussion, which had occupied so much of our recent time.

At the same time, I felt it my duty to protest to the Count de Saint-Aulaire against the campaign of invidious suggestion and insinuation now being carried on day by day in the French press, indicating that it was British hesitancy, British delay and British refusal to reply that were responsible for the strained circumstances. The French Government knew perfectly well that this was not the case, and I had every reason to believe that they had it in their power to contradict these statements at once. I was bound to tell the Ambassador that the effect of these constant, and, as it appeared, deliberate, misrepresentations was beginning to tell upon us here, and to leave upon the minds of my colleagues and myself the impression that nothing we could do would satisfy the French Government, and that it was they who wanted to find some excuse, not for drawing closer together, but for moving farther away. I had hitherto, I said, acted upon the assumption that the main desire of the French Government was to conclude the agreement—commonly known as the "Pact"—between ourselves. I could not, however, conceal from the Ambassador the feeling that the pursuit of these tactics in France, and the impression which they created in the newspapers that M. Poincaré was manufacturing reasons for disagreement and delay, must in the long run—and probably sooner—react very unfavourably upon our joint desires, and predispose both the Cabinet and the House of Commons to take a much less favourable view of the agreement than they had at first been disposed to do. It seemed to me, in fact, that the French tactics, from whatever point of view they were regarded, were greatly mistaken. It was M. Poincaré himself who had suggested a return to the older form of diplomatic intercourse by conversation between the Ambassadors and the Foreign Ministers. No sooner had this been inaugurated than he insisted on an exchange and publication of notes. He had promised to send over his experts within a week, but two days later he found some good reason for postponing their visit for ten days or a fortnight. When I first proposed a friendly discussion, he retaliated by insisting on a memorandum. Surely, if these methods were adopted, we should find ourselves drifting into a wrong course, and might even in the end find that we did not get into harbour at all. Now, apparently, that the conversation for which I had always pleaded was likely to take place, I did not desire to pursue the subject; but I hoped the Ambassador, with whom, I said, my personal relations had always been of the most agreeable character, would not resent my giving him the warning that I had done.

I am, &c.
CURZON OF KEDLESTON.

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C 41085 Read from P.O. 9/6/22

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E-1300 GRN. 46

CONFIDENTIAL

C A B I N E T.

C.P. 3991

EXCLUSION FROM THIS COUNTRY OF FORMER ENEMY ALIENS.

Memorandum by the Home Secretary.

I desire to take the opinion of the Cabinet on the question whether Section 10(1) of the Aliens Restriction (Amendment) Act, 1919, is to be allowed to lapse in December next. This Section provides that "no former enemy alien shall, for a period of three years after the passing of this Act, be permitted to land in the United Kingdom either from the sea or from the air, or, if he should land without permission, to remain in the United Kingdom, without the permission of the Secretary of State, to be granted only on special grounds, and such permission shall, save as hereinafter provided, be limited in duration to a period of three months, and may, upon special grounds, be renewed from time to time for a like period".

The period of three years mentioned in the Section will expire on the 23rd December, 1922, and I have not included in my programme of legislation this Session any Bill to extend the operation of the Section.

My attention has recently been drawn by the Colonial Office to the desirability of definitely settling the question now for the following reasons:-

Provisions for the exclusion of former enemy aliens similar to those in Section 10(1) of the Act of 1919 have been adopted in all the Crown Colonies and Protectorates, and the Colonial Office have received communications from some of the Colonies pressing for information as to the policy the Government intend to adopt in this country after December next. For example, a despatch has been received by the Colonial Office from the Governor of Hong Kong pointing out that many Germans have

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returned to Canton and are carrying on business there and suggesting that British firms in Hong Kong will be placed at a disadvantage in their dealings with Chinese if the policy of exclusion of Germans from Hong Kong is continued indefinitely. The existing Ordinance for Hong Kong expires in August next and the Governor wishes to be informed at once what is to be the policy of the United Kingdom. The Colonial Office have sent me a copy of the despatch for my observations.

My own view is that Section 10(1) should be allowed to lapse. There is sufficient power to control the entry of former enemies into this country without this Section - which in fact has been found to impose very difficult limits on the discretion of the Home Secretary.

Section 1 of the Act of 1919 extended for one year the powers of making Orders in Council for the control of aliens given by the Aliens Restriction Act, 1914, and this Section has been continued annually by the Expiring Laws Continuance Act. Under the current Order in Council the entry into the United Kingdom of any individual alien or any class of aliens can be prevented or can be made subject to limitations as to the length of stay in this country or to such other conditions as may be desirable. Moreover, the existing regulations can, if necessary, be quickly and accurately adapted to the changing necessities of the case by amending Orders in Council.

So far as there may be reasons for discriminating against former enemy aliens in the matter of leave to land in this country, all proper effect can be given to them more conveniently under the general powers than by the process of making exceptions from an indiscriminate prohibition such as that contained in Section 10(1). This provision was inserted in the Bill, at a time when anti-German feeling ran high, owing largely to a fear in some quarters that the Home Office was not to be trusted to exercise sufficient

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vigilance and strictness. But recently there has been little evidence of such feeling, and such public comment as there has been on the subject has been mainly hostile to the provision, on the ground that it necessitates the exclusion of harmless aliens (as e.g. in the much advertised case of Dr. Oscar Levy) or that it hampers trade by preventing German traders settling or making prolonged stays in this country.

If this Section is allowed automatically to expire, I do not think there will be any substantial criticism or any serious effort to secure its resurrection.

If the Cabinet agree that the Section be allowed to lapse for the United Kingdom, it will not of course necessarily follow that the same policy should be adopted by all the Colonies and Protectorates. The needs and wishes of the Colonies and Protectorates may no doubt differ according to the circumstances of each, and I will confer with the Colonial Secretary as to the best method of dealing with Colonial requests for guidance.

Another Section of the Act of 1919 - Section 11 - which prohibits the acquisition by former enemy aliens of any land in the United Kingdom or any interest in a key industry - also expires at the end of this year. This is not a provision with which I am primarily concerned, but I do not know that there is any sufficient ground for fresh legislation to keep it alive.

E.S.

24th May, 1922.

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BRITISH NATIONAL
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CONFIDENTIAL.

C A B I N E T.

48

C.P. 4010.

HOME AFFAIRS COMMITTEE.

BRITISH NATIONALITY AND STATUS OF ALIENS BILL.

Memorandum by the Home Secretary.

I ask authority to bring in at once the attached Bill to amend the British Nationality and Status of Aliens Act, 1914, (as amended in 1918) so as to enable the British nationality of children and subsequent generations born abroad to be maintained. At present only children of the first generation born of British parents out of British territory acquire British nationality. The new Act will enable British nationality to be maintained through successive generations by complying with certain conditions as to registration at birth and renewal of registration by the persons concerned when they attain majority. Proposals to effect this amendment of the law were laid before the Conference of Dominion Prime Ministers in June last and the principle was recommended by them to the favourable consideration of the Dominion Governments. The concurrence of all the Dominion Governments has now been obtained and I gave a promise at the beginning of this month that immediate steps should be taken to introduce the Bill. There have been urgent demands by the British communities in various foreign countries for the preservation of the British status of their descendants born abroad and there is generally a strong feeling in favour of the necessity of this amendment of the law. I am told by the Whips that there will be no opposition.

E. S.

1st June, 1922.

8W.106.

Recd. from A.O. 21/6/22

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C 41089

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OF A

BILL

TO

Amend the British Nationality and Status of Aliens Acts, 1914 and 1918.

A.D. 1922.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment of definition of natural-born British subject. 4 & 5 Geo. 5. c. 17. 8 & 9 Geo. 5. c. 38.

1.—(1) Section one of the British Nationality and Status of Aliens Act, 1914 (hereinafter referred to as the principal Act"), as amended by section two of the British Nationality and Status of Aliens Act, 1918, shall be further amended as follows:—

"(1) The following paragraph shall be substituted for paragraph (*b*) of subsection (1):—

"(*b*) Any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfils any of the following conditions, that is to say, if either—

"(i) his father was born within His Majesty's allegiance; or

"(ii) his father was a person to whom a certificate of naturalisation had been granted; or

"(iii) his father had become a British subject by reason of any annexation of territory; or

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C 41090

"(iv) his father was at the time of that person's birth in the service of the Crown; or

"(v) his birth was registered at a British consulate within twelve months after its occurrence, or in the case of a person born on or after the first day of January, nineteen hundred and fifteen, within twelve months after the day of nineteen hundred and twenty-two; and"

(2) The following provisions shall be inserted at the end of subsection (1):

"Provided also that any person whose British nationality is conditional upon registration at a British consulate shall cease to be a British subject as from the time when he attains the age of twenty-two, if he does not assert his British nationality by a declaration of retention of British nationality made within one year of attaining the age of twenty-one or within such extended period as may be authorised by regulations made under this Act, and registered in such manner as may be prescribed by such regulations, and, where he is a subject or citizen of a foreign country under the law of which he can, without being naturalised in another country, divest himself of the nationality of that foreign country by making a declaration of alienage, or otherwise, if he does not also, before he attains the age of twenty-two, divest himself of such nationality accordingly.

Consequential amendments.

2.—(1) At the end of subsection (1) of section twenty-seven of the principal Act, the following words shall be inserted:—

"The expression 'British Consulate' means the office of any British consular officer where a register of births is kept, and includes in the case of any territory where there is no British Consulate and there is a British resident or other representative of His Majesty, the office of such resident or representative."

(2) The following words shall be substituted for the words in paragraph (1) of section two of the British

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Nationality and Status of Aliens Act, 1918, down to and including "inserted," where that word occurs for the second time, that is to say :— A.D. 1922.

"At the end of section one the following subsection shall be inserted :— "

3.—(1) This Act may be cited as the British Nationality and Status of Aliens Act, 1922, and the principal Act, the British Nationality and Status of Aliens Act, 1918, and this Act may be cited together as the British Nationality and Status of Aliens Acts, 1914 to 1922. Short title, printing, commencement and repeal.

(2) Every enactment and word which is directed by the British Nationality and Status of Aliens Act, 1918, as amended by this Act, or by this Act to be substituted for or added to any portion of the principal Act, shall form part of the principal Act in the place assigned to it by the British Nationality and Status of Aliens Act, 1918, as so amended, or this Act ; and the principal Act, and all Acts, including this Act, which refer thereto shall, after the commencement of this Act, be construed as if the said enactment or word had been enacted in the principal Act, in the place so assigned, and where it is substituted for another enactment or word, had been enacted in lieu of that enactment or word.

A copy of the principal Act, with the amendments, whether by way of substitution, addition or omission, required by the British Nationality and Status of Aliens Act, 1918, as amended by this Act, and by this Act, shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print, in accordance with the copy so certified, all copies of the principal Act, which are printed after the commencement of this Act.

(3) This Act shall come into operation on the day of nineteen hundred and twenty-two.

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C 41092

British Nationality and Status of Aliens.

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B I L L

To amend the British Nationality and Status of Aliens Acts, 1914 and 1918.

CXX. (1.)

16th May 1922.

139—1

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[W 6402/2618/50] No. 1.

*The Earl of Balfour to Count de Saint-Aulaire.**

Your Excellency, *Foreign Office, August* 1, 1922.

AS your Excellency is aware, the general question of the French debt to this country has not as yet been the subject of any formal communication between the two Governments, nor are His Majesty's Government anxious to raise it at the present moment. Recent events, however, leave them little choice in the matter, and they feel compelled to lay before the French Government their views on certain aspects of the situation created by the present condition of international indebtedness.

Speaking in general terms, the war debts, exclusive of interest, due to Great Britain at the present moment amount in the aggregate to about 3,400,000,000*l.*, of which Germany owes 1,450,000,000*l.*, Russia 650,000,000*l.* and our Allies 1,300,000,000*l.* On the other hand, Great Britain owes the United States about a quarter of this sum—say, 850,000,000*l.* at par of exchange, together with interest accrued since 1919.

No international discussion has yet taken place on the unexampled situation partially disclosed by these figures; and, pending a settlement which would go to the root of the problem, His Majesty's Government have silently abstained from making any demands upon their Allies, either for the payment of interest or the repayment of capital. But, if action in the matter has hitherto been deemed inopportune, this is not because His Majesty's Government either underrate the evils of the present state of affairs, or because they are reluctant to make large sacrifices to bring it to an end. On the contrary, they are prepared, if such a policy formed part of a satisfactory international settlement, to remit all the debts due to Great Britain by our Allies in respect of loans, or by Germany in respect of reparations.

Recent events, however, make such a policy difficult of accomplishment. With the most perfect courtesy, and in the exercise of their undoubted rights, the American Government have required this country to pay the interest accrued since 1919 on the Anglo-American debt, to convert it from an unfunded to a funded debt, and to repay it by a sinking fund in twenty-five years. Such a procedure is clearly in accordance with the original contract. His Majesty's Government make no complaint of it; they recognise their obligations and are prepared to fulfil them. But evidently they cannot do so without profoundly modifying the course which, in different circumstances, they would have wished to pursue. They cannot treat the repayment of the Anglo-American loan as if it were an isolated incident in which only the United States of America and Great Britain had any concern. It is but one of a connected series of transactions, in which this country appears sometimes as debtor, sometimes as creditor, and, if our undoubted obligations as a debtor are to be enforced, our not less undoubted rights as a creditor cannot be left wholly in abeyance.

His Majesty's Government do not conceal the fact that they adopt this change of policy with the greatest reluctance. It is true that Great Britain is owed more than it owes, and that, if all inter-Allied war debts were paid, the British Treasury would, on balance, be a large gainer by the transaction. But can the present world situation be looked at only from this narrow financial standpoint? It is true that many of the Allied and Associated Powers are, as between each other, creditors, or debtors, or both. But they were, and are, much more. They were partners in the greatest international effort ever made in the cause of freedom; and they are still partners in dealing with some, at least, of its results. Their debts were incurred, their loans were made, not for the separate advantage of particular States, but for a great purpose common to them all—and that purpose has been, in the main, accomplished.

To generous minds it can never be agreeable, although, for reasons of State, it may perhaps be necessary, to regard the monetary aspect of this great event as a thing apart, to be torn from its historical setting and treated as no more than an ordinary commercial dealing between traders who borrow and capitalists who lend. There are, moreover, reasons of a different order, to which I have already referred, which increase

* Also to Italian, Serb-Croat-Slovene, Roumanian, Portuguese and Greek representatives in London, *mutatis mutandis*.

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the distaste with which His Majesty's Government adopt so fundamental an alteration in method of dealing with loans to Allies. The economic ills from which the world is suffering are due to many causes, moral and material, which are quite outside the scope of this despatch. But among them must certainly be reckoned the weight of international indebtedness, with all its unhappy effects upon credit and exchange, upon national production and international trade. The peoples of all countries long for a speedy return to the normal. But how can the normal be reached while conditions so abnormal are permitted to prevail? And how can these conditions be cured by any remedies that seem at present likely to be applied?

For evidently the policy hitherto pursued by this country of refusing to make demands upon its debtors is only tolerable so long as it is generally accepted. It cannot be right that one partner in the common enterprise should recover all that she has lent and that another, while recovering nothing, should be required to pay all that she has borrowed. Such a procedure is contrary to every principle of natural justice, and cannot be expected to commend itself to the people of this country. They are suffering from an unparalleled burden of taxation, from an immense diminution in national wealth, from serious want of employment, and from the severe curtailment of useful expenditure. These evils are courageously borne. But were they to be increased by an arrangement which, however legitimate, is obviously one-sided, the British taxpayer would inevitably ask why he should be singled out to bear a burden which others are bound to share.

To such a question there can be but one answer, and I am convinced that Allied opinion will admit its justice. But while His Majesty's Government are thus regretfully constrained to request the French Government to make arrangements for dealing to the best of their ability with Anglo-French loans, they desire to explain that the amount of interest and repayment for which they ask depends not so much on what France and other Allies owe to Great Britain as on what Great Britain has to pay America. The policy favoured by His Majesty's Government is, as I have already observed, that of surrendering their share of German reparation and writing off, through one great transaction, the whole body of inter-Allied indebtedness. But, if this be found impossible of accomplishment, we wish it to be understood that we do not in any event desire to make a profit out of any less satisfactory arrangement. In no circumstances do we propose to ask more from our debtors than is necessary to pay to our creditors. And, while we do not ask for more, all will admit that we can hardly be content with less. For it should not be forgotten, though it sometimes is, that our liabilities were incurred for others, not for ourselves. The food, the raw material, the munitions required by the immense naval and military efforts of Great Britain, and half the two thousand million sterling advanced to Allies were provided, not by means of foreign loans, but by internal borrowing and war taxation. Unfortunately a similar policy was beyond the power of other European nations. Appeal was therefore made to the Government of the United States: and under the arrangement then arrived at the United States insisted, in substance if not in form, that, though our Allies were to spend the money, it was only on our security that they were prepared to lend it. This co-operative effort was of infinite value to the common cause; but it cannot be said that the rôle assigned in it to this country was one of special privilege or advantage.

Before concluding I may be permitted to offer one further observation in order to make still clearer the spirit in which His Majesty's Government desire to deal with the thorny problem of international indebtedness.

In an earlier passage of this despatch I pointed out that this after all is not a question merely between Allies. Ex-enemy countries also are involved; for the greatest of all international debtors is Germany. Now His Majesty's Government do not suggest that, either as a matter of justice or expediency, Germany should be relieved of her obligation to the other Allied States. They speak only for Great Britain; and they content themselves with saying once again that, so deeply are they convinced of the economic injury inflicted on the world by the existing state of things, that this country would be prepared (subject to the just claims of other parts of the Empire) to abandon all further right to German reparation and all claims to repayment by Allies, provided that this renunciation formed part of a general plan by which this great problem could be dealt with as a whole, and find a satisfactory solution. A general settlement would, in their view, be of more value to mankind than any gains that could accrue even from the most successful enforcement of legal obligations.

I have, &c.
BALFOUR.

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C 41095

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GERMANY. [August 23.]

CONFIDENTIAL. SECTION 3

[C 11935/99/18] No. 1.

Lord Hardinge to the Marquess Curzon of Kedleston.—(*Received August* 23.)

(No. 1951.)

My Lord, *Paris, August* 22, 1922.

M. POINCARÉ'S speech at Bar-le-Duc yesterday, the text of which was enclosed in my despatch No 1941 of the 21st August, has been received by the entire Paris press (with the exception, of course, of the Socialist organs) with the most rapturous applause. I am unable to say how much of this applause is the result of a *mot d'ordre* from the Government, but the fact remains that none of M. Poincaré's previous utterances have ever elicited such unanimous approval. His eloquence is compared to that of Cicero, while the substance of his speech is acclaimed as statesmanlike, and (what is perhaps more surprising) as moderate and in no way calculated to displease British public opinion.

To me M. Poincaré's speech appears singularly ill-judged. It will not have escaped your Lordship's notice that the complaints in which it abounds are all addressed to Great Britain, to the entire exclusion of France's other Allies. M. Poincaré has thus thought it politic entirely to ignore the fact that the policy of seizing guarantees for which he pressed in London met with the opposition, not only of His Majesty's Government, but of the Italian and Belgian Governments. It can hardly be agreeable to them to see their opinions and even their presence at the conference in London so consistently ignored by M. Poincaré. But indeed the whole of his speech, bitter and disappointed in tone as it is, conveys to me the distinct impression that he is biassed by personal animosity to the British Prime Minister, which it is beyond his power to suppress M. Poincaré evidently regards Mr. Lloyd George as his only serious opponent. In this sense his speech may be taken as a highly flattering testimony to the power and prestige of Great Britain and her Prime Minister at the present moment.

M. Poincaré once more repeats his assertion that France is not militarist, and aims at no hegemony. Such assertions as these are, it seems to me, mere idle words so long as France, in spite of her impoverishment and inability to balance her budget, maintains a standing army of 800,000 men and is organising, to be ready by next spring, an air force of 240 squadrons against an enemy whom she cannot name. The reference by the "Daily Chronicle" to the money spent on French submarines has, as your Lordship is aware, aroused much indignation in the French press. I do not consider that this indignation is justified, for the submarine question is but a symptom of the militarist disease, which, as it seems to me, is at present poisoning French policy and infecting thereby the whole body politic of Europe. I should have been happy to see, in M. Poincaré's latest declarations, some sign of a return to a more sane and pacific attitude, but I cannot accept as such his assertions as to the existence of a state of mind which is, unfortunately, contradicted by plain facts.

I have, &c.

HARDINGE OF PENSHURST.

REC'D.
SEP 25 1922

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CONFIDENTIAL. SECTION 3

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I have, &c.

HARDINGE OF PENSHURST.

[82 z—3]

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C 41096 E-5000

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[C 15517/13/19] No. 1.

Mr. Lindley to the Marquess Curzon of Kedleston.—(*Received November* 13.)

(No. 635.)

My Lord, *Athens, November* 3, 1922.

I HAVE the honour to report that an official notice appeared in the newspapers of the 23rd ultimo to the effect that a special court-martial would be constituted to try the arrested Ministers. This decision was contrary to the promise given me by Colonels Gonatas and Plastiras, as reported in my despatch No. 517 of the 28th September, and I considered it advisable to speak on the subject to the Minister for Foreign Affairs and to impress upon him the deplorable effect which would be produced in Greece by the trial of these persons before a tribunal whom no anti-Veniselist would consider either impartial or competent. As reported in my telegram No. 623 of the 24th ultimo, I found M. Politis far from sympathetic. He used the stock arguments of the Veniselists that it was necessary in Greece to impress upon Ministers that they would suffer severely if they involved the country in disaster through their mismanagement. There had been far too much irresponsibility in Greece, and it was necessary for the political education of the country to make an example. I pointed out that a lot of partisan soldiers were hardly people whose judgment on political blunders would inspire confidence, and that it was a dangerous precedent to execute Ministers for mistakes of foreign and military policy. Greek Ministers were certainly not the only ones who were guilty in this respect since the armistice.

Not only was M. Politis unsatisfactory in his attitude generally, but it was easy to see that he was actuated by the most violent party hatred, and that he would be glad enough to see the leaders of the old parties summarily dealt with in order to remove from the political arena some of his opponents, and to strike terror into the rest.

I should mention that, ever since the arrest of the Ministers, the wildest rumours have been in circulation, and hardly a day passes without someone reporting, on the best authority, that the prisoners are to be executed the following day. These reports multiplied during the days after my conversation with M. Politis, and, when I learned that Prince Andrew and M. Baltazzi, late Minister for Foreign Affairs, had been arrested, I thought it advisable to intervene again. On the 26th ultimo I accordingly addressed a personal letter to M. Politis, of which I have the honour to enclose a copy. This letter brought the Foreign Minister round to the Legation within the hour, and I had a long conversation with his Excellency during the evening of that day.

M. Politis took my letter in very good part, and quite changed his tone. He said he was convinced that it would be fatal to yield to the clamour for vengeance, and that he would endeavour to get the trial postponed until a court which afforded real guarantees of justice could be formed. In any case, he informed me in strict confidence, he would resign rather than consent to the actual execution of the accused.

This was satisfactory, as far as it went, and I reported what had been done in my telegram No. 628 of the 27th ultimo to your Lordship. The same day the Italian Minister informed me that his Government were communicating with London and Paris with the object of making concerted representations at Athens in favour of the prisoners. The next day he himself made official verbal representations to the Minister for Foreign Affairs, as his instructions authorised him to do, without waiting for his colleagues. M. Politis did not receive them particularly well, and the Italians are so unpopular in this country and known to be so violently anti-Veniselist that I fear M. Montagna's intervention may do more harm than good. I should mention that I have kept my French colleague informed of all I have done. M. de Marcilly, whilst personally entirely opposed to reprisals, has not felt justified in taking further action since his conversation with Colonels Gonatas and Plastiras, reported in my despatch No. 519 of the 28th September.

On the 31st ultimo I received your Lordship's telegram No. 338 approving my action and authorising me to give the strongest official warning, should there be the least chance of savage or vindictive treatment of the political prisoners. This telegram, for which I am most grateful and which should strengthen my hands immensely, I have

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not yet acted upon; not because there is no chance of the prisoners receiving the treatment described, but because I think it more judicious to leave matters alone for a few days. The danger from the civilian, or professional political, side is, I believe, for the time being, dispelled; for M. Politis is far the most influential member of the Government, and I think he can be relied upon to do his best to avoid excesses. The danger from the military side, however, remains, and there is no doubt that a large number of junior officers and men are clamouring to justify their own disgraceful conduct in the field by taking revenge on the members of the late Government. The pressure these people can exercise is very great in present circumstances, and they are headed by such men as Colonel Condylis and Captain Hadjikyriakos, who are agitators of a dangerous type. It is not easy to know the right psychological moment to make use of your Lordship's telegram, but I am inclined to think that it will come at my first official interview with M. Zaïmis, the Prime Minister, who is due here on the 7th instant.

The prisoners at present under arrest are the following: MM. Gounaris, Stratos, Theotoky, Baltazzi, Goudas, Stratigos, Protopapadakis, all members of the Gounaris Government; M. Calogeropoulos, Minister for Foreign Affairs under M. Triandafillakos, and Prime Minister in 1921; M. Craniotakis, editor of the "Kathemerine." The military men are Prince Andrew (in a private house); General Hadjiannesti, late Commander-in-chief; Colonel Constantinopoulos, late Chief of the Military District of Athens; Colonel Tzoudos, late Garrison Commandant of Athens. All these prisoners have been subjected to close examination during the last ten days at the hands of General Pangalos, a fanatical Veniselist, who is charged with the duty of public prosecutor. The newspapers, ever since the arrests, have been full of articles which in England would have landed the editors in gaol for contempt of court; but this is an ordinary feature of Greek justice.

The constitution of the special military tribunal which is to try the prisoners was promulgated in a decree dated the 25th October, of which a translation is enclosed herewith. A supplementary decree was published on the 29th October, of which a translation is also enclosed, modifying the constitution of the court and strengthening the position of the Revolutionary Committee.

The salient points of the constitution of the tribunal appear to be that the court is purely military and naval; that the members are all appointed by the Revolutionary Committee; that very little time is given to the accused for preparing their defence; that the accused may not call more witnesses than the prosecution; that the accused may employ one counsel; that the Greek Constitution, in so far as it deals with final offences and punishments, does not apply to the tribunal; that there is no appeal from the sentence. In short, the court is a thoroughly revolutionary body, which offers no guarantees of justice as that word is understood in England. It must, however, be admitted that, in this last respect, it does not differ very widely from ordinary Greek tribunals.

It has not yet been decided who is to preside over this court or who are to serve on it. I am informed that a number of officers have refused, but, even if this is true, it is certain that plenty will be found ready to take their places. The delay which has already occurred in trying the prisoners has raised the ire of the rank and file and given rise to the suspicion that the trial was to be indefinitely postponed. The Revolutionary Committee therefore published, on the 2nd instant, a denial that the trial was to be adjourned, and stated that it would take place as soon as the preliminary examination was over—probably next week.

I have, &c.
F. O. LINDLEY.

Enclosure 1 in No. 1.

Mr. Lindley to M. Politis.

(Personnelle.)

Légation d'Angleterre, Athènes,
le 26 octobre 1922.

Mon cher Ministre,

CROYEZ-MOI que c'est en ami sincère de la Grèce que je vous adresse cette lettre au sujet du sort des prisonniers politiques détenus en ce moment à Athènes.

Depuis que je suis ici, j'ai déployé tous mes efforts pour protéger les membres du Parti libéral contre la persécution de leurs adversaires. Maintes fois j'ai tenu un langage des plus durs à M. Gounaris à ce sujet; et j'ai préféré courir le risque de compromettre mon influence politique auprès du Gouvernement hellénique plutôt que de laisser s'accomplir sans protestation des actes injustes qui auraient été nuisibles au nom

de la Grèce. Je ne sais pas quel effet mes paroles ont produit, mais je peux constater que, depuis le mois de janvier dernier, il n'y a guère eu d'excès politiques de la part du Gouvernement.

Dès que la révolution s'est accomplie et que j'ai appris que l'on avait l'intention de traduire les anciens Ministres devant un conseil de guerre qui devait décider immédiatement de leur sort, j'ai fait des représentations amicales au Colonel Gonatas et au Colonel Plastiras en leur exposant combien regrettable serait une procédure pareille; et combien la cause de la révolution aurait à souffrir d'un acte qui ressemblerait à la vengeance plutôt qu'à la justice. Les deux officiers se sont rendus à mes arguments, qui, du reste, étaient agréés par mes collègues diplomatiques, et le Comité révolutionnaire décida de renvoyer les accusés devant une cour civile qui devait se réunir après l'installation d'un Gouvernement régulier.

Mon Gouvernement, dont les sentiments d'amitié pour la Grèce sont connus de tous, a approuvé les conseils de modération que j'avais donnés.

C'est avec une vraie douleur que j'ai appris que cette résolution du Comité révolutionnaire, si sage et si juste, a été reprise, et que le Gouvernement hellénique a décidé de traduire les anciens Ministres devant un tribunal militaire qui, par sa composition même, est incapable de juger la portée d'actes essentiellement politiques. La perspective qu'ouvre cette décision me remplit d'inquiétude pour l'avenir de la Grèce; car il est incontestable que tous ceux qui n'adhèrent pas au Parti libéral, vont regarder ce tribunal comme un instrument de vengeance et non pas de justice.

A un moment où la Grèce, si cruellement éprouvée, a le plus grand besoin d'apaisement et de l'union de tous ses fils patriotiques, et il y en a bien peu qui ne le sont pas, je ne peux voir s'accomplir un acte qui va déchirer le pays pendant des générations et qui va produire la plus triste impression en Angleterre sans employer l'influence personnelle que je puisse avoir afin de l'empêcher.

F. O. LINDLEY.

Enclosure 2 in No. 1.

Decree of the Revolutionary Committee.

(Translation.)

CHAPTER 1.—*Constitution of the Extraordinary Court-Martial.*

ARTICLE 1. With a view to sifting the accusations made against those responsible for the recent national disaster an extraordinary court-martial is set up, composed of the president, ten judges, the revolutionary commissary and a secretary.

Art. 2. All the personnel of this court is appointed by an order of the Minister of War. The president is chosen from among the brigadier-generals and the rear-admirals, or from the divisional generals and vice-admirals of the army and the police, or from the barristers practising in Athens. The judges are chosen from among the officers of the army or the fleet, or from the military magistrature between the rank of captain or "lieutenant de vaisseau" up to that of brigadier-general and rear-admiral. The secretary is chosen from among the secretaries or assistant secretaries serving with courts-martial. The president must be senior to his "comrades" of the same rank on the court-martial.

Art. 3. Besides the above-mentioned members of the extraordinary court-martial, the Minister of War has appointed an extra president and eight extra members in the same restrictions as to rank; also two extra revolutionary commissaries chosen from among the same persons from whom the commissary has been chosen. The roster will also be fixed by the Minister of War.

Art. 4. After appearing before the tribunal, in accordance with paragraph 3 of the Revolutionary Committee's decision No. 37 of the 5th October, those persons considered as responsible for the recent national disaster (the accused or their defenders) can take note or copy of the documents in the dossier. The delay fixed for this purpose is three days from the moment when they are invited to do so by the revolutionary commissary.

Art. 5. The day for the hearing will be fixed by an order of the Minister of War, who will also decide where the sessions will be held.

Art. 6. The accused persons, as a whole, can object to five members of the court-martial, except the president, the revolutionary commissary or the secretary, to whom no objection may be made. If the accused are not agreed upon the members to whom they wish to object, lots will be drawn to decide which of the accused can press their objection.

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Art. 7. The calling of the accused persons or of witnesses to appear before the court and all the formalities of procedure, such as the procedure to be adopted by the court and its decisions, will be regulated according to the Military Penal Code, except where modified by the present decree.

Art. 8. The functions of the Royal commissary will be performed by the revolutionary commissary.

Art. 9. The documents concerning the trial of the accused will be handed to them at least twenty-four hours beforehand.

Art. 10. Those accused who fail to appear before the court will be tried as if present. They are, however, summoned to appear before the court by the revolutionary commissary, who will publish an announcement to this effect, at least three days before the day on which they are to appear, in the three Athenian newspapers with the largest circulation.

Art. 11. The accused are also allowed to bring forward witnesses for their defence, but the number of these must not exceed the number of those brought forward by the revolutionary commissary for the prosecution.

Art. 12. No witness, either for the defence or the prosecution, can be objected to, the reliability of the witnesses being left to the judgment of the court.

Art. 13. The adjournment of the case as the result of the absence of witnesses for either the defence or the prosecution is a matter for the tribunal to decide. The president can, in the course of the hearing, order witnesses to be brought before the court by force.

Art. 14. Any appeal against the preliminary examination or the public examination will be decided by the court, which will be guided by a sincere endeavour to arrive at the truth on the part both of the prosecution and the defence.

Art. 15. Each of the accused can appoint someone to defend him.

Art. 16. The president of the tribunal can forbid questions tending to delay matters and not to the discovery of the truth.

The same rules will apply both to the defence and the prosecution. In cases where objections are made the tribunal will give its decision at once.

Art. 17. When the members of the tribunal to whom the accused have objected have withdrawn, three of the extra members will be present during the whole proceedings. They can replace those members prevented from appearing at the deliberations on the verdicts.

Art. 18. The sentences passed on the accused will be inflicted according to the responsibility of each one of them and according to the sovereign decision of the tribunal in whose conscience the Revolutionary Committee trusts. The sentences will be those provided for by the Military Penal Code and Common Law, and in addition exile for life or for a certain time fixed in the sentence. The present case will not be affected by the dispositions of the Constitution on this point.

Art. 19. The same court can decide as to the desirability of inflicting a fine, and may order a seizure to be made during the examination. This may be decided by the president of the court according to his own judgment.

Art. 20. There can be no appeal whatever against the decision of the extraordinary court-martial, and the execution of its decisions will, by order of the Revolutionary Committee, take place according to the laws at present in force.

(Signed by five members of the RevolutionaryCommittee.)

On the 29th October the Revolutionary Committee published the following to complete their previous decree on the constitution of the extraordinary court-martial:—

Three revolutionary commissaries should be present throughout the hearing of the court, instead of one as mentioned in article 1. The presence of one revolutionary commissary will, however, be sufficient for the legal constitution of the court. The measures taken to replace the revolutionary commissary are suppressed. The revolutionary commissaries can also be [*].

The duties of the Royal commissary as regards [*] can be performed by one of the revolutionary commissaries. The words at the end of the first paragraph of article 2, "Minister of War," to be replaced by "Revolutionary Committee."

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* These lacunæ are in the original version received in the Foreign Office.

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TURKEY. [February 14.]

CONFIDENTIAL. SECTION 1.

[E 1245/1/44] No. 1.

The Marquess Curzon of Kedleston to the Marquess of Crewe (Paris).

(No. 527.)

My Lord, *Foreign Office, February* 14, 1923.

IT was with much surprise that I received at Lausanne on the 31st ultimo, at the very moment when the treaty drawn up by the allied Representatives was being presented to the Turkish delegation, your Lordship's telegram No. 122, giving the text of a note addressed to you by M. Poincaré, which contained a formal repudiation, on the part of France, of the engagement entered into by her on the 5th September, 1914, and an expression of the intention of the French government, in the event of the allies being unable to conclude a common peace, to negotiate separately with Turkey, in order to safeguard the special interests of France.

2. In justification of this threatened breach of a solemn compact entered into at one of the gravest moments in the history of our respective countries, M. Poincaré, in his note, contends that the agreement of the 5th September, 1914, applied only to the duration of the war and to the period necessary for the negotiation of peace, a period which, so far as Turkey is concerned, he declares to be at an end, the recent Græco-Turkish conflict being, in his view, a separate war which has modified the position of the allies to their disadvantage, and created a new situation altogether different from that in which the Declaration of 1914 was signed. M. Poincaré further defends the position he had taken up by arguing that the prolongation of the war with Turkey was the fault of Greece, supported by Great Britain.

3. I will deal presently with the first of these arguments. As regards the second, it is not necessary to enter here into the vexed controversy as to the responsibility for the hostilities which have for so long continued in Anatolia. I need only recall that they were the direct outcome of the despatch of Greek forces to Asia Minor in May 1919 on a mandate from the Supreme Council in Paris. For this mandate the French government shared full responsibility, and at a later date it was solemnly confirmed by the allocation of Smyrna to Greece under the terms of the treaty of Sèvres—a treaty that also bore the signature of France. The stimulus which the presence of the Greek army of occupation in Asia Minor undoubtedly gave to the Turkish nationalist movement, and the extent to which this movement rendered it increasingly difficult to obtain acceptance of the treaty of Sèvres, may well be adduced as showing that the original decision of the Supreme Council represented a policy incapable of practical realisation. The question now at issue, however, is not whether the decision was wise or the reverse, but whether the responsibility for the trouble that arose in its train was not incurred by France in an equal degree with Great Britain and her other allies. To this question, there can be but one answer.

4. The contention that the British government afforded assistance to Greece in money and material has been repeated in almost every country, except in Greece itself. It rests on no foundation. The Greek government obtained no money from His Majesty's government, and no munitions. But, according to the Greeks themselves, it was largely from France that they obtained such material as they were able to acquire. At the same time it is notorious that no inconsiderable portion of the armament and the munitions which enabled the Turkish army ultimately to win the victory over the Greeks and to expel them, root and branch, from Asia, came from French sources and, in part, after the French retirement from Cilicia, from French government stocks. Thus did France make a not insignificant contribution to the progress and the result of that warfare which M. Poincaré so justifiably deplores.

5. Not content with wrongly charging the British government with a special degree of responsibility for the continued Greek resistance to the forces of Angora, M. Poincaré, in his note, bases a none too friendly attack on myself on the correspondence which passed between M. Gounaris and me last spring. If he will re-read the note which I addressed to M. Gounaris on the 6th March last, he will find that I expressly stated that the only hope for Greece was to place her case in the hands of the allied Powers and to trust to their diplomatic intervention to secure peace. My note was couched in terms of courtesy in reply to the frank statement

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which M. Gounaris had given me of the unfavourable military position in which the Greek army then stood. It would have been singularly ungracious to answer such a note with any harsh and unsympathetic language. But the purport of my answer was in no sense equivocal, in that it informed the Greek government, as, indeed, I had personally informed M. Gounaris four months earlier, that the moment had arrived when they must submit to the diplomatic mediation of the Powers rather than invite further military disaster. No one should be better aware of this than M. Poincaré himself, since on my return in January 1922 from Cannes, where I had arranged for an almost immediate conference at Paris in order to press Allied mediation equally upon Turkey and Greece, with the view of securing the prompt but peaceful retirement of the Greek armies from Anatolia, I had the pleasure of seeing M. Poincaré, who had just become Président du Conseil, and of concerting with him an early meeting of the proposed conference—a meeting which was in fact only delayed till the latter part of March owing to the retirement of the Italian Premier, Signor Bonomi, who was to have represented Italy, at it. The suggestion therefore, which is directly made in M. Poincaré's note that the adventurous policy of Greece received support from me, is not only contradicted by the known facts of the case, but is wholly without justification.

6. The essential importance of M. Poincaré's note lies, however, not so much in the recriminations which he has chosen to address to His Majesty's government in respect of the past, as in the warning which he utters regarding the future. His language appears to admit of no other interpretation than one which implies a formal repudiation by France of the pact of September 1914. It is difficult to follow the reasoning by which he arrives at the conclusion that this pact no longer applies.

7. The stipulations contained in the agreement of the 5th September, 1914, were absolutely precise; and it is to be noted that they were textually re-affirmed, subsequently to the entry of Turkey into the war—at the time when Italy had joined the allies—by the Declaration of the 20th November, 1915. By these stipulations, the allied governments mutually engaged "not to conclude peace separately during the present war," and agreed "that when terms of peace come to be discussed, no one of the allies will demand conditions of peace without the previous agreement of each of the other allies."

8. There is no question here of a "period necessary for the negotiation of peace," which M. Poincaré now categorically announces, on his own authority, to have terminated—"Ce temps est passé." How "the present war," which, according to the agreement, is the period during which no separate peace is to be made, can be declared to have ended before peace has in fact been concluded, is not understood. At none of the numerous allied conferences at Paris between the representatives of France, Great Britain and Italy, which I have had the honour to attend in the time both of M. Poincaré and his predecessors, has it ever been suggested that the war with Turkey was over, or that the period necessary for the negotiation of peace had passed. On the contrary, every one of those conferences was directed to bringing the unterminated war to a termination and to adapt the allied conditions of peace to the altered circumstances of the hour. Why were the three great allies thus continually and earnestly collaborating, except upon the assumption that peace could only be concluded by them in common? If all the while the fatal hour was approaching when collective responsibility was to cease and individual initiative was to take its place, why was no hint of the impending revulsion ever given? It cannot, surely, be argued that the words "the present war," in the Declaration of 1915, do not cover the war between the allies and Turkey, and that we are now dealing only with what M. Poincaré terms the separate war ("guerre particulière") between Greeks and Turks. No doubt the treaty which the allies have been endeavouring to conclude at Lausanne was to put an end to the war between Greece and Turkey. But much more was it intended to establish peace between Turkey and the allies and to substitute for the unratified treaty of Sèvres an instrument which should definitely terminate the state of hostility still existing between the Turkish State and the Powers who declared war against Turkey in 1914. How then can it be maintained that the Declaration of 1915 does not preclude France from entering into a separate peace with Turkey?

9. Furthermore, to revert to the explicit proviso that when terms of peace come to be discussed, no one of the allies will demand conditions of peace without the previous agreement of each of the other allies: when M. Poincaré now says that the time necessary for the peace negotiations has passed, it is not understood how this position can possibly be sustained. Has not M. Poincaré himself insisted with great force, in another note, to which I have already had the honour to reply—in my despatch

to your Excellency No. 473 of the 9th February—that there has been so far no break in the negotiations, that they continue, and that it is of the utmost importance to resume the discussions with the Turks at the point where they were left at the moment of the temporary adjournment of the Lausanne Conference? In the note now under reply it is said that when it becomes impossible ever to arrive at a collective peace between the allies and Turkey, it would be unreasonable to contend that no separate treaty might be concluded with that Power by any one of the allies. The contingency so contemplated must be assumed to be a failure on the part of the allies to agree among themselves as to the conditions of peace to be put forward in common, the implication being that it ought not to be left in the power of one recalcitrant ally, or group of allies, to prevent the conclusion of peace by holding out against conditions considered acceptable by the others. Without here entering on a discussion of the juridical value of this argument in the light of the very precise language of the Declarations of 1914 and 1915, I would observe that the above is not the contingency which has actually arisen, or which is threatening to arise. It is a very different situation with which the allies are at present faced. There is no disagreement between them as to the conditions of peace. On the contrary, they have with complete unanimity presented to Turkey a draft treaty which they have all declared to represent their common views and aims. If there is a danger of a breakdown of the present negotiations, it can only be because the enemy may refuse the terms on which the allies are agreed. Whatever juridical interpretation might be placed upon the wording of the Declaration of 1914, it is to be doubted whether even by the most ingenious casuistry the terms of that covenant could be twisted in such a way as to justify one of its signatories in concluding a separate peace with an enemy Power after joint allied terms had been presented to and rejected by that Power.

10. Nevertheless, these are the circumstances in which M. Poincaré now officially proclaims the right and the intention of France to sever herself from her allies, in contravention of the solemn engagement which formed the basis of Anglo-French co-operation throughout the war and during the critical years that followed, and to enter upon an independent course of action in the interest of France alone. The language of his note, and the form which he has given to it, leave no apparent doubt as to his resolve. Nor is that resolve deprived of any part of its precision by the assurance which he has been good enough to add that, when he proposes to act in the manner described, he will, as a special mark of his confidence and friendship, inform His Majesty's government in advance of his intention.

11. M. Poincaré's announcement seems in reality calculated to endanger the continuance of the Anglo-French alliance which has rested on the pact of 1914 as its foundation. It can hardly be interpreted in any other sense. And yet it is difficult to believe that the French government can have taken into full consideration the consequences that might be expected to ensue from the plan of action foreshadowed by M. Poincaré, if carried into effect. In the eyes of His Majesty's government, no issue more grave could have been raised. It is therefore important that they should be authoritatively informed whether the significance of M. Poincaré's pronouncement is meant to be such as, in their view, his words imply.

12. Your Excellency will read this despatch to M. Poincaré and hand him a copy of it, should he so desire.

I am, &c.
CURZON OF KEDLESTON.

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TURKEY. [March 1.]

CONFIDENTIAL. SECTION 1.

[E 2217/1/44] No. 1.

The Marquess Curzon of Kedleston to the Marquess of Crewe (Paris).

(No. 751.)

My Lord, *Foreign Office, March 1, 1923.*

WITH reference to your Excellency's despatch No. 482 of the 26th February, I have to request that you will inform the Président du Conseil that I have carefully considered his note of the 22nd February regarding the present validity of the pact of the 5th September, 1914, and that I find it impossible to accept his argument that the resumption of hostilities between Greece and Turkey in Asia Minor brought that agreement to an end, in spite of the fact that one of the enemies of France and Great Britain in the world war has not yet concluded peace with them. As, however, M. Poincaré must have fully weighed the possible consequences of his grave decision and the arguments with which I have already endeavoured to controvert it, it seems useless to continue this correspondence, and His Majesty's Government must reserve to themselves the right to take such decisions and such action as the new situation arising from M. Poincaré's statement may render necessary in the future.

2. Your Excellency should at the same time express to M. Poincaré the confident hope of His Majesty's Government that the friendship of the two peoples and, in particular, their co-operation in settling the affairs of the Near East may continue.

I am, &c.

CURZON OF KEDLESTON.

[268 a—1]

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TURKEY. [May 2.]

CONFIDENTIAL. SECTION 1.

[E 4473/35/44] No. 1.

The Marquess Curzon of Kedleston to the Marquess of Crewe (Paris).

(No. 1547.)

My Lord, *Foreign Office, May 2, 1923.*

THE French Ambassador came to me this afternoon with a telegram from M. Poincaré in which the latter asked me to join him in protesting to the Turkish Government against the alleged despatch of large Turkish forces in the direction of Syria as involving a distinct menace to the *Entente* and a threat to the maintenance of peace. M. Poincaré was sending reinforcements of troops in that direction and he thought it would be a good thing if the Turks realised that the British Government were prepared to take similar action.

I replied that I could not help being amused at this appeal from M. Poincaré. I recalled very well how, when I went over to Paris in the autumn of last year and appealed to M. Poincaré to strengthen the Allied position in Constantinople and the Straits, he replied to me over and over again, "Not a man." I recalled also how, when I pressed him to say what the French Government would do if the Mudania Convention were violated, and if the Turks forced their way into the neutral zones and embarked upon hostilities, he more than once replied, "Not a cartridge, not a shot." Here was the same M. Poincaré now not only sending the reinforcements, but threatening the cartridges and the shots, and inviting me to participate in the operation which he had so vehemently repudiated only six months ago.

While I did not desire to criticise the conduct of the French Government, and while I thought it might be even helpful in bringing the Turks to an understanding of the realities of the situation, I did not feel disposed to take part in a joint representation until the military menace, which was apparently directed against Syria, was applied to the frontiers of Irak, for which Great Britain was more directly responsible. In that case, I should not ask the French Government to join me in protesting to the Turks; I should do it on my own account.

I thought, indeed, that the French protest was more likely to be successful if it was made independently. The real place for joint action was at Lausanne. It was only because there had not been that joint action in the concluding stages in February last that the treaty had broken down. I was still pursuing the policy which I had adopted then. The French might rely upon His Majesty's Government to do all in their power to present a united front at Lausanne, but I did not see any occasion at the present moment for the joint representation to Angora which his Excellency had suggested.

He then passed on to say a few words about the question of Tangier. M. Poincaré had examined the formula which I had submitted with regard to the future internationalisation of the Tangier port and zone as the basic principle upon which the proposed conference between Great Britain, France and Spain should be held. M. Poincaré objected to this formula as involving too rigid a definition, and urged me most strongly not to persist in putting it forward, but to go into a conference in the general belief that we were not so widely separated as might seem the case, and that as the result of friendly conversations an agreement could be arrived at.

I replied that I saw nothing to justify this confidence. During the last three years I had made repeated efforts, both in correspondence with Paris, in personal conversations and in conversations between our respective representatives at Tangier, to arrive at the basis of an understanding between the French Government and ourselves. On each occasion these attempts had ended in complete failure, and, for my part, I had no idea of presiding over a conference here, which in three or four days from its commencement might break down because of an irreconcilable divergence of views on the main principle involved, thereby inflicting what might be a very serious blow to the *Entente* itself.

We already had trouble enough about the Ruhr. That, I hoped, we might survive, but if on top of the Ruhr we were to hold an abortive conference about Tangier, I should view the consequences with great apprehension. The conference was

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not one which I had sought. British interests in the matter were not as great as those of France, or of Spain, but I had volunteered my services because I understood that they were desired by both parties, and because there were definite British interests which, even if they might be inferior to those of the two other countries, were yet considerable. But I could not be responsible for courting certain failure, and if the conference did not take place the blame would not be mine.

The Ambassador thereupon reiterated what he had said a dozen times in previous conversations, that he did not see the slightest reason why an agreement should not be arrived at, or where there was any irreconcilable difference.

As soon as, however, he mentioned the French claim for the uncontested authority of the Sultan over the native population in Tangier, I reminded him that here was a point which, if I interpreted it as I understood the French to interpret it, raised a fundamental difference to start with.

As matters were not progressing between us, his Excellency, after repeating his confident belief that an agreement was easy, asked me if I would object to sending a Foreign Office expert to Paris to discuss the matter with a corresponding expert there.

I said that this was a suggestion which I was prepared to consider, although I must be clear that nothing was done that could be misinterpreted by the Spaniards as going behind their backs.

He said that in that case perhaps a Spaniard might also be admitted.

I reserved my reply to these suggestions, but promised it at a later date.

His Excellency then for the first time made a further suggestion which, upon enquiry, he said his Government might not very much like, but which he was persuaded that in the last resort they would accept, namely, that the League of Nations should be brought in some capacity or other into a settlement of the case.

When I asked him at what stage this introduction should take place, and what were the functions which he anticipated the League might be asked to perform, he replied that an international administration with conflicting interests was one of the worst forms of administration in the world, and would be certain at Tangier, as elsewhere in the world, to provoke repeated conflict, in which case the League of Nations might be a very desirable Appeal Court to which to refer. Further, he thought that it might be entrusted with certain powers of supervision, or control, which he did not, however, proceed more closely to define.

I said that I had long foreseen the possibility, or even the desirability, of bringing the League of Nations into the matter, at some stage or other, and that I thought the discussion well worthy of examination. I would look into the matter and speak again to his Excellency on the subject at a later date.

I am, &c.
CURZON OF KEDLESTON.

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PACIFIC ISLANDS. [June 27.]

CONFIDENTIAL. SECTION 1.

[A 3808/26/51] No. 1.

Colonial Office to Foreign Office.—(Received June 27.)

Sir, *Downing Street, June 26, 1923.*

I AM directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquess Curzon of Kedleston, copies of two despatches to the Governors-General of New Zealand and the Commonwealth of Australia respectively on the subject of the future of the New Hebrides.

I am, &c.
J. E. MASTERTON-SMITH.

Enclosure 1 in No. 1.

The Duke of Devonshire to the Governor-General of New Zealand.

(Secret.)

My Lord, *Downing Street, June 25, 1923.*

I HAVE the honour to transmit to your Excellency, to be laid before your Ministers, the enclosed copy of a despatch which I have addressed to the Governor-General of the Commonwealth of Australia relative to the future of the New Hebrides.

2. His Majesty's Government earnestly trust that your Ministers will give favourable consideration to the proposals contained in the despatch.

I have, &c.
DEVONSHIRE.

Enclosure 2 in No. 1.

The Duke of Devonshire to the Governor-General of the Commonwealth of Australia.

(Secret.)

My Lord, *Downing Street, June 25, 1923.*

I HAVE the honour to request your Excellency to inform your Ministers that His Majesty's Government have for some time had under consideration the position in the New Hebrides, which is still most unsatisfactory and which, so far as can be judged, is susceptible of but little improvement even when all the machinery provided for in the protocol of the 6th August, 1914, is working, as the difficulties which now attend the administration of the group are inherent in the dual system of the condominium.

2. The future of the New Hebrides was discussed by a committee presided over by my predecessor at the time of the Imperial meetings of 1921; the then Prime Minister of the Commonwealth and the Prime Minister of New Zealand took part in the discussion. The opportunity afforded by the Imperial Conference next October might, if necessary, be taken for further personal consultation on this subject between representatives of His Majesty's Government and the Prime Ministers of the Commonwealth and New Zealand; but in any event, it seems desirable to bring the matter to the notice of your Ministers forthwith.

3. For the discussion in 1921 a memorandum was prepared, a copy of which is enclosed with this despatch for reference. The fourth appendix to the memorandum* is annexed to the enclosed copy; but the other appendices, copies of which will already be easily available to your Government, are not attached. The record of the discussion shows that Mr. Hughes represented the strong interest taken by Australia in the islands from both a positive and a negative point of view. On the one hand, the Commonwealth Government has expended considerable sums on developing trade with the group, largely through the agency of the Burns-Philip line of steamers, and is naturally desirous of retaining this commercial advantage. On the other hand, the Commonwealth Government views with anxiety the introduction by the French of indentured labour from Asia into these islands which are comparatively near to Australia, and

* Not printed.

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would wish, if it were practicable, to be freed from this embarrassment. Further, the native population is diminishing, and on humanitarian grounds alone, some more satisfactory system of administration than that in vogue is called for.

The Prime Minister of New Zealand suggested that there might be a possible strategical value to the Empire in the islands, but apart from this aspect of the matter he did not express on behalf of his Government any definite interest in the future of the group, although he stated that he was not then in favour of partition of the islands between Great Britain and France.

It may be added that the Commonwealth Government had already stated that they were opposed in principle to partition, as recorded in your secret despatch of the 15th October, 1920.

4. The result of the discussion was, in effect, that for the present the existing system whereby His Majesty's Government administer the group jointly with the French Government must continue; that neither the Commonwealth nor the New Zealand Government would be prepared to assume the administration and financial responsibility in place of His Majesty's Government; that efforts should be made to bring into force as soon as possible the new protocol of the 6th August, 1914, and that enquiry should be pursued as to the practicability of buying out the Société française des Nouvelles-Hébrides, which owns or claims a very large area of land in the group.

5. It has been the constant endeavour of His Majesty's Government to bring the new protocol into force at the earliest possible date. As your Ministers are aware, the protocol was ratified in March 1922. The necessary Order in Council was duly issued, and the protocol has been published locally for general information by the British High Commissioner for the Western Pacific; but unfortunately, in spite of strong representations, the French Government have not yet agreed to its proclamation locally, that being the final step to render it effective for the nationals of each Power in the group. It is not necessary to detail the various representations made to the French Government, more especially as there is now reason to think that the French Government will concur in the proclamation of the protocol in the near future. The main ground for delay put forward by the French Government, namely, the inability of the Joint Court to function in the absence of the president, who probably cannot return to the New Hebrides until August, has now been overcome, as the post of public prosecutor has at length been filled and that officer will, as acting president, reopen the court this month.

Although the new protocol has not yet been proclaimed, preliminary action in several directions has been arranged with the French Government, and progress has been made in respect of the administrative system provided in the protocol, whereby the group is divided into districts at the head of which will be British and French agents. But, judging from past experience, it may be a long time before full effect is given to the new protocol even when brought into force; the smallest point may have to form the subject of diplomatic correspondence between His Majesty's Government and the French Government, and there is thus an almost unlimited opportunity for delays.

It must be understood that His Majesty's Government do not suggest that there is deliberate obstruction on the part of the French Government; the difficulties arise mainly from the system itself; but there is, it is feared, no desire on the part of the French authorities in New Caledonia to facilitate matters or to consider any of the numerous questions which arise except from a purely French point of view. It is the fixed idea apparently of the French local authorities as well as of the French settlers that the New Hebrides should become entirely French, and this attitude must tend to render the new protocol in practice ineffective. It would obviously be undesirable to make representations on such a matter to the French Government. Proof would be impossible, and the only result would be friction, which, at least in Vila itself, owing to the patience and tact of the British Resident Commissioner, has hitherto been markedly absent in the relations between the British and French authorities. But it seems well to mention this aspect of the matter, in order that your Ministers may appreciate fully the position.

6. As regards the Société française des Nouvelles-Hébrides, it would appear that there is no prospect of buying out their interests. His Majesty's Government have every reason to think that the French Government would refuse to tolerate this. In this connection, reference is invited to Mr. Churchill's despatches No. 517 of the 31st December, 1921, No. 124 of the 15th March, 1922, and No. 171 of the 26th April, 1922. But, in any case, assuming the French Government to raise no objection, and assuming the title of the society to be good, His Majesty's Government could not

provide funds, and from a recent communication received from the High Commissioner for the Commonwealth, it is understood that a revised offer of part of the interests of the company has been rejected by your Government. It is stated in the enclosure to Mr. A. Wilson's letter to the High Commissioner for the Commonwealth of the 22nd December, 1922, that the highest French legal advice supports the view that the French Government would have no power to interfere with the transfer of the properties of the society. But whatever the advice tendered, it may certainly be anticipated that the French Government would take measures against any action such as transfer of this property, which tended to diminish the strength of their position in the New Hebrides.

Incidentally, it may be mentioned that after the meeting in 1921, Mr. Hughes is understood to have discussed in Paris with French Ministers the future of the New Hebrides, and possibly this particular question, but His Majesty's Government have no record of what passed at the discussion other than the statements made by Mr. Hughes in the House of Representatives on the 5th October, 1921.

7. It may therefore be said that matters are very little advanced since the discussion which took place in 1921, and while, of course, His Majesty's Government will continue to do their best not only to secure that the protocol is introduced as soon as possible, but also to make the condominium system work, they feel compelled to urge that the position is so unsatisfactory that the possibility of some radical change must be seriously considered.

8. The condominium was an experiment in compromise; it seemed to offer a way out of an *impasse*, and it can fairly be said that it is preferable to the chaos which it supplanted. But there is general agreement that it has not succeeded. The ideals of administration of the British and French are different; there is an irreconcilability in methods and temperament which dooms joint administration of this kind to failure; the system is no less cumbersome than it is extravagant, and the results achieved by much labour are insignificant. Meanwhile, the British nationals are placed at a great disadvantage compared with their French competitors owing to the stringent regulations which His Majesty's Government feel it incumbent upon them to impose, *e.g.*, in regard to employment of native labour, and as a result of the impartial administration of regulations generally by the British authorities. It is not anticipated that the new protocol will do more than afford some small mitigation of these difficulties.

As regards extravagance, the fact that under the condominium there is a permanent duplication of appointments is sufficient to condemn the system. In the Joint Court, for instance, there must be two judges, one British and one French, as colleagues to the president, who is a neutral; for the police there must be separate forces, each with its own officer in charge, and for every district there must be two agents, one British and one French. The *reductio ad absurdum* of the system may be seen in the appointment of a French agent to the district of Tanna, in which there are no French nationals, but any suggestion that a French agent need not be appointed there is met with a blank refusal, the reason being that the French authorities suspect that it is a move in the direction of breaking away this district from the condominium and converting it into a British colony.

Many instances could be given to show that it is beyond hope to look for anything but the slowest rate of progress, even where the point at issue would appear to be perfectly straightforward, but one instance will suffice. A public prosecutor was required for the Joint Court. His Majesty's Government took the initiative and requested the French Government to make a joint approach to the King of Spain to nominate a suitable neutral, this being the procedure laid down by the protocol. In time, the two Ambassadors at Madrid received their instructions to make a joint submission to the Spanish Government, and the King of Spain selected provisionally a Dutchman. To this appointment the consent of the Queen of Holland was required, and the French Government was at once approached with a view to their sending instructions to the French Minister at The Hague to concert with the British Minister in seeking the Queen's concurrence. After some months' delay the French Minister received instructions. In due course Her Majesty's concurrence was signified to the two Governments. It was then arranged that the British and French Ambassadors in Madrid should inform the Spanish Government that the Queen of Holland had no objection to the appointment, and request that the King of Spain proceed with the nomination. The first step in this matter was taken by His Majesty's Government in April 1922; the nomination has finally been made with effect from the 9th May, 1923. The bare recital of the facts speaks for itself and needs no comment.

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9. In short, the New Hebrides as at present administered are a source of embarrassment to His Majesty's Government without any compensating advantage; and as pointed out by His Majesty's Ambassador at Paris as long ago as February 1919, the abolition of a condominium which is likely at any time to lead to friction between the two Governments would be greatly in the interests of both Powers. Strategically, His Majesty's Government would attach little or no importance to the islands, whereas a harbour in the eastern part of the Pacific would be of real strategical value in the event of naval action being necessary in the Pacific. Economically the group is of no value to Great Britain. Financially, as now administered, the islands involve an annual loss to His Majesty's Government of 11,000*l.* or more on "British Services" alone, and at any time His Majesty's Government may have to provide additional funds to make up the British share of any deficit on the condominium budget under article 5 of the protocol.

10. The question therefore arises as to possible alternative arrangements which would obviate the present wasteful and ineffective system. These are:—

(*a.*) Cession of the islands to Great Britain by France;
(*b.*) Cession of the islands to France by Great Britain; and
(*c.*) Partition of the islands between Great Britain and France.

(*a.*) The first of these suggestions is that which the Commonwealth Government has on previous occasions desired, and no doubt it commends itself in many quarters. As recently as the 27th March, in your despatch No. 111, you have forwarded a resolution from the Presbyterian Church of Australia urging that the islands should be taken over by Great Britain and administered as a Crown colony.

This, however, is out of the question, as the French Government would not consent to part with their rights in the islands on any reasonable basis. Exchange with territory in some other part of the world is impracticable as explained in the memorandum enclosed, so that even if cession were accepted by the French Government in principle, it would be necessary to find the *quid pro quo* in the Pacific, and this in itself would present insuperable difficulties. The French attach an importance to the islands which it is not perhaps easy to appreciate. It appears to be due in a large measure to sentiment. French ambitions for Colonial Empire are high, and there is no lack of writers in the French press to foster the idea that the New Hebrides must become a French possession.

His Majesty's Government are aware that arguments might be put forward in support of cession by the French which would appeal strongly to those interested in the welfare of the islands both in this country and in Australia, but they are satisfied that any approach to the French Government on these lines would be useless, the only result being to intensify French suspicions of British aims in the group and thus to do more harm than good.

In this connection I may invite reference to my confidential despatch of the 18th December last, from which your Ministers will have observed that at the interview with the deputation of missionaries introduced by the Bishop of Melanesia the opportunity was taken to make it clear that if the only alternative admitted to the present régime were cession by the French, then the condominium must continue with all its inherent difficulties and embarrassments.

(*b.*) Cession by Great Britain to France would be extremely popular with the French Colonial party, and it would presumably be welcomed by the French Government. It would, of course, be necessary to provide for the due preservation of the rights of any British subjects in the New Hebrides and to ensure that the activities of British missions should not be curtailed, but there is no reason to think that the French Government would not give the necessary guarantees. The question, of course, arises what countervailing advantage could be obtained. Looking at the proposition purely from the point of view of the security of the dominions and colonies in the Pacific, His Majesty's Government would suggest that the French Government should cede to Great Britain an island or islands in the Eastern Pacific which would provide a good harbourage. There would seem to be no useful purpose in insisting upon large territorial compensation. No financial or economic loss would accrue from the cession of the islands. On the contrary, there would be a distinct financial gain, while the acquisition of a good harbour in the Pacific on the great circle route from and to Panamá would, in the opinion of His Majesty's Government, be a material advantage. It is difficult to anticipate what the French view of such a proposal would be. The French are notoriously averse from ceding any French territory, but an exchange of the nature indicated would not appear to be out of the question, as it would satisfy the

demands of French sentiment in respect to the New Hebrides on which the feeling is so strong, and for parliamentary purposes in France the exchange could obviously be represented in a very favourable light to French interests.

(*c.*) The third course is partition of the islands. Although the dominion Prime Ministers were not disposed at the discussion in 1921 to agree to this, it would seem to offer a solution that might well be acceptable not only to the French Government as indicated in the enclosed memorandum, but also to British organisations which have interested themselves in the New Hebrides, more especially the missions. The utmost devotion has been shown by the various missionary bodies which have entered the field in this area, and His Majesty's Government fully realise the reluctance that would be felt by these organisations to the handing over of the natives to a Power in which, it is understood, some at any rate of the missions would have less faith as a protector of native interests than in Great Britain.

It is not necessary to consider at this stage where the line of partition should be drawn, but it would be unreasonable to suppose that a fair division could not be arrived at, and I may say that, when I received the Bishop of Malanesia and his deputation, the hint which was given as to partition appeared to be received not unfavourably.

There is much to be said for such an arrangement. It is true that the possibility of a strategical gain as under (*b*) would be lost. But from the humanitarian side, it is a fair argument that it is better for Great Britain to assume definite control over a part of the islands, and to do all that is possible for the natives in that part, than to continue the divided control of the whole, and share the responsibility for the failure to conserve and protect adequately the interests of the whole native population. Financially, there should be a saving to His Majesty's Government. Economically, the Empire would neither gain nor lose, while the interests of the Commonwealth should not be adversely affected. From the point of view of indentured labour, the position would not be less satisfactory to the Commonwealth Government than at present; for, in existing circumstances, His Majesty's Government are powerless to prevent the French Government from importing Asiatic labour into the group for the use of their own nationals.

11. If it should be agreed to initiate negotiations with the French Government, it does not follow that this could be done immediately. A suitable opportunity must be awaited for opening the matter, and in the meantime His Majesty's Government would continue to do all that they can to carry into effect the new protocol with the same care as if there were no possibility of the abolition of joint control. But they trust that your Ministers will give their most earnest consideration to the whole question, and that they will agree that the time has now come when His Majesty's Government should be free to propose to the French Government the abolition of the existing system on lines other than the cession of the islands to Great Britain.

His Majesty's Government would of course keep closely in touch with the Commonwealth Government and the Government of New Zealand in the course of any discussion with the French Government, and they would welcome the assistance of representatives of those Governments when active negotiations for a settlement are instituted. As at present advised, His Majesty's Government think that if the question is taken up with the French Government it should be on the basis that both alternatives (*b*) and (*c*) should be open to discussion. But if your Government feel very strongly that one is preferable to the other, they would be quite ready to press for that alternative unless it should be found that no progress could be made in that direction.

12. A copy of this despatch is being sent to the Governor-General of New Zealand with the request that the views of his Ministers also may be communicated to His Majesty's Government, and I am forwarding copies to the High Commissioner of the Western Pacific for his information.

I have, &c.
DEVONSHIRE.

Enclosure 3 in No. 1.

Memorandum respecting the New Hebrides.

THE New Hebrides extend over more than 7 degrees of latitude with a total area of about 5,000 square miles. Discovered in 1606, they were named and charted by Cook in 1774. The native population was estimated in 1910 at 64,000, steadily decreasing. It is believed that some of the islands have lost more than three-fourths of their population in fifty years.

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The first missionary settlement was made in 1848 shortly after a trade in sandalwood had started. By 1875, at which date there was no French settlement or trade, the British missions had some thousands of converts and numerous prosperous British plantations existed. Measures taken to control the recruitment of Pacific Islanders, which had often been mere slave-raiding, ruined these planations and the opportunity was seized by an Irishman named Higginson, who had become a naturalised Frenchman, to form a French company which bought up most of the British estates.

In 1878 an exchange of notes took place with the French Government, in which both Powers disclaimed any intention of annexing the group. In 1886, however, the French Government, on the plea that a number of French citizens had been murdered, sent a military expedition, which occupied the three main stations and, despite assurances, behaved as if the islands had been annexed. Great excitement was roused in Australia and after prolonged pressure from His Majesty's Government and a promise to recognise the cession to France of Raiatea in the Eastern Pacific the French promised to withdraw as soon as a Joint Naval Commission to maintain order and protect lives and property could be established. The convention of the 16th November, 1887, and the declaration of the 26th January, 1888, effected this compromise.

The Joint Commission kept order with fair success, but could not deal with land claims, questions relating to which became acute in 1901. In 1903 the French Government suggested a partition of the islands as a solution. But the attitude of Australia, though the Commonwealth Government was informed that the group was not regarded as of strategic value, made this solution impracticable. The Australian and New Zealand Governments continued to urge that the French Government should be induced to agree to annexation by Great Britain. Negotiations were then set on foot which ultimately led to a conference in London and the convention of the 29th October, 1906. The Governments of Australia and New Zealand were indignant with the manner in which the convention had been arranged without consultation with them and declined any responsibility. They took particular objection to the general principle followed, that joint government should be restricted within the narrowest possible limits.

The convention asserted the paramount rights of the two Powers, with jurisdiction over their nationals under two High Commissioners; provided for the institution of a Joint Court with a neutral president and made some complicated provisions with regard to procedure and powers in criminal and civil cases, particularly land suits. Detailed arrangements for the Joint Court were made by an exchange of notes on the 29th August, 1907, and the convention was proclaimed at Vila on the 2nd December of the same year. The court was officially opened on the 25th November, 1910, and began regular sittings in March 1911.

As means of protecting the native the convention proved a failure, largely owing to the rigid, French method of interpretation. The attempt to deal judicially with serious native offences broke down altogether, and they continued to be dealt with by the rough and ready, and probably, illegal methods of the Joint Naval Commission. Difficulties were brought to a head by decisions that, though assaults on natives by employers came under the convention, assaults by agents of employers did not; and by the absence of power to arrest or to enforce fines which, as the president complained, brought about a state of affairs in which the judgments of the Joint Court were held in contempt by the French. The tendency, indeed, of the French was to refuse recognition of the Joint Court at all. Whereas the British acted loyally towards the condominium, the French endeavoured to treat the New Hebrides as French territory, and to push French interest, right or wrong.

The French Government were accordingly invited to discuss amendments, and a conference sat in London from June to August 1914. In spite of difficulties caused by the stress laid in French law and policy on full maintenance of authority over nationals, unexpected success was obtained, and a draft convention was drawn up covering amendments providing for, *inter alia*, extension of joint services to native courts, prisons, land registry and survey; provision for a code of native law; powers to the Joint Court to enforce its authority; admission of the principle of joint execution of Joint Court judgments (an important concession); institution of a system of land registration; and some slight, though still insufficient, improvement in protection of natives. The British representatives failed to secure prohibition of recruitment for places outside, or of the introduction of labourers from outside.

The draft convention was referred to the Governments of Australia and New Zealand, but no definite replies were received, and the subject was shelved during the war.

In 1919 the British representation at the Peace Conference decided that it was undesirable to raise the matter, though Mr. Massey was anxious for it to be taken up

with a view to exchanging New Caledonia and the New Hebrides for territory in Africa or Asia. In 1920, however, the president of the Joint Court ascertained unofficially that the French Government might not be indisposed to agree to partition. This proposal was referred to the Governments of Australia and New Zealand, but while the latter was prepared to consider such a scheme, the former stated that the only change in the political status of the group which the Commonwealth Government could favour would be control of the group by Great Britain alone, or, if more acceptable to France, by Australia, or by Australia and New Zealand in conjunction. They again referred to the possibility of France giving up her rights in exchange for territory elsewhere, and in the meantime considered that the condominium must continue.

The French Government enquired in 1921 whether the 1914 convention could not now be brought into force. The Foreign Office have been informed that the whole question of the future of the New Hebrides will be discussed with the Prime Ministers of Australia and New Zealand.

As Australia objects to partition, the possible alternatives appear now to be, either to bring the 1914 protocol into force and to endeavour to improve and extend the existing joint judiciary and administration; or to arrange an exchange whereby the New Hebrides shall fall entirely to one Power.

The first alternative requires the resuscitation of the Joint Court, which has been completely suspended since May 1920. The president, native advocate and registrar are now on leave. The public prosecutorship is vacant. The British judgeship is vacant. The French judge is in bad health and on leave. The Joint Naval Commission had ceased to exist from the outbreak of war. On the other hand, the administrative services appear to be functioning fairly well. The condominium revenue at present just covers the condominium expenses, estimated at 22,874*l.* for 1921, including the Joint Court, police, works (such as they are), port, customs, post and telegraph. The British services, that is, the Resident and Assistant Resident Commissioners, Inspectors of Labour, Prison and Government Yacht, cost the Imperial Treasury about 8,000*l.* a year.

It is improbable that a satisfactory candidate could be found for the British judgeship at the present rate of salary 17,500 fr., with a bonus of 6,500 fr., and the question of an increase is under consideration. As soon as a British judge is available there would be no difficulty in setting the court to work again. The president is willing to return.

On the second alternative, exchange, the views of the British Governments interested are divergent, New Zealand has always attached importance to securing control of islands in the Eastern Pacific and, though desiring to maintain British rights in the New Hebrides, has been prepared to sacrifice them with that object. Australia has consistently declined to consider any such proposal.

The question of the New Hebrides was considered at length in Part II of the first interim report of the Sub-Committee on Territorial Changes of the Committee of Imperial Defence, dated the 25th January, 1917. The sub-committee recommended the solution preferred by the Colonial Office (see Appendix (D) to the report) and supported on strategic grounds by the Admiralty, that British rights in the New Hebrides should be exchanged for the islands lying between the Cook Islands and Pitcairn Island.

The difficulties in the way of the Australian proposal that France should cede the New Hebrides in exchange for African or Asistic territory are heavy. Indeed, in 1913 His Majesty's Government, in response to a suggestion to that effect, definitely refused to hold out any hope that it would be possible to offer any concession which the French would regard as adequate.

In the opinion of the Secretary of State for Foreign Affairs, the present moment is inopportune for negotiating any exchange of territory with France. If, therefore, exchange and partition are to be ruled out, it only remains to bring the protocol of 1914 into force. The French Government, as already stated, are prepared to do this, but it will no doubt entail increased expenditure.

In conclusion, a few words may be added on the present relative position of French and British influence in the group. Apart from sentiment and the proximity of the group to New Caledonia, the French claims are stronger owing to the predominance of their interests. In 1920 there were in the group 265 British Europeans and 5 British Asistics, 656 French Europeans and 165 French Astistics. Other foreigners (mostly Asistics) numbered 212, of whom 162 were under French régime. The French have thus made a considerable advance since 1910, when the numbers were 288 British and 566 French.

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The group is almost entirely dependent on Australia for imports. Those on British and French account have not differed greatly, the average for the years 1915–19 having been 42,380*l.* on British and 60,220*l.* French, but the export trade is mainly French, corresponding averages being 47,493*l.* and 153,896*l.* And while the British exports have remained stationary, French exports have doubled in five years and are now nearly five times the value and six times the bulk of the British. The latter are almost confined to copra, but the former include also cocoa, coffee, cotton and maize.

This increasing predominance in production is mainly due to the success of the French in obtaining labour which, as in all the Pacific Islands, is extremely scarce. While the British annual average of recruitments fell from 437 for 1912–13–14 to 388 for 1918–19–20, the French average rose from 897 to 1,296. This does not fully represent the French superiority, as they induce the native to engage for longer periods. The number working for British employers in 1919 was 855. For the French it was 2,760, plus a certain number of indentured Asistics. The French also recruit for New Caledonia.

With regard to land, in 1911 the British Resident Commissioner estimated British claims to be 14,754 acres surveyed and 330,800 unsurveyed; those of the Société française des Nouvelles-Hébrides to be 672,500 surveyed and 108,000 unsurveyed. The last figure may be an underestimate, as it has been stated that the French claims cover nearly the whole group.

These statistics show that French population and trade steadily advances, while the British are stationary or decreasing.

The French progress is largely due to methods repugnant to British ideas, among which may be mentioned irregular occupation of native lands; the absence of any proper control over recruiting (particularly recruitment of women, forbidden to the British) or of the treatment of labour; purchase of native lands by exchange of guns; constant evasion of the liquor regulations; and commerce with native women which provides half-castes, some of whom are now wealthy and influential. It must also be noted that the French have no prejudice against the introduction of Asistics under indenture.

The French Société des Nouvelles-Hébrides received fifteen annual subventions of 360,000 fr. from 1894, but it is not known whether the subsidy was continued. Tariff preferences given by New Caledonia and the visits of subsidised French steamers have been to some extent set off by Australian subsidies to a steamship line. But the Commonwealth has always declined to grant a tariff preference.

The mainstay of British influence is the Presbyterian Mission, which is the most powerful mission in the group; but the Marist Mission (French Roman Catholic) is making headway.

Colonial Office, June 23, 1923.

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GERMANY. [September 3.]

CONFIDENTIAL. SECTION 1.

[C 15069/1/18] No. 1.

Mr. Phipps to the Marquess Curzon of Kedleston.—(Received September 3.)

(No. 2038. Confidential.)

My Lord, *Paris, September* 2, 1923.

WITH reference to my telegram No. 791 of the 28th August, I have the honour to inform your Lordship that, after hearing from you that you were on the whole in favour of the proposed conversation between the Prime Minister and M. Henry de Jouvenel at Aix-les-Bains, I yesterday sought an interview with M. de Jouvenel and told him, at the suggestion of Mr. J. C. Davidson, that he might expect a direct reply at Geneva to his suggestion. I thought it well to add that I was convinced that the Prime Minister's chief preoccupation would be not to convey to anybody the idea that by agreeing to such a conversation he intended in any way to endeavour to go behind the back of M. Poincaré. M. de Jouvenel quite understood this, and assured me that such was also his feeling, and that he would, in fact, inform M. Poincaré in due course of whatever might pass between himself and the Prime Minister in case the interview should take place. He had not consulted M. Poincaré beforehand on the matter, as that would have made things less easy by giving him the appearance of fulfilling an official mission. He again stated that M. Poincaré's attitude recently had undergone a distinct change, and that he was now, very much more than formerly, desirous of coming to an arrangement with Great Britain. I trust therefore that the hope has materialised which I ventured to express in my telegram No. 759 of the 16th August to the effect that the prevalent desire to avoid a breach with England would end by making itself felt even on the unyielding personality of the President of the Council.

I then made a personal appeal to M. de Jouvenel, which I told him that I had no authority or instructions to do. I pointed out that the *Entente* was now at a very dangerous turning point, and that if any conversations took place before the Prime Minister left France, as to which I had no information, they would be in the nature of a last card played with a view to the maintenance of that *Entente*. During the coming weeks, therefore, it was more than ever necessary to create as friendly an atmosphere as possible between the two countries. I fully realised the importance of the powerful journal over which he presided, and I much regretted to note that of the entire French press it was probably the one which published the most frequently disagreeable articles against Great Britain. Could he not use his undoubted influence in order to bring about a change in this respect? M. de Jouvenel smiled, and began by remarking that the "Matin" was a republic in which everybody did more or less as he pleased. His political duties had lately made great demands upon him, and had prevented him from taking as large a part as formerly in the supervision of the "Matin." He afterwards promised me, however, in all seriousness, to use his influence during the coming weeks in the sense I had suggested. I observed that I was not asking for perpetual peace, but only for a few weeks' truce, after which, if a definite peace were not concluded, the hard hitting against England could be resumed.

M. de Jouvenel declined to take very seriously the Greco-Italian imbroglio, and he remarked that provided Great Britain and France were able to compose their differences, that conflict need not be taken too tragically, indeed it might even do good by diverting public attention from those differences. He observed, however, that in his opinion this was an occasion, if ever, for the League of Nations to act with promptitude and decision, and he had every hope that the British and French delegates would work in the closest harmony in this matter and thus set an example of co-operation for other and far graver questions.

I do not know whether M. Poincaré will be so far influenced by the prevalent desire to avoid a rupture of the *Entente* as to abandon the strongly entrenched position which he at present occupies, nor can I prophesy to what extent M. de Jouvenel's restraining influence will make itself felt over the "Matin," but I feel that it would be highly desirable on the English side if the press could, during these next few critical weeks, adopt as reasonable an attitude towards France as possible. If, for instance, the fiery steeds harnessed to Mr. Garvin's chariot of metaphor could be kept in their

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stable or, failing that, be fed on hay rather than on oats, it would largely contribute to the creation of that atmosphere of cordiality and mutual self-confidence without which any lasting agreement between the two countries will be impossible of achievement. Great Britain will then be able, as she usually has been able in the past, to feel that she, for her part, has gone considerably more than half-way to meet her Ally in the great war.

I have, &c.
ERIC PHIPPS.

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GERMANY. [December 15.]

CONFIDENTIAL. SECTION 2.

[C 21607/313/18] No. 1.

The Marquess of Crewe to the Marquess Curzon of Kedleston.—(Received December 15.)

(No. 2835. Confidential.)

My Lord, *Paris, December 14, 1923.*

AS I have had the honour to report on more than one occasion, since the results of the general elections in the United Kingdom have been known public and official opinion in this country has been distinctly perturbed with regard to the effect on Anglo French relations. A feeling prevails that the French Government has allowed to slip an opportunity which may never recur of improving the chances of co-operation between the two countries. A natural result of this state of affairs has been a desire to avoid taking any step here which would be likely to complicate a delicate and somewhat uncertain situation. This may be said to some extent to have brought about an atmosphere of accommodation due to the realisation by the French Government of the danger of doing anything at present directly contrary to the views of His Majesty's Government.

I have endeavoured, by discreet and indirect means, to cause it to be intimated in suitable quarters here in touch with the French Government that it is of the first importance that this attitude of caution should be maintained at the present moment. Without in any way involving His Majesty's Embassy, I have, I think, succeeded in bringing home this warning, and by the same methods have emphasised the importance of giving publicity to any measures of relaxation of the pressure in the Ruhr district such as were announced in the press a short time ago and reported to your Lordship in my telegram No. 1066 of the 4th December. The persons to whom these views have been conveyed have expressed themselves as in agreement with them, and I have reason to believe that they have reached both the President of the Republic and M. Poincaré.

It is no doubt in consequence of my action that a statement has appeared in the "Petit Parisien" to-day headed "Measures of clemency in the Ruhr." This announcement states that it is reported from Düsseldorf that 213 orders of expulsion issued against officials in the Ruhr have been reversed, that this measure is only a beginning, and that it is taken in consequence of General Degoutte's statement that the end of passive resistance has really been attained and that the occupation régime is to be modified. The "Petit Parisien" continues that France wished to observe this clement attitude from the beginning of the occupation and was only compelled to abandon this intention in consequence of provocation from Berlin. If things go on well in the Ruhr, the "Petit Parisien" foresees that a system of "economic occupation" will take the place of the present military control, and that the change "will not fail to secure lively appreciation on the part of certain of our allies."

I am aware that, as reported in my telegram No. 1076 of the 11th instant, some of the reports which have appeared in the press in regard to the modification of the occupation régime have been inaccurate, but I hope, nevertheless, that the realisation of the delicacy of the position in regard to Anglo-French relations will have its effect on the system in the Ruhr.

I trust that your Lordship will approve the action which I have taken.

I have, &c.
CREWE.

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Confidential: Not for publication.

The Anglo-Japanese Agreement and the Covenant.

While the first part of the preamble is not inconsistent with any article of the Covenant it would be more in harmony with facts if some reference to the League were made in the Preamble of a new agreement.

The following is suggested:-

"The Government of Great Britain and the Government of Japan, having in view the important changes which have taken place in the world-situation since the conclusion of the Anglo-Japanese Agreement of July 13,1911, and more particularly the institution of the League of Nations, to the obligations of which as embodied in the Covenant both parties are pledged, and believing that a revision of that Agreement responding to such changes is incumbent upon them, have agreed upon the following stipulations to replace the Agreement above-mentioned and with the objects of:-"

(a) There is nothing in the first object mentioned which is inconsistent with the Covenant.

(b) It is suggested that the first part of this should be worded to accord with Article K of the Covenant as follows "The preservation of the common interest of all powers in China by ensuring the territorial integrity and existing political independence of the Chinese Republic."

(c) In the absence of any definition or description of the phrase 'special interests' the second part of this is not consistent with the 'open' relations prescribed in the preamble to the Covenant.

ARTICLE I.

No comment.

ARTICLE II

The article providing for 'conducting war in common' is not consistent with Art: 11-17 of the Covenant. In these articles the procedure is laid down in the case of unprovoked attack on a member of the League by another member or a non-member. 'Agressive action' on the part of either a member or a non-member against a member of the League is not sufficient to involve that member in war. Japan and Great Britain are pledged to carry out the procedure laid down in the Covenant in the case of disputes between members and non-members.

The following as more consistent with the Covenant is suggested:-

"In the event of any dispute between either High Contracting Party and any other Power or Powers in regard to any matter covered by this agreement, the other High Contracting Party will come to the assistance of its ally in any defensive action which it may be necessary to take pending the decision of the Council of the League as to the measures to be taken to settle the dispute."

ARTICLES III, IV., V. & VI.

No comment.

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C 41119

MOST SECRET.

February 1, 1921.

THE ANGLO-JAPANESE ALLIANCE.

1. The problem of the Anglo-Japanese Alliance has rightly come to be felt as one of the most important now confronting the British Empire. As time goes on and the significance of the recent shifting of world forces and interests becomes more sharply realized it is questionable whether any decision will appear to have been more vital than the decision to be taken this year on the renewal or termination of the Alliance. For on the one hand it has a direct and far reaching bearing on the possibility of a real English speaking concord, and on the other it may quite conceivably have effects on the bonds of sympathy and understanding within the Empire itself. The question will come for decision before the June meeting of Prime Ministers in London. It is the object of these notes to indicate the considerations that govern the problem,and to suggest that as preliminary and indeed essential to the discussion in June certain steps should be taken at an early date.

2. It will be convenient here to sketch briefly the history of the Alliance. It was first concluded in 1902 to extend for a period of 5 years. The objects were -

(a) broadly, the preservation of the status quo and general peace in the Far East;

(b) as to China, her independence, her integrity, and the "open door";

(c) in view of the Russian eastward advance menacing Japan, the isolation of the pending struggle between Russia and Japan and the prevention of Armageddon in Europe.

3. In 1905 the Alliance was renewed with amendments for a period of 10 years. As to the Far East the objects remained the

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same - that is, (a) general peace and (b) in respect of China, her independence and integrity and the "open door". But the scope was now extended from the "Extreme East" to cover (c) "the region of Eastern Asia and India". Our motives had thus changed. In the Far East Japan was now the dominant Power, not Russia; but elsewhere in Asia, especially in India, Russia still appeared as a menace. Again there was the possibility of a Japanese-German combination. So that the friendship with Japan gave the Empire a measure of security against these dangers and reduced our naval and military liabilities in the East generally. To Japan it yielded prestige and influence and the prospect of peace to consolidate the position in Asia she had secured as the result of her victory over Russia.

4. In 1911 there was a further renewal, with amendments, for a period of 10 years. (a) Peace in the Far East and the three desiderata concerning China - independence, territorial integrity and the "open door" - still remained of course as important objects. But in other directions great events were occurring; in the effort to maintain the balance new forces were being thrown into the scales of power; and consequently new motives were seen for the Alliance. Japan and Russia had come to a working arrangement over Manchuria. To secure India we had reached an agreement with Russia concerning Persia and Afghanistan. In Japan much feeling against the United States had arisen over immigration and Chinese commercial questions. From the British viewpoint however the most vital object was (b) to offset in some degree the growing menace of the German fleet and of the whole European crisis. The Alliance was designed in this aspect to free the hands of the Empire to meet the approaching storm at its centre. By this time the Dominions had begun to assert an effective voice in foreign affairs, and accordingly the question of renewal was put before them. They were somewhat prejudiced against it because of the immigration question, but after discussion at the Imperial Conference

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of 1911 it was approved, though Australia abstained from voting. The renewal this time was however made subject to a new stipulation designed to make it clear that the British Empire in no sense contemplated a war against the United States as being in any way involved in the Alliance.

As for the European crisis the Alliance may be said to have served its purpose well; but that it has done so in respect of China is questionable.

5. Facing the question today, we may choose between three possible course: (a) Renewal outright, (b) Modification in the shape of abolishing the military obligations, or (c) Termination of the Alliance.

In estimating these alternatives it is of course essential to take into account the radical changes in the position of the world brought about by the events of the past six years; and it will quickly become apparent that if the Alliance is to be renewed it will be as the result of quite different motives from those that ruled in the past, and that its repercussions on other countries will be of a quite different order.

6. The position has indeed changed in almost every respect. Today the German power has disappeared and with it the former menace to Europe. The Russian Empire too has disappeared; whatever the menace of Bolshevist Russia may be, it is clearly of a different order from that which inspired the Anglo-Japanese Alliance of the old days. In these directions certainly we cannot find reasons for the renewal of the Alliance in the old sense. Of course the revival of Germany and Russia is possible, and a Russo-Germanic-Japanese combination perhaps conceivable; but we certainly have not come to that bridge yet, nor even to anything remotely resembling it. On this score there seems nothing to be said for the Alliance; it is better to hold to the traditional British attitude, to avoid alliances until driven to them

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by the practical necessities of a clearly felt crisis. There is another conclusive objection to an Alliance based upon the apprehension of such a revival and combination: public opinion in the Dominions would simply not respond, would surely even be repelled in most unmistakable fashion.

7. There remains the special position in the Far East. Our objects there are still (a) the independence of China, (b) the integrity of China and (c) the "open door" in China. In addition there is also our desire for (d) peace and security for British territory and for good relations with Eastern Powers. As to the first three the success of the Alliance in the past is open to large doubts. The argument is that the special relationship with Japan, in spite of the divergence of our interests, enables us to talk more freely to her and to restrain her activities better than we otherwise could. On general grounds this sort of reason seems in itself a weak and uncertain basis for an Alliance, and the history of the Alliance shows that this in itself never was the whole reason. Again its success in restraining Japanese designs on China has not been overwhelming; the Chinese certainly do not think so. And we may be certain that Japanese designs on China and the mainland cannot abate; her pressure of population and, according to the best information, her real ambitions, all point that way. The danger is therefore that we may really, because of the Alliance, find ourselves in some sense implicated in a spoliation of China; for the thing cuts both ways; we cannot always be restraining our Ally, and by yielding here and there we may gradually become party to a complete Japanese hegemony in the Far East over which our influence will be of the most illusory sort. It is submitted that the case for the Alliance on this score is not convincing.

8. But it is when we come to consider the repercussions of the renewed Alliance upon other Powers that it appears most doubtful. As already indicated the case for the Alliance today must be made

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simply on its value as a Far Eastern arrangement; there are no convincing reasons for it in the European situation. There at once arises therefore the question whether other Powers than the members of the Alliance have important interests in the Far East, and here there really is no question. France and Italy may be dismissed as not vitally affecting the problem. There remain the United States and China. Of the latter it is difficult to say much today; her present state of instability is such that her voice will perhaps not be greatly felt in estimating the problem; though it is always worth considering whether we should lightly overlook the possibilities of that vast and ancient people. But of the United States there is no doubt whatever. She is concerned in the Far East, greatly concerned and in a special way. It is not merely an economic concern; there is a great body of feeling and opinion in the United States that has made her interest in this part of the world, and especially in China, political in a real sense, however uncertain and ineffective it has been in practice. This is indeed the only sphere outside the Western Hemisphere in which she has ever manifested such an interest, and she now regards it as part of her traditional foreign policy. If there is to be balancing we must admit that her interest there is at least equal to ours. We may be certain her interest will not abate. And the Alliance, always something of a stumbling block in the way of British-American concord, will not prove less so now that Armegeddon has removed the bases of the extra-Eastern motives - i. e. Germany, Russia, the European crisis generally- that made it in the event sufficiently intelligible to Americans. In these circumstances the case for renewal becomes still more doubtful.

9. We may approach this aspect of the problem from a still broader view. Considering the exhaustion of Continental Europe it is in the largest sense true that so far as our generation is concerned the War has left upon the stage really only three first-class, vigorous Powers - the British Empire, the United States and Japan

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In this light, let us ask ourselves what will be the effect upon the third Power if the other two of us enter into a special confidential relationship concerning a part of the world in which the third Power is equally interested with ourselves - especially when it is also true that the relations between that Power and our prospective Ally are marked by a growing lack of cordiality. It may be said that of course we should insist upon a stipulation that the Alliance could never be interpreted to involve us in any opposition to the United States. One may doubt the real effectiveness of such a stipulation; our joint policy with the Japanese might well in the course of years land us insensibly in a state of opposition; the Japanese would of course see to that so far as they were able. But in any case, whatever formal stipulation of this sort may be made, it would never in its effect upon public opinion equal the weight of the Alliance itself; the mere fact of the special relationship would remain; always we should be on the defensive in the arts of explanation even with our well-wishers in the United States. In time they might indeed be found saying to us: "Given the choice of friendships in this new state of the world you chose the yellow man rather than us." We constantly say that the cardinal feature of our foreign policy is our desire for an English speaking concord. It deserves every consideration whether the decision on this question to be taken this year may not in reality prove to be a turning point in our relations.

10. But between outright renewal of the Alliance on the one hand and termination on the other there is, as already indicated, a possible middle way, namely a modified Alliance. The only modification worth considering would be one deleting the clauses entailing an obligation on the parties to go to war. On this there is little to be said. On such a basis it is difficult to see any solid case whatever for an Alliance. It would be open to many if not all of the objections to the full relationship. It would in reality be mere window dressing and dishonest; the Japanese would surely regard it in that light;

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and it would be an illusion to imagine that it could give us any real control of Far Eastern politics.

To this alternative, as to the other, there is an added objection arising from the general attitude of British peoples toward alliances. Certainly in the Dominions, perhaps somewhat less so in Great Britain, they have an instinctive reluctance to committing themselves to the largely incalculable liabilities and consequences of such a partnership. It is a reluctance that can only be overcome by the practical necessities of a clearly apprehended crisis, and it is certainly not diminished when the proposed Allies are a people remote, little understood and radically different from our own. An Alliance gives your partner a great deal to play with, and may well become a heavy political burden in your own country.

11. It is not enough, however, simply to say that the Alliance is a doubtful political expedient, that it may even be a burden, and therefore that it should be terminated without more. The Far East, its problems, and our interests there still remain. We still desire the independence of China, her integrity and the "open door"; we desire good relations with the Eastern Powers; we wish for peaceful development and security in that region. What is the best method of achieving these objects, assuming the renewal of the Alliance to be impracticable?

Let us consider the main elements of the position. First of all, it is apparent that the Power with whom our interests and feelings in respect of the Far East are most nearly identical is the United States. This is true of the interests of every part of the Empire, and it is certainly true of the feelings of the Pacific Dominions, especially with regard to the immigration question. Again it is true that, even though the Alliance should be thought inexpedient, we should still desire good relations with Japan, and it would be foolish to imagine that her voice could be ignored in that part of the world in which she is dominant and most at home. We also wish for China's goodwill and for her stability and progress.

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But what is the course that is naturally suggested by these considerations? Surely it is not an Alliance between two of these Powers; rather it is a pooling of the counsel and experience of all the interested Powers for the purpose of arriving at a common policy in the Far East. This is not to suggest a wider alliance or even an entente, (for that is unattainable) but simply that we should endeavour to bring about a Conference of the Pacific Powers to discuss Far Eastern and Pacific questions - a Conference, that is, of Japan, China, the United States, and Canada, Australia, New Zealand and Great Britain on behalf of the British Empire. Such a straightforward course would reconcile our position in respect of the United States and China, while the offer of it would at the same time enable us to terminate the Japanese Alliance with good grace. Such a course too would be a practical application of the new method and spirit in international intercourse which the nations, by means of the Covenant of the League, have sought to inaugurate as the guiding principle in world politics. The agreement to go into conference can be of the loosest kind if need be; there is no vital necessity to secure a formal agreement to hold periodical or future conferences. If an initial Conference were brought about and went well, it would itself constitute a precedent and might result in a habit, and, in the end, in a real working Pacific Concert. Nothing could be better from the point of view of British-American relations than to bring about such a course of action; it would provide an occasion and a method of co-operation founded on actual common interests and necessities.

12. The question then arises whether this is a practicable course, whether such a Conference could be brought together, especially whether the United States would participate; for it hinges there. If properly approached it does not on the face of it seem impossible. In any case it is the object of these notes to suggest that it is of the highest importance to discover, in advance of the June meeting of Prime Ministers, whether such a course or policy has any hope of success. Otherwise

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the meeting, confronted with the question of the renewal of the Alliance, will find itself inadequately equipped to discuss an essential factor of the problem. Every avenue should be explored in advance, and as there is none too much time steps should be taken as soon as the new Administration takes over in Washington.

13. How should the matter be approached? Obviously, since the proposal involves a termination of the Alliance, the soundings must commence on the part of the British Empire. But more specifically, since the Pacific Dominions are really more vitally concerned in the question than Great Britain or the other parts of the Empire, and since Canada by association and outlook seems better equipped to talk to the United States than others are, the initiative should come from Canada and the approach to the American Government be made on behalf of His Majesty's Canadian Government.

In short it is submitted that as soon as the new President and his Secretary of State are installed, a representative of the Canadian Government should get into touch with them, place the whole position before them in informal conversations of the greatest frankness, and endeavour to discover whether some such course as that sketched above is feasible. That having been done, the meeting of Prime Ministers in June would be in a position to discuss realities.

Clearly the policy has greater chances of success if it is broached as a proposal concerning Pacific Powers than if it were proposed as an Anglo-American scheme. And for various reasons there seems a greater likelihood of its being welcomed if it is put forward by Canada. This method has an additional advantage in that secrecy of discussion in the initial stages is more apt to be secured, and hence undesirable publicity and agitation avoided, than if the matter were taken up in the more formal fashion of an approach through the Embassy.

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14. It is of course possible that for reasons good to them the Americans would find it inexpedient to participate in a Pacific Conference. Even so the basis of the Alliance is so unconvincing, its burdens as a political instrument so embarrassing, the identity of our interests with Japan today so little apparent, that the case for rejection should hold the field; and we should endeavour, if only by the establishment of a purely personal, informal relationship and habit between the British Ambassador and the new Secretary of State, to set up a practice whereby Far Eastern problems would be discussed between them before any action by either Power affecting that part of the world was taken. While some features of the American Constitution produce the greatest difficulties in negotiation, yet the peculiar independence of the Secretary of State in the day to day conduct of foreign affairs should always be borne in mind. It is only when a formal treaty is in question that he is really dependent on the Senate; nor is he subject to the necessity of accommodating his views to those of his fellow Cabinet members in anything like the fashion that obtains under our system; while frequently (as may happen under the new Administration at Washington) the President, if he be inexperienced in or indifferent to foreign affairs, will allow his Secretary of State a very large scope or discretion in the conduct of his Department. In such conditions the simple establishment of a personal working understanding with the Secretary may actually be as valuable and effective for the term of his office as a more formal official understanding. And out of such a practice something more stable may come.

15. It may conceivably be objected that the case against the Alliance as indicated above leans too tenderly toward American susceptibilities, that it would mean a subordination of British policy to that of the United States. The attempt has been, however, to consider the question simply from the point of view of the interests of the British Commonwealth, taking into account of course the possible effects upon British-American relations as constituting a very important

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factor in estimating what is in our interest. The simple question is whether it is in our interest on the whole to renew the Alliance. True, if we reject the Alliance on the basis here suggested there may quite possibly be Americans to utter boasts about dictating British policy, particularly the policy of the Dominions, or about assuming the moral leadership of the English speaking world. Let them. If our policy is sound from our view point such things cannot injure it; nor does one become a moral leader by asserting that he is one. We can afford to "take the cash and let the credit go". It might also be that such assertions would merely provide another bond of sympathy within our humour loving Empire.

These notes have been written on the assumption that the American is a political animal as we believe ourselves to be; that in his instincts and methods he is nearer to us than any other; that in our and the world's highest interest we should work together; and that it is our business to meet and cope with him on the political plane depending upon our skill there as against his. Consistently with our actual safety we should do all we can to prove our friendship and nothing to alienate his. It has not yet been demonstrated that he has definitely rejected our friendship. And if there is to be any rejection of friendship it must never come from our side; if the choice is to be rejection, the choice must be his; and we must see to it that it is quite plain to the world that the choice was his. Otherwise we shall have failed in the highest art of politics.

L. C. Christie

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DEPARTMENT OF EXTERNAL AFFAIRS CANADA

Mr C
for allusion
in Jan. war
discussion
Asst

March 3, 1921.

MOST SECRET AND CONFIDENTIAL.
for the Prime Minister

THE ANGLO-JAPANESE ALLIANCE

NOTES ON MR. LLOYD GEORGE'S TELEGRAM OF FEBRUARY 26, 1921.

1. Attached hereto is a copy of Mr. Meighen's telegram of February 15, 1921, to Mr. Lloyd George, and of Mr. Lloyd George's reply of February 26.

2. The first consideration advanced is that the proposal made by Mr. Meighen might "prejudice the complete liberty of action" of the June meeting in regard to the Alliance and hence that no steps should be taken. But the essence of the proposal was that failure to take steps now to discover the American attitude would in itself prejudice the liberty of action of the June meeting. For there are certain practical limitations to be kept in mind. Under Article 6 of the Treaty ~~of~~ the Alliance runs on for a full year even after notice of termination. After the June meeting there will be no opportunity of discussing the question for at least another year. If nothing is done in advance to discover whether a policy of co-operation with the United States is possible, it cannot safely be anticipated that the June meeting itself will last long enough to permit this to be done before it adjourns. The meeting may thus find itself confronted with only the two alternatives, simple termination or renewal. Thereupon it would probably be urged that the alternative of simple termination would be objectionable as an unfriendly slap at Japan. The meeting would then find itself driven to allowing the Alliance to continue, simply because no one would be able

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to submit an alternative that could be confidently supported as practicable. The result would be at least two years more of the Alliance, since there would not be another meeting of Prime Ministers until 1922 at the earliest. In that event a conceivable further alternative would be to arrange that only those parts of the Empire which desired to do so should join in renewal and that the others should stay out - on analogy to the abortive Anglo-Franco-American Alliance concluded at the Paris Peace Conference. Such a solution however presents implications and possible consequences that it is highly desirable to avoid.

"Complete liberty of action" is doubtless a desirable luxury, but it is very rare and mostly illusory or at best relative, as in this case. What is alone possible is that the course of events may be so shaped that when the turning point is reached the meeting may be freer to go in one direction than in the other; and the real question is whether the one is more desirable than the other - whether, to be specific, it is more desirable to move toward a policy of British-American co-operation or away from it. Mr. Lloyd George's telegram in effect points toward the latter direction.

3. Again, the telegram suggests that the formulation of a proposal to the United States could hardly fail to tie the hands of the June meeting "especially if it was favourably regarded by Washington." If it was not acceptable to Washington it is difficult to see how it would tie the meeting; and in that event moreover it would seem an advantage to the meeting to know the truth. If on the other hand it proved to be favourably regarded by Washington one would suppose that, so far from regretting the lack of freedom of action, the meeting would welcome the opportunity for actual co-operation and thus for giving reality to the pronouncements that British-American concord is the highest aim of our foreign policy. The telegram seems to imply that it might be unfortunate if the proposal was favourably regarded by Washington.

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4. The second consideration advanced in the telegram suggests that before the policy involved in the proposal can become feasible there are many other questions to be settled. These questions are said to be bound up with disarmament, naval shipbuilding, the future of the League of Nations and its disarmament programme.

In the first place, it is impossible to imagine that these questions can be settled this year or next year or in any other definite year; if the Prime Minister's meetings are to wait on the solution of these problems they will wait long indeed. And the practical result will be that the Alliance will run on indefinitely and will become more and more difficult to abandon in favour of some other policy.

In the second place, it should be asked what the exact connection is between this array of questions and the Anglo-Japanese Alliance. It is not explicitly stated. But the inference that immediately occurs - and the last paragraph of the telegram makes it almost irresistible - is that the decision on the Alliance is to depend on whether the United States go in for a policy of disarmament, co-operation with the League of Nations and so on. If they do, it is possible to consider termination of the Alliance and to promote British-American co-operation. If they do not, we had better hold on to the Alliance. In short we may need the Japanese to throw in our balance against the power of the United States. If this is not what is meant by the posing of these questions, it is difficult to see what bearing they have. And if this is meant, it must be realized at once that we are faced with an utterly new reason for the Japanese Alliance and with an utterly new outlook on our relations with the United States. First it was the Russian menace that gave the real motive for the Alliance; next it was the German menace; now it is to be the American menace. The Alliance

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is to be lifted out of its character of a Far Eastern arrangement and is to be the pivot of a new world alignment. The Japanese are to be brought West. The telegram states that "various expert committees have been sitting for some months in this country .....with the object of placing the members of the Imperial Cabinet in possession of all the considerations necessary to enable them to arrive at a judgment." This is offered as a reason for delay. It is for consideration whether "expert committees" sitting in London are likely to hit upon all the considerations essential to a judgment upon our relations with the United States and upon American opinion and tendencies, or even to hit upon any of the important considerations. It is for consideration whether the Canadian Government need wait to discover elsewhere than in Canada the information upon which to judge the question whether any encouragement should be given to a tendency that involves a complete reversal of our century-old foreign policy toward the United States. It need hardly be added that such a change of policy would be expected to have its influence upon our Canadian naval and military programme.

In the third place, it is submitted that, so far from this question of an alternative policy to the Japanese Alliance depending upon the settlement of these other questions of disarmament and naval shipbuilding, the settlement of these questions in reality depends upon our achieving in all directions such a policy of frank and friendly co-operation with the United States as the Canadian Government have proposed. Armaments are the result and instrument of policy, not the creator. By establishing with the United States a basis of co-operation for adjusting common concerns, we may expect to do more for disarmament than a score of conferences for discussion of the subject in the abstract can possibly do. It may perhaps be said that the chances of establishing such co-operation are vague and uncertain, while armaments and alliances are things that are concrete and definite. But it is hard to believe that public

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opinion in Canada - and elsewhere in the Empire for that matter - will ever be convinced unless every possible effort is made in the former direction.

5. The issue raised therefore seems fairly plain, and one may venture to restate it more broadly; for it seems not too much to say that everything considered no issue of today can be graver. The decision taken will be the first definitely significant step taken on our side along the road of post-war British-American relations; and its full import will consist in the insensible effect which it will have upon our future direction.

On the one hand there is the view that nothing can be of more importance than the promotion of a policy and habit of co-operation between the British Empire and the United States; that the way to begin such a policy is to begin it, or at least to try, and to do so as soon as possible; and that the question of the Japanese Alliance provides an occasion for practical steps which in the circumstances of the case should be taken immediately.

On the other hand there is the view that British American co-operation is impracticable, perhaps even undesirable, at present; that there is only "much to be said for it ..... as a possible ultimate solution"; that it is too soon to begin in that direction; that we should not begin until America disarms; and that meanwhile we should hold to Japan as a makeweight in the balance of power against the American menace.

The one view is in the direct line of all our dealings and methods on this side of the water; the other proposes the introduction of a principle entirely new and hitherto foreign to the polity of this hemisphere.

It is true that words are used recognising the importance of good relations with the United States and that a willingness to discuss the proposal in June is indicated. But these are belied by the implications of other points made.

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6. But the immediate practical point is that if we accept the tactics proposed in the telegram there is the greatest danger, as pointed out above, that the June meeting may find it very difficult to adopt any other policy than that toward which the British Government seem to be tending. Indeed it is possible in many respects to regard the telegram as being a strategical move directed to a certain undeclared objective. It says practically nothing on the merits of the idea of promoting a policy of co-operation; there is much dust thrown up; and certainly it would seem that the position sought by the authors of the telegram would give them a great advantage in carrying their view when the time comes. They may not be manoeuvering for position, but the effect is the same.

7. Significant also is the attitude toward the special Canadian position in this whole matter. The point made in Mr. Meighen's telegram that the Pacific Dominions are more vitally concerned in the question than other parts of the Empire is not accepted; by indirection doubt is cast upon it. The special concern of Canada in regard to British-American relations is nowhere recognised. The point made that it would be most appropriate that Canada should act as the intermediary, and that this would offer the best chances of success in Washington, is completely ignored. And the effect of adopting the line taken in the telegram would be to render the idea of special Canadian initiative impracticable and to lose the great advantages of this device; for if action is postponed until the June meeting, the approaches, if indeed any were made, would probably be made through other channels. From these considerations the impression arises that it is the desire and intention if possible to confine the control of all policy and all operations in this matter to London. This is perhaps natural, but it is extremely short sighted in the circumstances of this case. It suggests the possibility of another serious issue arising out of this matter -

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namely, whether it should not be recognized that in matters of high policy respecting North America the voice of Canada should be predominant so far as the British Empire is concerned.

8. It is submitted that a case has not been made out against the Canadian Government's proposal; but that, on the contrary, in view of the tendencies now disclosed, it has become all the more important to go ahead upon the lines of that proposal. Canada's interest in the question, as a Pacific Dominion, is certainly more vital than that of Great Britain (for in this comparison we are entitled to weigh the welfare of the Canadian people against that of the people of Great Britain, rather than against the value of Great Britain's possessions); Canada's interest, as the next door neighbour of the United States, is overwhelming as compared with that of Great Britain or of any other part of the Empire; and her knowledge and qualifications for dealing with the Americans are by the same token superior to those of other parts of the Empire and should be called into play. On these grounds the Canadian Government is entitled to take a very strong line.

9. The suggestion is made that the other Dominions should be consulted before the proposal is "approved". But this misconceives the real nature of the proposal. The actual proposal is that the Secretary of State and President of the United States should be sounded, purely informally, by a Canadian representative, not on behalf of the Empire, but on behalf of the Canadian Government or Prime Minister, for the latter's information, in order that he may be able at the June meeting to discuss the question of the Anglo-Japanese Alliance adequately and with some chance of avoiding an outcome that would commit Canada by default to an undesirable arrangement. There is therefore no obligation to consult the other

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Dominions, or Great Britain; and there is no compelling reason why the Canadian Government should not act according to its own judgment. On practical grounds and in view of the tendencies disclosed it would seem best to act without further consultation.

10. The United States are - quite naturally - showing their disinclination to participate in European politics; and there seems little likelihood that their relation to any universal association of nations will for a long time be of more than a superficial nature. On the other hand they are actually taking, and will undoubtedly continue to take, an active part in Pacific affairs. This is a region in which the British Empire is naturally deeply concerned; it has indeed often been said that it will be the chief theatre of our action in the future. Practically therefore it offers the only present field of co-operation. It would seem the part of wisdom to recognise the fact and make every effort to seize the opportunity. This cannot prejudice the chances of a wider co-operation in the future, but on the contrary may further them.

L.S. Christie

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C 41139

MOST SECRET

TELEGRAM FROM THE GOVERNOR GENERAL TO THE COLONIAL SECRETARY.

OTTAWA, February 15, 1921.

Following for Prime Minister from my Prime Minister. Begins. Secret, private, personal. The question of the Anglo-Japanese Alliance which, I assume, will be decided at the proposed June meeting of Prime Ministers, has been carefully considered in Cabinet, and it may be useful to let you have our views now.

We feel that every possible effort should be made to find some alternative policy to that of renewal. Admitting that the Alliance has been useful in the past, it nevertheless seems true that the conditions have been so altered that the old motives no longer hold, while the objections have greatly increased. It is unnecessary to elaborste these points at the moment, but I would emphasize the need of promoting good relations with the United States. In view of her tendency towards abandonment of attitude of isolation generally, her traditional special interest in China which is as great as ours, and of the increasing prominence of the Pacific as a scene of action, there is danger that a special confidential relationship concerning that region between ourselves and Japan to which she was not a party would come to be regarded as an unfriendly exclusion and as a barrier to an English speaking concord.

Consequently we believe we should try to attain our objects in the Far East in another way. Specifically we think we should terminate the Alliance and endeavour at once to bring about

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a Conference of Pacific Powers - that is Japan, China, the United States, and the British Empire represented by Great Britain, Canada Australia and New Zealand - for the purpose of adjusting Pacific and Far Eastern questions. Such a straightforward course would enable us to end the Alliance with good grace and would reconcile our position in respect of China and the United States. It would be a practical application of the principles of the League of Nations. Should it eventually result in a working Pacific Concert the gain to the stability of British-American relations is obvious.

In any case it seems highly important to know in advance of the June meeting what is possible in this direction in order that the whole problem may be fairly considered then. Accordingly we suggest that a representative of the Canadian Government should get in touch with the new President and his Secretary of State as soon as possible after their inauguration and discover through informal confidential conversations whether any such policy is feasible. For this purpose I would nominate Sir Robert Borden who is willing to act.

This method of approach seems most appropriate, first, because the concern of the Pacific Dominions in the question is in reality more vital than that of the other parts of the Empire. and, second, because the proposal seems best calculated to succeed in Washington if put forward by Canada. We attach importance to the idea of putting it forward as looking to a Pacific Conference.

I should be grateful for your views. Ends.

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C 41140

SECRET

FROM THE SECRETARY OF STATE FOR THE COLONIES TO THE GOVERNOR GENERAL.

London, February 26, 1921

PRIVATE PERSONAL AND SECRET

Following from Prime Minister to your Prime Minister Begins:-

I have given most careful consideration to your telegram of February 15th with my colleagues. We entirely share your view as to importance of considering renewal of the Anglo-Japanese Alliance from point of view of future relations between United States and Nations of the British Empire and we are agreed that it is of utmost importance to carry United States with us in whatever action may eventually be decided upon. At the same time we feel there are certain considerations to be urged against immediate adoption of your proposal which we would like you to consider. In the first place we have throughout felt nothing should be done to prejudice complete liberty of action of forthcoming Imperial Cabinet in regard to Anglo-Japanese Alliance. Question affects all the Dominions and especially Canada, Australia and New Zealand. It affects India and British possessions in the Far East. We fear formulation, from an official quarter in however tentative and informal a form, of a proposal to the United States (that a?) round table conference of all Powers concerned should be summoned to discuss Pacific question, could hardly fail to tie the hands of the Conference next June especially if it was favourably regarded by Washington. In any case we think that the other Dominions would have to be consulted before such a proposal was approved. In the second place we think while there is much to be said for a Conference of this description as a possible

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ultimate solution there are very many questions to be settled before the decision to make such a proposal could be reached. Questions at issue affect international position of Great Britain and the general foreign policy of the Empire. They are inseparably bound up with disarmament, Naval Shipbuilding, future of League of Nations and its disarmament programme. Various expert committees have been sitting for some months in this country considering various political, economic military and naval issues involved with object of placing members of Imperial Cabinet in possession of all the considerations necessary to enable them to arrive at a judgment. We think that these are very strong arguments for having a full discussion of the whole problem between the various Governments of the British Empire in light of information now being collected before making any official approaches however informal to United States of America.

At the same time we recognise that attitude of United States Government towards foreign questions of disarmament and League of Nations must be a vital factor in our deliberations, and we should greatly welcome an interchange of views with Canadian Government both upon main problem itself and also as to whether any special steps should be taken to sound American opinion before Conference meets and as to manner in which this could be done without prejudicing freedom of action of Imperial Cabinet. Would it therefore be possible for you to ask Sir Robert Borden to come over here after having discussed question in all its bearings with you to confer with us upon subject? We should greatly value benefit of his experience and advice and he could then place before you and if necessary we could place before other Dominion Governments the tentative conclusions at which we had arrived during our considerations. Ends.

(Sd) CHURCHILL.

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(*Also C.I.D.* 122–*C* (*a*).)

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ANGLO–JAPANESE ALLIANCE.

MEMORANDA PREPARED IN THE FOREIGN OFFICE.

2, *Whitehall Gardens, S.W.* 1,
March 10, 1921.

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ANGLO-JAPANESE ALLIANCE AS AFFECTED BY THE COVENANT OF THE LEAGUE OF NATIONS.

THE existence of a treaty of defensive alliance such as the Anglo-Japanese Treaty* does not appear to be necessarily inconsistent with the provisions of the Covenant. Such agreements may well be within the effect of article 21. Nor do the objects of the agreement as defined in the preamble seem inconsistent with the provisions of the Covenant; (*a*) and (*b*) are clearly consistent therewith, and the same may be said of at any rate the first two lines of (*c*), though in this respect the obligations of the contracting parties may well be said to be now swallowed up in their obligations under article 10 of the Covenant.

The operative provisions of the agreement, however, being drawn up at a time when the League of Nations was not even in sight, relate to a state of affairs quite different from that now existing, and are consequently hardly compatible with the provisions of the Covenant. Under the agreement the contracting parties agree to communicate with one another fully and frankly if any of the rights and interests referred to in the preamble are in the opinion of either of them in jeopardy, and to consider in common the measures to be taken to safeguard such rights or interests; and if either party is involved in war in defence of such rights or interests by reason of unprovoked attack or aggressive action by another Power the other contracting party will come to its assistance and conduct the war in common.

Under the Covenant the procedure is as follows: The League is competent to deal with any threat of war or circumstance which threatens to disturb international peace. If a dispute arises between members of the League, it has to be submitted either to arbitration or to enquiry by the Council. In the first case, the members of the League agree not to go to war with any member of the League which complies with the arbitral award. In the second case, the dispute may of course be settled by the Council; if not, the Council has to publish a report giving the facts of the case and its recommendations. If this report is unanimous except for the parties to the dispute, the members of the League agree not to go to war with any party to the dispute which complies with the recommendations of the report. If the Council fails to reach such a unanimous report, the members of the League may take such action as they consider necessary for the maintenance of right and justice. If any member of the League resorts to war in disregard of its obligations above referred to, it becomes *ipso facto* at war with all other members of the League. If a dispute arises between a member of the League and a State which is not a member, the latter State is invited to accept the obligations of membership with the League for the purposes of such dispute, and the above provisions will apply; if such State refuses and resorts to war, it thereby commits an act of war against all the members of the League.

It follows that if the British Empire or Japan were involved in a dispute relating to the matters dealt with in the Anglo-Japanese Agreement, they would be bound to make use of the above procedure for the purpose of reaching a peaceful settlement. If the State with whom the dispute arose resorted to war in breach of the provisions of the Covenant, all members of the League would go to war with it, and there would be no scope for a special obligation on the part of the other party to the Anglo-Japanese Agreement. This would apply whether the State with whom the dispute arose was a member of the League or not. It follows that it is only in the case where the result of the use of the League procedure is to produce what has been called "a war which is not disapproved of by the League," *i.e.*, where the disputing States can fight it out without violating any of their obligations under the Covenant, that there is a possibility of an alliance between the British Empire and Japan coming into effect.

It appears, therefore, that while an Anglo-Japanese Alliance might well exist to which the provisions of article 21 would apply, and while it would be going rather far to say that article 20 applied to the existing Alliance, or at any rate to its objects and principles, it would be necessary to modify its terms so as to bring them into complete accordance with the procedure for the avoidance of war and the settlement of disputes which is laid down by the Covenant. It would be quite possible to have an agreement containing a modified form of article 1 providing for full and frank

* For terms of Agreement, see Appendix.

inter-communication of information and ideas, followed up by an agreement for mutual support in the event of a war breaking out after all the means of settlement provided by the Covenant have failed, in which the League did not take sides. Whether such an addition would be desirable is of course a question of policy, but it does not appear to be inconsistent with the Covenant, and it would be desirable to put in the forefront of the treaty the fact that the contracting parties are both members of the League of Nations and fully intend to carry out the provisions of the Covenant, and that this treaty is only a sort of reinsurance in the case of the Covenant failing to prevent a rupture. This would put the suggested agreement in much the same position as the Anglo-French and Franco-American agreements for the protection of France against aggression by Germany.

Foreign Office, February 18, 1920.

EFFECT OF THE ANGLO-JAPANESE ALLIANCE UPON FOREIGN RELATIONSHIP.

I.—Introduction.

THE principal Powers in the Far East at present are Japan, the United States of America, China, and Great Britain. Russia and Germany will have to be reckoned with in the near future.

Generally speaking, the interests of Great Britain and the United States of America in China are similar, whereas they are often in conflict with those of Japan, who, in claiming a paramount position in the Far East, and especially in China, antagonises all other countries, including China. France is neither sufficiently powerful nor are her interests important enough to bring her into conflict with England and America. Though temporarily eclipsed, Russia and Germany cannot be ignored in the future any more than in the past. Other countries concerned in the Far East are Belgium in a small degree in China and the Netherlands in the East Indies; Portugal in virtue of Macao.

II.—Japan.

We have been bound since 1902 by a defensive Treaty of Alliance with Japan, which has been twice renewed (1905 and 1911), with the object, generally speaking, of maintaining the independence and integrity of China. In spite of many difficulties and dangers the alliance may be said on the whole to have worked well to the benefit of both parties. In virtue of it Japan was enabled to wage a successful war upon Russia with the certain knowledge that if any other Power were to join in against her Great Britain would intervene and more than redress the balance in her favour. The British Empire has waged a victorious war against Germany, and was glad of Japanese co-operation in enabling her to sink the German Pacific fleet. Japan, too, assisted in destroying Germany's naval bases in the Far East, in supplying cruisers and destroyers for convoying troops from Australia, and in patrolling the Indian Ocean, the Mediterranean, and the Cape station. From the moment Japan entered the war on the 23rd August, 1914, the safety of Australia, New Zealand, the Pacific Islands, the Pacific Coast of Canada, Hong Kong, Wei-hai Wei, and the British Merchant Marine in the Far East was assured, and the complete destruction of Germany's power in the Pacific was merely a matter of time. In spite of lukewarmness on the part of Japan, she kept her word to us faithfully, giving us all the help she was bound by treaty to give, and at a price going beyond her obligations. Her statesmen are sensitive upon points of honour, and though they drive hard bargains at times, it must be admitted that they have attempted to play the game.

In considering the question of our relations with Japan and the possible renewal of the alliance, we must not, however, overlook the fact that our interests in China, as elsewhere, conflict in many serious respects:—

1. Japan apparently desires to retain a disunited and feeble China where she can fish in troubled waters. It is in the interests of Great Britain that China should be united and strong enough to hold her own against aggression from her neighbours.
2. The natural outlet for the superfluous population of Japan is China. Where Japan comes, however, she closes the door to the trade of all but her own

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nationals. Great Britain seeks to maintain the open door and equal commercial opportunity for all.

3. Japan aspires to the hegemony of the Far East, and her foreign policy is not always free from selfishness and opportunism.
4. Her economic interests compete with those of Great Britain. During the war she pushed her trade with India, China and the whole Pacific littoral at the expense of this country, whose chief commercial rival she is in the Far East.
5. Japan desires and intends to expand both in China and in the Pacific. In this she menaces our position in Hong Kong, the Straits Settlements and the Pacific Islands. She threatens our long-established economically paramount position in the Yang-tsze Valley. Her military party are suspected of harbouring designs upon the integrity of China both in Manchuria, Mongolia and in Shantung. The future has still to show how far she is likely to prove a source of danger to Russian interests in Northern Manchuria and Eastern Siberia.
6. Inasmuch as Imperialist Germany demanded a "place in the sun" at the expense, if possible, of the British Empire, so the world-wide expansion of this Empire evokes a certain amount of jealousy in the minds of many Japanese.
7. Lastly, the colour bar—racial equality claim—baffles agreement between Japan and the Dominions, and meets with implacable opposition in Australia, New Zealand, South Africa and Canada. The United States of America are in this respect also at one with the Dominions.

III.—United States of America.

Of paramount importance are our relations with the United States of America in the Far East, as elsewhere. Yet, in spite of similarity of interests, a working agreement is of extreme difficulty. If we were able to count with certainty upon the active co-operation of the United States, the need for an alliance with Japan would not be apparent. As things stand at present—

1. The United States, as shown above, are confronted with the same racial problems as are the Dominions.
2. Both have possessions which they must defend in the Pacific.
3. Great Britain and the United States sincerely desire the rehabilitation of China, and agree that equal opportunity should be accorded to the commercial enterprise of all nations.
4. The English-speaking communities naturally tend to draw together.
5. The aggressive attitude of Japan and her doubtful commercial morality have increased this tendency, so that both politically and economically the two great Anglo-Saxon peoples have been driven together to redress the balance of power in the Far East.

The Japanese have observed this. Since America came into the war they have been haunted with the fear of being isolated in the presence of an Anglo-American combination.

It may be worth mentioning here that in August 1910 President Taft proposed to His Majesty's Ambassador at Washington that the existing treaty of arbitration between the United States and Great Britain, from which "questions of national honour" were excepted, should be replaced by one of wider scope, as an example to the rest of the world. In January 1911 Mr. Taft announced his intention of having a draft treaty on the above lines prepared by the State Department. At this stage it was considered necessary to warn the Japanese Government of the project. Sir E. Grey and the Japanese Ambassador discussed the matter, and the Japanese Ambassador thought that it would be possible to revise the Alliance so as to secure that difficulties arising with the United States should be excluded from its provisions. The Alliance was accordingly modified in July 1911 by the inclusion of article 4, which provides that :—

> "Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force."

Though the general arbitration treaty between Great Britain and the United States of America, for which provision was made in the above article, was signed on the 3rd August, 1911, it was not ratified by the United States Senate. A modified form of treaty, called a peace commission treaty, was signed on the 15th September, 1914, and duly ratified. Under the terms of this treaty, all disputes between the two countries, "of every nature whatsoever," were to be referred to an investigation commission. Sir E. Grey informed the Japanese Ambassador that this peace commission treaty was really part of the general arbitration treaty, and he considered that it came within the spirit of what had been arranged in article 4, quoted above. When the 1911 treaty was being negotiated with Japan, Sir E. Grey had proposed to mention the United States by name as being excepted from its scope, but, in deference to the wishes of the Japanese Ambassador, the words "Power with whom such treaty of arbitration is in force" were substituted.

From despatches which have reached this Office from Tokyo, it appears that, in Japanese military circles at any rate, the renewal of the alliance is desired by Japan in order to have the support of Great Britain in the event of war with the United States. The Japanese Government must know that there could be no possible question of this, but it will have to be made quite clear if the alliance is renewed.

We must not forget, however, that in excluding from the scope of the treaty all such obligation on our part, we deprive Japan of what is to her of vital importance, and we remove the greatest inducement which she might have to renewal.

The interests of Japan and the United States clash at every point, and the future of the Far East and the Pacific is likely to become more and more the theatre of rivalry between these two countries. At present, however, Japan is far too weak to embark single-handed upon a war with the United States, and she is well aware of this. Our future course lies between our ally with whom our interests conflict, and our friend who is united to us by race, tradition, community of interests and ideals. It will be difficult for us to steer a straight course, both parties will no doubt reproach us, as they have done in the past, for not giving them more whole-hearted support against the other, but this course as outlined must be steered, our interests demand it.

IV.—Russia and Germany.

The Anglo-Japanese Alliance was first formed as a counterpoise to an aggressive Russia. Owing to our *Entente* of 1907 with Russia, the arrangements made between Japan and that country in 1907, 1910 and 1916, and subsequently Russia's revolution and collapse, she ceased to be a danger. The possibility of a powerful Russia in the future, however, is a factor which it is essential to consider. Whether that country is going to be dangerous on her own account as a Bolshevik Power, or dangerous owing to German influence, it would be well to provide a counteracting influence by continuing the Japanese Alliance with such modifications as our interests may dictate, and as may be required in order to comply with the spirit of the covenant of the League of Nations.

A hostile Russia, organised by Germany, might prove a very serious menace to China, India, and our whole position in the Far East and elsewhere. Though a Bolshevik Russia is most distasteful to an Imperialistic Japan, and though Japan refused the tempting bribes made to her by Germany during the war to desert us at a time when many Japanese thought Germany was going to win, yet an isolated Japan might be driven to seek an alliance with a Russo-German combination to counterbalance an Anglo-Saxon co-operation. There have already been rumours to this effect. They appear to be improbable at the moment, but the possibility which was referred to in 1918 by the late Count Terauchi, then Prime Minister, must not be lost sight of.

V.—France, Belgium.

In view of our intimate relations with France and Belgium in Europe and of their lack of power in the Far East in comparison with our own, although their interests are considerable, we need not consider the possibility of these two countries being brought into serious conflict with us. On the contrary, we can expect that in the future, as of recent years, we shall be able to rely upon the support of France and that she will find our alliance with Japan a useful link for uniting her with that country, and a bridge over which to pass in the event of possible differences.

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VI.—Holland.

The Dutch East Indies lie at the mercy of any powerful nation, and their immense and as yet scarcely developed wealth must prove a source of temptation to any predatory country. The Dutch, however, know, and the Japanese must realise, that the retention of these islands in Dutch hands is a matter of vital importance to us, and, greatly as Japanese penetration southwards is feared by the Dutch, they are aware that the continuation of the Anglo-Japanese Alliance affords to them a guarantee of security.

VII.—Portugal.

In virtue of a secret article attached to our treaty with Portugal of the 23rd June, 1661 (since published), we are bound to "defend and protect all conquests or colonies belonging to the Crown of Portugal against all its enemies, as well future as present." In view of the continual disputes between China and Portugal in connection with the Portuguese colony of Macao, there is always the possibility of this treaty leading us into difficulties with China. The alliance would, however, not affect this as, whatever the difficulties, we should not infringe the integrity of China.

VIII.—China.

According to the 1911 Treaty of Alliance, our object and that of Japan is:—

"(*a.*) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India.

"(*b.*) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China.

"(*c.*) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions."

In spite of this object—the defence of China—the arrangement cannot be said to be entirely pleasing to the Chinese owing to their extreme dislike of the Japanese and the intense suspicion with which they regard them. Our popularity in China has somewhat suffered from our alliance with Japan. China's friendship for Great Britain may be said to have cooled because our ally, Japan, has been permitted to commit acts of aggression, and these acts, the Chinese maintain, have received recognition from Great Britain. The Chinese would prefer to see us ranged alongside of the United States, opposing the Japanese at every step. To do this we should have to be sure of the active support of the United States, upon which, as recent events have shown us, we are unable to rely. We should, besides, have to maintain in the Far East a fleet and an army beyond our resources. The existence of some form of agreement with Japan would, on the other hand, render it easier for His Majesty's Government to keep a watch on her movements in China, to demand of her in her dealings with us a greater measure of freedom and frankness than it would otherwise be possible to expect, and to exercise a moderating influence on her policy generally. It is true that our relations with her in China may be difficult in the future, but they will probably be less so if she is bound to us even by a loose alliance, and much less so than if she were to become the ally of Russia or Germany or of both.

IX.—Far East.

What is true of China is equally true of the whole of the Far East. In spite of all that has been said as to conflicting interests, the case for renewal would appear to outweigh any contrary consideration.

X.—Case for Renewal.

The exposed position of the Empire in the Pacific renders it highly desirable to have a friendly Japan. If the Alliance were not renewed, we should find ourselves confronted with a suspicious and possibly hostile Japan which would cause us considerable embarrassment in China, India and the Far East generally. Owing to

our present need of economy and the increasing naval strength of Japan, it is not possible for us to maintain forces in the Far East sufficient to support a strong policy involving a possible coercion of Japan, or even a fleet equal in size to hers. We should be unable to guarantee the safety of Hong Kong, Wei-hai Wei and the Pacific Islands; even Singapore might possibly be in danger in the event of trouble. Such a situation cannot be contemplated with equanimity, and the only alternative to maintaining in the Pacific a fleet capable of dealing with Japan would appear to be renewal of the alliance from which we might at times derive useful support in the future as we have done in the past.

XI.—Conclusion.

The advantages to us in renewing the alliance may be briefly summarised as follows:—

1. We should have a sort of insurance for the Empire in the Far East, especially Hong Kong and the Pacific Islands.
2. We should safeguard ourselves against a Russo-German rapprochement.
3. We should retain a certain hold over Japan's policy in China.

The advantages to Japan would appear also to be threefold:—

1. She would avoid isolation. The armistice showed her that Great Britain and the United States were the greatest forces in world politics. She dare not contemplate seeing them in combination working against her in China.
2. She would avoid the distasteful and dangerous necessity of seeking a Russian alliance, or possibly one with Russia and Germany combined.
3. She no doubt hopes that British opposition to her policy in China will be less marked if we are allies than if we are completely independent.

America is, however, Japan's potential enemy in 1920 as Russia was in 1902, and when we come to draw up the terms of a possible new instrument for prolonging the alliance, the dominating factor for us will have to be the necessity of not antagonising the United States or embarrassing in the smallest degree our relations with that country, whose friendship is of prime importance for us both from the point of view of material interests and racial affinity.

If our friendship with the United States and our alliance with Japan should enable us to influence for good the relations between those two countries and to co-operate with both in the rehabilitation of China and the peaceful development of the Far East, we shall have attained the goal towards which we must strive Some sort of tripartite understanding in the Far East, to which France might also adhere, would indeed be an ideal situation. Until our ideal can be realised, however, we must content ourselves with the next best arrangement—alliance with Japan; intimate friendship and co-operation with the United States of America and France

Foreign Office, February 28, 1920.

APPENDIX.

Agreement between the United Kingdom and Japan.

(Signed at London, July 13, 1911.)

Preamble.

THE Government of Great Britain and the Government of Japan, having in view the important changes which have taken place in the situation since the conclusion of the Anglo-Japanese Agreement of the 12th August, 1905, and believing that a revision of that agreement responding to such changes would contribute to general stability and repose, have agreed upon the following stipulations to replace the agreement above mentioned, such stipulations having the same object as the said agreement, namely;

(*a.*) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India;

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(*b.*) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China;

(*c.*) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions:—

ARTICLE I.

It is agreed that whenever, in the opinion of either Great Britain or Japan, any of the rights and interests referred to in the preamble of this agreement are in jeopardy, the two Governments will communicate with one another fully and frankly, and will consider in common the measures which should be taken to safeguard those menaced rights or interests.

ARTICLE II.

If by reason of unprovoked attack or aggressive action, wherever arising, on the part of any Power or Powers, either High Contracting Party should be involved in war in defence of its territorial rights or special interests mentioned in the preamble of this agreement, the other High Contracting Party will at once come to the assistance of its ally, and will conduct the war in common, and make peace in mutual agreement with it.

ARTICLE III.

The High Contracting Parties agree that neither of them will, without consulting the other, enter into separate arrangements with another Power to the prejudice of the objects described in the preamble of this agreement.

ARTICLE IV.

Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force.

ARTICLE V.

The conditions under which armed assistance shall be afforded by either Power to the other in the circumstances mentioned in the present agreement, and the means by which such assistance is to be made available, will be arranged by the naval and military authorities of the High Contracting Parties, who will from time to time consult one another fully and freely upon all questions of mutual interest.

ARTICLE VI.

The present agreement shall come into effect immediately after the date of its signature, and remain in force for ten years from that date.

In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said ten years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting Parties shall have denounced it. But if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, *ipso facto*, continue until peace is concluded.

In faith whereof the undersigned, duly authorised by their respective Governments, have signed this agreement, and have affixed thereto their Seals.

Done in duplicate at London, the 13th day of July, 1911.

E. GREY,
His Britannic Majesty's Principal Secretary of State for Foreign Affairs.

TAKAAKI KATO,
Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan at the Court of St. James.

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L.C. CHRISTIE C 41150 APRIL 23 1921
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8

THE QUESTION OF THE RENEWAL OF THE ANGLO-JAPANESE ALLIANCE.

1. This question is undoubtedly one of the most important of all the subjects that will be considered by the June meeting of Prime Ministers.

2. The Anglo-Japanese Alliance should be carefully distinguished from the Treaty of Commerce and Navigation of April 3, 1911, between the United Kingdom and Japan, to which Canada subsequently adhered, and which remains in force until July 16, 1923, and thereafter until terminated by either side on a year's notice. This Treaty simply regulates our commercial intercourse with Japan and other matters such as immigration (subject to the special Lemieux Agreement); but it is independent of and separate from the Alliance.

3. The Alliance was first concluded between the United Kingdom and Japan in 1902/to extend over a period of five years. In 1905 it was renewed with amendments for a period of ten years. On July 13, 1911, there was a further renewal with amendments for a period of ten years. The Parties remained simply the United Kingdom and Japan; but on this occasion the Dominion Ministers present at the Imperial Conference of 1911 were consulted and agreed to the renewal. At that Conference Canada was represented by Sir Wilfrid Laurier.

4. (a) The general objects were stated in the Preamble to the Agreement of July 13, 1911 (which constitutes the Alliance) to be as follows:

"(a) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India;

(b) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China;

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(c) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions."

(b) A copy of the Agreement of July 13, 1911, is annexed hereto. It consists of six brief articles. It constitutes a military Alliance, with a guarantee by each Party to go to war in defence of the other Party in certain contingencies.

(c) Article 4, an important provision added in 1911, declares that

"Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this Agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force."

This article was designed to make it clear that the Alliance could involve no obligation on the part of the British Empire to go to war with the United States. Although the General Arbitration Treaty with the United States did not become effective it is generally understood that the Conciliation Treaty concluded later between the British Empire and the United States is regarded as fulfilling the condition of this Article of the Alliance just quoted.

(d) Article 6 provides that the Alliance shall remain in force for ten years from the date of its signature (that is, July 13, 1911), and further that if neither Party shall have notified, twelve months before the expiration of the said ten years, the intention of terminating it, it shall remain binding until the expiration of one year from the date on which either of the Parties shall have denounced it. Therefore, no decision on the question having been taken last year, because it was impossible to hold a Conference between the different parts of the Empire, the Alliance continues up to July 13th of this year, and thereafter until it is denounced or some other arrangement

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is made. This incidentally discloses one strong ground of necessity for the June meeting. Article 6 further provides that if, when the date fixed for the expiration of the Alliance arrives, either Ally is actually engaged in war, the Alliance shall nevertheless continue until peace is concluded.

5. The June meeting must, therefore, consider this very important question. It is always difficult in advance of a meeting of this nature to discuss fully the subjects to be taken up. There is a danger of prejudicing the possibility of good results from the meeting. This is as true (even more true) of Conferences between nations as of Conferences between two or more groups, political or otherwise, belonging to the same country, which, even though broadly working for a similar high purpose, may have divergent points of view as to method that require adjustment. Such discussion in advance is difficult in the field of foreign relations; for whatever is said is heard not only within our own territories, but is noticed and has its consequences abroad. Following, therefore, the usual practice which is based upon universally admitted principles, it seems impossible to give any commitment in advance of the meeting.

6. Some considerations in this matter, however, may be pointed out without prejudicing the meeting in advance; since they relate to political conditions that as a matter of common knowledge can hardly be ignored in arriving at a satisfactory solution of the question. It seems important indeed that public opinion in Canada should be given an occasion to estimate and express itself upon the considerations that will present themselves. Some of them may be indicated as follows:

(a) The conditions upon which the Alliance was formed and continued in operation have been radically altered by the war. For example, some of the great Powers whose interests and activities in the Far East were once of great importance have been so stricken by the war that they are not now factors in that region, and in all likelihood will not be for some time to come.

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(b) It would be an affectation to attempt to deny that this question has highly important bearings upon the relations between the British Empire and the United States. The United States has shown a great interest in the Pacific and Far East - as great an interest, it may be said, as that of the Empire. It has been pointed out repeatedly that the peace and welfare of the world in the future depend upon a spirit of co-operation and understanding between these two great commonwealths. It has been said so often, it so lends itself to public oratory, that it has possibly become a trite phrase. There may be a danger that the mere repetition of the phrase will come to be regarded as enough in itself to secure the result; whereas it is clear that in such matters constant vigilance and care is necessary. But no Canadian is likely to regard it as a trite phrase. No part of the world more than Canada can desire that it shall become a reality in every direction. Canada and the United States regard each other as friends, and in spite of occasional minor differences the two countries have an enviable experience and record of international co-operation and sympathetic understanding extending back now over a century. Canada could therefore be no party to an arrangement in this matter that could by any possibility be said to be directed against the United States, or that might endanger the good relations existing between the two commonwealths. In this particular question Canada, as a Pacific Dominion and as the next neighbour of the United States, has an overwhelming interest as compared with that of any other part of the Empire.

(c) There is another consideration, which touches upon the nature of military alliances in general. It can hardly be said that in modern times at least British peoples have looked with favour upon this special form of obligation, which often

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has consequences difficult to forsee or control. In general their attitude has been to eschew such exclusive associations, and they have only consented to a military alliance when driven to it by the practical necessities of a clearly apprehended crisis. This, it is submitted, will appear to anyone if he reflects upon the history of recent times, and upon the few occasions on which such arrangements have been made. It seems fair to say that this general feeling is true of British peoples everywhere; in any case it would seem to be clearly true of the Dominions. There is the further question here whether such engagements can be so framed as to be consistent with the letter or spirit of the Covenant of the League of Nations to which Canada has given her signature.

(d) Another consideration, of course, concerns our relations with Japan. We certainly wish at all times to retain friendly relations with the Japanese people. They are a great and ambitious nation who have made astonishing progress. They have been scrupulous in fulfilling their engagements with us, and they have evinced in many ways a desire to participate in the common tasks of the nations and to take an honourable and effective share in the development of a progressive civilisation. Our interests and theirs touch at a number of points, and we should wish at all times to adjust our common points of view and act in friendly co-operation.

(e) Since the question concerns the Far East, it is proper to say also that Canada must always desire to remain on friendly terms with China. China has her difficulties, but our inclination and our interest alike must lead us to hope that she shall be enabled to live under stable conditions, and to develop orderly institutions upon which she may found a prosperous

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national life. And it is impossible to believe of this vast community that, given a fair chance, the traditions of their ancient civilisation will not reassert themselves, or that they can be left out of the reckoning.

7. As already pointed out it would only be harmful to undertake any specific commitment in advance. It may be hoped that it will be possible to find a solution that will give due weight to all proper considerations. The task may not be easy. Accordingly, if there is one consideration that is of greater importance at the moment than any other, it is that no one in discussing this question should say one word that would increase the difficulties. Remembering that what is said will be taken into account elsewhere, the debate should be conducted in a spirit that will not offend others, nor prejudice the task in hand. It would seem proper to make some such appeal.

L.C. Christie
23.IV.21

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AGREEMENT BETWEEN THE UNITED KINGDOM AND JAPAN.

Signed at London, July 13, 1911.

Preamble.

THE Government of Great Britain and the Government of Japan, having in view the important changes which have taken place in the situation since the conclusion of the Anglo-Japanese Agreement of the 12th August, 1905, and believing that a revision of that Agreement responding to such changes would contribute to general stability and repose, have agreed upon the following stipulations to replace the Agreement above mentioned, such stipulations having the same object as the said Agreement, namely:

(a) The consolidation and maintenance of the general peace in the regions of Eastern Asia and of India;

(b) The preservation of the common interests of all Powers in China by insuring the independence and integrity of the Chinese Empire and the principle of equal opportunities for the commerce and industry of all nations in China;

(c) The maintenance of the territorial rights of the High Contracting Parties in the regions of Eastern Asia and of India, and the defence of their special interests in the said regions:-

ARTICLE I.

It is agreed that whenever, in the opinion of either Great Britain or Japan, any of the rights and interests referred to in the preamble of this Agreement are in jeopardy, the two Governments will communicate with one another fully and frankly, and will consider in common the measures which should be taken to safeguard those menaced rights or interests.

ARTICLE II

If by reason of unprovoked attack or aggressive action, wherever arising, on the part of any Power or Powers, either High Contracting Party should be involved in war in defence of its territorial rights or special interests mentioned in the preamble of this Agreement, the other

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High Contracting Party will at once come to the assistance of its ally, and will conduct the war in common, and make peace in mutual agreement with it.

ARTICLE III.

The High Contracting Parties agree that neither of them will, without consulting the other, enter into separate arrangements with another Power to the prejudice of the objects described in the preamble of this Agreement.

ARTICLE IV.

Should either High Contracting Party conclude a treaty of general arbitration with a third Power, it is agreed that nothing in this Agreement shall entail upon such Contracting Party an obligation to go to war with the Power with whom such treaty of arbitration is in force.

ARTICLE V.

The conditions under which armed assistance shall be afforded by either Power to the other in the circumstances mentioned in the present Agreement, and the means by which such assistance is to be made available, will be arranged by the Naval and Military authorities of the High Contracting Parties, who will from time to time consult one another fully and freely upon all questions of mutual interest.

ARTICLE VI.

The present Agreement shall come into effect immediately after the date of its signature, and remain in force for ten years from that date.

In case neither of the High Contracting Parties should have notified twelve months before the expiration of the said ten years the intention of terminating it, it shall remain binding until the expiration of one year from the day on which either of the High Contracting

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Parties shall have denounced it. But if, when the date fixed for its expiration arrives, either ally is actually engaged in war, the alliance shall, ipso facto, continue until peace is concluded.

In faith whereof the Undersigned, duly authorised by their respective Governments, have signed this Agreement, and have affixed thereto their Seals.

Done in duplicate at London, the 13th day of July, 1911.

E. GREY.

His Britannia Majesty's Principal Secretary of State for Foreign Affairs.

TAKAAKI KATO,

Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan at the Court of St. James.

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SECRET

June 1, 1921.

THE ANGLO JAPANESE ALLIANCE.

RECAPITULATION OF POINTS.

(See previous papers of February 1st and March 3rd, 1921).

Alternative Courses.

1. In approaching the question of the Anglo-Japanese Alliance there seem to be three alternative courses between which a choice may be made: (a) Renewal outright, (b) Modification in the shape of abolishing the military obligations, or (c) Termination of the Alliance. An additional alternative dependent upon termination will be noted later. In estimating these alternatives it is, of course, essential to take into account the radical changes in the position of the world brought about by the events of the past six years; and it will quickly become apparent that if the Alliance is to be renewed it will be as the result of quite different motives from those that ruled in the past and that its repercussions on other countries will be of a quite different order.

Far Eastern Position.

2. The position of the world has changed in almost every respect. Today the German power has disappeared and with it the former menace to Europe. The Russian Empire also has disappeared. Whatever the menace of Bolshevist Russia may be, it is clearly of a different order from that which inspired the original Anglo-Japanese Alliance. Of course the revival of Germany and Russia is possible, and a Russo-Germanic-Japanese combination conceivable; but we have not come to that bridge yet, nor even to anything remotely resembling it. The only other basis that could be suggested on this plane is that of an American menace; but it is inconceivable that we

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should enter upon that adventure. In these directions there seems nothing to be said for such an Alliance now.

China.

3. Canada and the Empire must always desire to remain on friendly terms with China. China has her difficulties but our inclination and our interest alike must lead us to hope that she shall be enabled to live under stable conditions and develop orderly institutions upon which she may found a prosperous national life. Nor is it possible to believe of this vast community that, given a fair chance, the traditions of their ancient civilisation will not reassert themselves or that they can be left out of the reckoning.

4. One of the avowed objects of the Alliance has been the preservation and protection of China. Its success in this respect is open to large doubts. Apparently the argument is that the special relationship with Japan, in spite of the divergence of our interests, enables us to talk more freely to her and to restrain her activities better than we otherwise could. On general grounds this sort of reason seems in itself an extremely dubious and weak basis for an Alliance; while the history of the Alliance shows that this in itself never was the whole reason. Its success in restraining Japanese designs on China has not been impressive. It seems certain that these designs cannot abate; Japanese pressure of population, and, according to the best information, her real ambitions all point toward the Asiatic mainland. The danger is therefore that we may really because of the Alliance find ourselves implicated in a spoliation of China. For the thing cuts both ways; we cannot always be restraining our Ally, and by yielding here and there we may gradually become party to a complete Japanese hegemony in the Far East over which our influence will be of the most illusory sort.

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5. Intelligent Chinese do not feel that the Alliance has helped China. Indeed they feel that its effect has been precisely the contrary, and according to all information the Chinese Government would regard its renewal as an unfriendly act. Already the Chinese apprehensions concerning the renewal have caused the Chinese Government to refuse to co-operate in the China Financial Consortium. China's experience at the hands of the Western Powers, moreover, is said to be leading her to ask whether it would not be better for her to do business with Moscow, since the Soviets have so far shown a liberal and considerate attitude toward her. Recent experiences with Turkey, Persia and Afghanistan suggest the question whether the renewal of the Alliance would not have the effect of driving China into the arms of Russia. And the renewal would give the United States a far stronger position in China's regard than our own.

6. The Alliance gives to Japan a great prestige; it assures her of British support to a very considerable extent; at least it prevents in a large degree British interference. The danger is therefore that it will result in still greater injury to China and that she and the world will regard it as an endorsement by us of all of Japan's acts in relation to China, both in the past and in the future. In short the effect of the Alliance seems precisely the reverse of its declared object, and we seem likely to lose Chinese friendship.

7. It is submitted that the Western Powers, instead of attempting exclusive arrangements to manage and "protect" China, should endeavour to throw her upon her own resources by enabling her to employ adequate taxing powers and by encouraging her to finance her public undertakings from her own resources. Unless some such policy is adopted it is difficult to see how we can avoid the encouragement of warring factions in China each appealing to this or that Power for support, or how China can ever recover her stability and prosperity. One of the reasons for the existence of the Alliance has been the weakness of China, and it is not a satisfactory reason. Our effort should be to remove it rather than to renew the Alliance.

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Alliances objectionable in themselves.

8. There is an added objection arising from the nature of Alliances in themselves. The people of the Dominion have an instinctive reluctance to commit themselves to the largely incalculable liabilities and consequences of such a partnership. It is a reluctance that can only be overcome by the practical necessities of a clearly felt crisis, and it is certainly not diminished when the proposed Allies are a people remote, little understood and radically different from our own. An Alliance gives your partner a great deal to play with and may easily become a heavy political burden inyour own country. It seems fair to say that this general feeling is true of British peoples everywhere; in any case it would seem to be clearly true of Canada. This, it is submitted, will appear to anyone if he reflects upon the history of recent times and upon the few occasions on which such arrangements have been made.

9. There is the further question here whether such engagements can be so framed as to be consistent with the letter or spirit of the Covenant of the League of Nations to which Canada has given her signature. During the debate in the Canadian House of Commons strong expressions were given to this objection. It was urged that we should refrain from any special or exclusive engagements with other States; that we should stand in the League of Nations as the friend of every State that honourably observes its obligations and seeks to keep the peace; that we should endeavour to promote international co-operation in all matters; and that it was humanly impossible for the League to accomplish its great purposes if important Members of the League form alliances outside the League since the inevitable result would be to force similar groupings of other States. (See Sir Robert Borden and Mr. Rowell, House of Commons, April 27, 1921). The unmistabable trend of the whole debate in the House of Commons was indeed against the renewal of this Alliance.

British American relations.

10. It has become universally recognised that the

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the question of the Alliance is inextricably involved with the question of securing a policy of co-operation and accord between the British Empire and the United States. It has been repeatedly pointed out that the peace and welfare of the world in the future depend upon such a spirit of co-operation and understanding between these two commonwealths. It has been said so often and it so lends itself to public oratory that it has possibly become a trite phrase. There may be a danger that the mere repetition of the phrase will come to be regarded as enough in itself to secure the result; whereas it is clear that in such matters constant vigilance and care is essential. But no Canadian is likely to regard it as a trite phrase. No part of the world more than Canada can desire that it shall become a reality in every direction. Canada and the United States regard each other as friends, and in spite of occasional minor differences the two countries have an established experience and record of international co-operation and sympathetic understanding extending back now over a century. Canada could therefore be no party to an arrangement in this matter that could by any possibility be said to be directed against United States or that might endanger the good relations existing between the two commonwealths. In this particular question Canada both as a Pacific Dominion and as the next neighbour of the United States, has an overwhelming interest as compared with that of any other country.

11. From several quarters the formula has been put forward that the Alliance should only be renewed if it can be made "acceptable" or "satisfactory" to the people of the United States. This is perhaps not the most nicely appropriate form in which to frame the question. The Alliance is our affair; the United States had not been and does not propose itself as a party to the contract. The precise question is whether it is acceptable to us and whether it is in our interest. This, of course, forces it to take into account the effects upon British American relations as constituting the most important factor in estimating what is in our interest. These two methods of approach come to practically the same thing; but it is perhaps

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better to employ the more accurate formula. With this understanding then it may be said at once and without any hesitation that it is quite impossible to renew the Alliance in any form that will be "acceptable" or "satisfactory" to the people of the United States - or in other words that a renewal of the Alliance in any form cannot fail to prejudice our relations with the United States in the most harmful manner. It is no more possible to conclude an Alliance or special understanding with Japan that will be agreeable to the United States than it was possible before the war to reach a special understanding with France that was agreeable to Germany, or than it would be possible now to conclude a British-German understanding that would be acceptable to France. Every Canadian who has talked to Americans or who has followed the American press even to a slight extent knows this perfectly well. And the feeling is strongest among Americans who are most sincerely anxious for a complehensive policy of British-American co-operation in all directions. It is simply playing with words to talk about the possibility of such an understanding being satisfactory to the people of the United States. Whatever is done about the question, this factor must be realised at the outset. If to some this seems a consequence worth incurring well and good; but it should be clearly understood that it cannot be avoided by phrases.

12. Of the concern of the United States in the Far East there is no doubt. She is greatly concerned there and in a special way. It is not merely an economic concern. There is a great body of feeling and opinion in the United States that has made her interest in this part of the world, and especially in China, political in a real sense, however uncertain and ineffective it has been in practice. This is indeed the only sphere outside the Western hemisphere in which she has ever manifested such an interest, and she now regards it as part of her traditional foreign policy. If there is to be a balancing we must admit that her interest there is at least equal to ours. We may be certain that her interest will not abate. And the Alliance, always a stumbling block in the way of British-American concord will not prove less so now that Armageddon has removed the foundations (that is, the menace of Germany, Russia and the European crisis generally) that

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made the Alliance in the event sufficiently intelligible to Americans.

13. This aspect of the problem may be approached from a still broader view. Considering the exhaustion of continental Europe it seems in a large sense true that for the coming years the war has left upon the stage three first class vigorous Powers - the British Empire, the United States and Japan. In this light let us ask ourselves what will be the effect upon the third Power if the other two of us enter into a special confidential relationship concerning a part of the world in which the third Power is equally interested with ourselves - especially when it is also true that the relations between that Power and our prospective Ally are marked by a growing lack of cordiality.

14. It may be said that the danger can be removed by a special stipulation that the Alliance could never be interpreted to involve us in any opposition to the United States. But the real effectiveness of such a stipulation is very doubtful. Our joint policy with the Japanese might well in the course of years land us insensibly in a state of opposition. The Japanese would of course see to that so far as they were able. But in any case, whatever formal stipulation of this sort may be made, it would never in its effect upon public opinion equal the weight of the Alliance itself. The fact of the special relationship would remain; always we should be on the defensive in the arts of explanation even with our well wishers in the United States. In time they might indeed be found saying to us : "Given the choice of friendships in this new state of the world you chose the yellow man rather than us."

15. This point may be considered also in the light of the Japanese attitude, and here such a stipulation seems still less effective. Japan well knows that she cannot expect us to join her in a war against the United States. Nevertheless she wants the Alliance. She wants it, surely, not in the hope of any active intervention of the British Empire in such a war. What she must see in the Alliance is the probability

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of a sort of benevolent neutrality and, more important still, the support of Britain at the peace table after the war, for the peace table is the vital point of any war. Without the Alliance Japan would never contemplate such a war. With it she is able to regard such an event as being within the realm of the practicable. The proposed stipulation therefore seems a very illusory affair. That this sort of calculation is behind the Japanese attitude seems borne out also from recent discussions in the Japanese Diet. Members of the Diet complained that the Alliance was one sided and unfair to Japan in that it did not bind Britain to join Japan in a war against the United States, which they said was the only Power that offered any menace to Japan. It was also said that the nation as a whole believed however that, in the event of war with America, Great Britain would help Japan. Again it is significant that the Japanese Foreign Minister failed to state definitely that Article 4 of the existing Alliance had the effect of absolving Britain from joining Japan in a war against the United States. (See despatch of February 3, 1921, from the British Ambassador at Tokio to the Foreign Secretary, enclosed in despatch of May 11, 1921 (No. 192) from the Colonial Secretary to the Governor General of Canada). These indications of what Japan thinks of the Alliance must show on what doubtful ground we should be and how little value is to be attached to the stipulation in question.

16. There is the greatest danger that if the Alliance were renewed in any form it would come to be regarded in the United States as a device to balance our power against that of the United States. No one has pointed how it could appear otherwise, and as a matter of human nature it is difficult to see how any other result could follow. In other words, whereas at the outset it was the Russian menace that gave the motive for the Alliance, and next the German menace, so now it would be the American menace. The Alliance would be lifted out of its character of a Far Eastern arrangement and would become the pivot of a new world

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alignment. The Japanese would be brought West. It must be realized at once that this would be not only an utterly new basis for the Japanese Alliance, but that it would involve an utterly new outlook on our relations with the United States. The danger of producing such a result is so great that no benefits arising from the Alliance could possibly offset it.

17. It has already been indicated that the feelings of private Americans and of the American press are overwhelmingly against the Alliance But there are not wanting public official intimations that should be taken into account. For example, the American Senate have at this moment unanimously adopted an amendment to the Naval Appropriations Bill requesting the President to invite the Governments of Great Britain and Japan to attend a Conference charged with the duty of promptly entering into an understanding by which the naval programmes of the three Powers shall be substantially reduced annually during the next five years. The significance of this action taken unanimously and without debate on the eve of the consideration by the Prime Ministers' Conference of the Anglo-Japanese Alliance cannot be ignored. This seems plain enough on the face of it; but in addition there is good reason to believe that this action was deliberately designed and taken in this way and at this stage in contemplation of the Prime Ministers' Conference. ~~Not only~~ ~~has this been learned from private sources, but it will be recalled~~ that on May 28th there appeared in the press a despatch from Washington, evidently inspired, to the effect that the course of President Harding with regard to the disarmament proposals will be largely influenced by the Prime Ministers' Conference in London and by what is done there on disarmament and on the renewal of the Anglo-Japanese Treaty. If the London Conference favours disarmament and opposes the renewal of the Alliance it is said that the disarmament problem of the United States will be greatly simplified. Still more significant is the statement included in the same despatch and issued formally by ex-Senator Jonathan Bourne, President of the Republican Publicity Association, in which

It has been learned that this Association is a private venture of ex Senator Bourne, and not an official organ of the Republican Party

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~~As commented on the coming Conference in London, the renewal of the Anglo-~~ Japanese Treaty and the importance of the action of the Conference to the United States. He emphasized the fact that the various Dominion Prime Ministers have already signified their opposition to the renewal of the Treaty if it is not acceptable to the United States (See Montreal "Gazette", May 31, 1921). The United States Government have been entirely correct in their attitude; they have said nothing; but it must be clear that this intimation from the Republican party headquarters could only have been issued with the President's knowledge and must be weighed accordingly.

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Modification of the Alliance.

18. Between outright renewal of the Alliance on the one hand and termination on the other there is, as already indicated, a conceivable middle way, viz., a modified Alliance. The only modification worthy of the name would be one deleting the clauses entailing an obligation on the parties to go to war. On this there is little to be said. On such a basis it is difficult to see any solid case whatever for an Alliance. It would be open to many if not all of the objections to the full relationship; since it would be an arrangement impliedly excluding others. It would in reality be mere window dressing and disingenuous; the Japanese would surely regard it in that light, and it would seem an illusion to imagine that it could yield us any substantial advantages in the Far East.

Pacific Conference.

19. But while outright termination of the Alliance seems in any event to be essential it is proper to consider what policy should be pursued thereafter. What are the main elements of the position? First of all, it is apparent that the Power with whom our interests and feelings in respect of the Far East are most nearly identical is the United States. This is true of the interests of every part of the Empire and it is certainly true of the feelings of the Pacific Dominions, especially

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with regard to such matters as immigration. Again, it is true that even though the Alliance should be terminated we should still desire good relations with Japan and it would be foolish to imagine that her voice could be ignored in that part of the world in which she is dominant and most at home. We also wish for China's good will, for her independence, her integrity and the "open door". Presumably we want peaceful co-operation with all who have substantial interests in the Far East.

20. But what is the course that is naturally suggested by these considerations? Surely it is not an Alliance between two of these Powers. Rather it is a pooling of the counsel and experience of all the interested Powers for the purpose of adjusting Far Eastern problems. This is not to suggest a wider alliance, or even an entente (for in view of the traditions and feelings of the United States that solution is unattainable), but simply that we should endeavour to bring about a Conference of the Pacific Powers to discuss Far Eastern and Pacific questions - a Conference, that is to say, between Japan, China, the United States and Canada, Australia, New Zealand and Great Britain on behalf of the British Empire. Such a straightforward course would reconcile our position in respect of the United States and China, while the offer of it to Japan would at the same time enable us to terminate the Alliance with good grace. Such a course too would be a practical application of the method and spirit in international intercourse which the nations, by means of the Covenant of the League, have sought to establish for the adjustment of conflicting interests and views. The agreement to go into conference can be of the loosest kind if need be; there is no vital necessity to secure a formal agreement to hold periodical or future Conferences. If an initial Conference were brought about and went well, it would itself constitute a precedent and might result in a habit, and, in the end, in a real working Pacific Concert. Nothing could be better from the point of view of British-American relations than to bring about such a course of action; it would provide

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an occasion and a method of co-operation founded on actual common interests and necessities.

21. For such reasons the Canadian Government in February last proposed by telegram to the Prime Minister of the United Kingdom that a representative of the Canadian Government should get in touch with the American President and Secretary of State and discover through informal confidential conversations whether such a policy is feasible. This method was suggested because of Canada's very special concern in the whole question and because Canada through intimate association and intercourse has had special experience in understanding and dealing with the United States. It is submitted that everything that has occurred since that proposal was made makes it still more imperative that the Alliance should be terminated and that an attempt should be made to pursue in some form or other such a policy as that proposed by Canada.

Alternative to Pacific Conference.

22. It is of course possible that for reasons good to them the Americans would find it inexpedient to participate in a Pacific Conference. Or for other reasons such a Conference may appear to be impracticable for the present. But this would not in the least affect the grounds for rejecting the Alliance, whose basis would still remain as unconvincing and whose burdens as a political instrument as embarrassing as before. Our interests are not identical with those of Japan in any solid sense whatever, and this disparity is not relative; it is inherent in the whole situation. If a Pacific Conference is inexpedient for the moment we should endeavour, if only by the establishment of a purely personal, informal relationship and habit between the British Ambassador and the American Secretary of State, to set up a practice whereby Far Eastern problems would be discussed between them before any action by either Power affecting that part of the world was taken. While some features of the American Constitution produce the greatest

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difficulties in negotiation, yet the peculiar independence of the Secretary of State in the day to day conduct of foreign affairs should always be borne in mind. It is only when a formal treaty is in question that he is really dependent on the Senate; nor is he subject to the necessity of accommodating his views to those of his fellow Cabinet members in anything like the fashion that obtains under our system; while frequently (as may happen under the new Administration at Washington) the President, if he be inexperienced in or indifferent to foreign affairs, will allow his Secretary of State a very large scope or discretion in the conduct of his Department. In such conditions the simple establishment of a personal working understanding with the Secretary may actually be as valuable and effective for the term of his office as a more formal official understanding. And out of such a practice something more stable may come.

Urgency of the Proposal.

23. The suggestion has been made that before a policy of co-operation with the United States can become feasible there are many other questions to be settled. These questions it is suggested are bound up with disarmament, naval shipbuilding, the future of the League of Nations and its disarmament programme.

24. In the first place, it is impossible to imagine that these questions can be settled this year or next year or in any other definite year; if the Prime Ministers' meetings are to wait on the solution of these problems they will wait long indeed.

25. In the next place, it is submitted that, so far from this question of an alternative policy to the Japanese Alliance depending upon the settlement of these other questions of disarmament and naval shipbuilding, the settlement of these questions in reality depends upon our achieving in all directions such a policy of frank and friendly co-operation with the United States as the Canadian Government

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have proposed. Armaments are the result and instrument of policy, not the creator. By establishing with the United States a basis of co-operation for adjusting common concerns, we may expect to do more for disarmament than a score of conferences for discussion of the subject in the abstract can possibly do. It may perhaps be said that the chances of establishing such co-operation are vague and uncertain, while armaments and alliances are things that are concrete and definite. But it is hard to believe that public opinion in Canada - and elsewhere in the Empire for that matter - will ever be convinced unless every possible effort is made in the former direction.

26. Nothing can be of more importance than the promotion of a policy and habit of co-operation between the British Empire and the United States. The way to begin such a policy is to begin it, or at least to try, and to do so as soon as possible. The United States are - quite naturally - showing their disinclination to participate in European politics; and there seems little likelihood that their relation to any universal association of nations will for a long time be of more than a superficial nature. On the other hand they are actually taking, and will undoubtedly continue to take, an active part in Pacific affairs. This is a region in which the British Empire is naturally deeply concerned; it has indeed often been said that it will be the chief theatre of our action in the future. Practically therefore it offers the only present field of co-operation; while this question of the Japanese Alliance provides an occasion for practical steps in the immediate future. It would seem the part of wisdom to recognise these considerations and make every effort to seize the opportunity. This cannot prejudice the chances of a wider co-operation in the future, but on the contrary may further them. The proposal is in the direct line of all our dealings and methods so far as Canada and the United States are concerned. The issue raised seems fairly plain, and it seems not too much to say that everything

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considered no issue of today can be graver. The decision taken will be the first definitely significant step taken on our side along the road of post-war British-American relations; and its full import will consist in the insensible effect that it will have upon our future direction.

27. It may conceivably be objected that the case against the Alliance as indicated above leans too tenderly toward American susceptibilities, that it would mean a subordination of British policy to that of the United States. The attempt has been, however, to consider the question simply from the point of view of the interests of the British Commonwealth, taking into account of course the possible effects upon British-American relations as constituting the most important factor in estimating what is in our interest. The simply question is whether it is in our interest on the whole to renew the Alliance. There seems no possible benefit to be derived from the Alliance that could offset the loss of American good will, to say nothing of the positive disadvantages quite apart from the American aspect. True, if we reject the Alliance on the basis here suggested there may quite possibly be Americans to utter boasts about "dictating British policy", particularly the policy of the Dominions, or about assuming "the moral leadership" of the English speaking world. Let them. If our policy is sound from our view point such things cannot injure it; nor does one become a "dictator" or a "moral leader" by asserting that he is one. It might also be that such irresponsible assertions would merely provide another bond of sympathy. The peoples of the Empire are sometimes not lacking in humour.

28. These notes have been written on the assumption that the American is a political animal as we believe ourselves to be; that in his instincts and methods he is nearer to us than any other; that in our own and the world's highest interest we should work together; that it

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is our business to meet and cope with him on the political plane depending upon our skill there as against his; and that to think of him in terms of force means entering upon an incalculable and uncontrollable course. Today policies in foreign affairs must depend for success upon the support of public opinion. American public opinion like our own will always respond in the long run to intelligible and straightforward actions. If we keep that in mind there is every reason to suppose that we need not take too seriously the aspirations of some of their public men for the "moral leadership" of the world. It has not yet been demonstrated that the Americans have rejected our friendship. And if there is to be any rejection of friendship it must never come from our side; if the choice is to be rejection, the choice must be theirs; and we must see to it that it is made quite plain to the world that the choice was theirs. Otherwise we shall have failed in the highest arts of politics.

Special Article respecting Dominions.

29. In the event of some parts of the Empire desiring to renew the Alliance the question arises whether there should be an article providing that the agreement shall not be binding upon the Dominions without the approval of their Parliaments. Such an article was inserted in the abortive Anglo-French Reinsurance Treaty concluded at the Paris Peace Conference. It is difficult to see how this precedent can be ignored, since the Anglo-Japanese Alliance is in effect for this purpose practically on all fours with the Anglo-French Treaty. Furthermore the Government stated in the recent debate in the House of Commons that nothing could be done at the Prime Ministers' Conference to bind Canada without the approval of Parliament. The article in the Anglo-French Treaty reads as follows: "The present Treaty shall impose no obligation upon any of the Dominions of the British Empire unless and until it is approved by the Parliament of the Dominion concerned."

J. C. Christie

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JAPAN. [March 22.]

CONFIDENTIAL. SECTION 2.

[F 1042/63/23] No. 1.

Sir C. Eliot to Earl Curzon.—(Received March 22.)

(No. 58.)

My Lord, *Tokyo, February* 18, 1921.

I HAVE the honour to transmit to your Lordship, herewith, a memorandum by Mr. Parlett on the tone of recent articles in the Japanese press respecting the renewal of the Anglo-Japanese Alliance. There has been considerable discussion about the value of the alliance to Japan if assistance in a possible war with America is excluded from its terms, but the general opinion of the more important organs seems to be that it is worth while to renew it even in a modified form.

I have, &c.
C. ELIOT.

P.S.—Since I wrote the above, an article, of which I have the honour to transmit a copy herewith, has appeared in the "Herald of Asia" deprecating the renewal of the alliance. It is almost the only article of importance which has adopted this attitude. The writer, Mr. Zumote, is a well-known journalist of considerable talent, who was formerly a member of the Diet. He was in Siberia in 1919, and was believed to inspire anti-British articles and in other ways to conduct anti-British propaganda.

C. E.

Enclosure 1 in No. 1.

Memorandum on the Tone of the Japanese Press with regard to Renewal of the Anglo-Japanese Alliance.

THE renewal of the Anglo-Japanese Alliance has again become the subject of discussion in the Japanese press in consequence of an article written recently by Mr. Gardner for the "Contemporary Review," and of Lord Northcliffe's statement in the "Times" with regard to Great Britain's responsibility towards her ally in the event of war breaking out between Japan and the United States.

The number of the "Contemporary Review" containing Mr. Gardner's article has not yet reached Japan, but he objects apparently to renewal on two grounds. The first is that owing to her relationship with Japan, Great Britain has incurred the bad name of being a coadjutor in that country's misdeeds and imperialistic projects in China. The second is that the alliance is an obstacle in the way of solid co-operation between Great Britain and America.

The article does not appear to have attracted much comment in the press generally, although the "Jiji Shimpo" which has always been a strong supporter of the alliance, devoted a long editorial to the refutation of Mr. Gardner's views, arguing that although the Russian menace, which was mainly responsible for the existence of the alliance, had disappeared, it was too early to assume that it would never return. Considered, moreover, from the point of view of British interests alone, the Bolshevik policy in China, India, Afghanistan, Persia and other countries, and the unrest arising from that policy showed that the alliance should not lightly be talked away. Indeed, at a time like the present, when popular unrest was so widespread, instances might conceivably occur in which it would be useful to America herself and for that reason it was wide of the mark to say that the alliance was an obstacle to Anglo-American friendship.

Lord Northcliffe's statements, owing to their source, to the wide publicity the "Times" commands, and to the emphatic reference made to the bearing of the Anglo-American Peace Commission Treaty on article 4 of the alliance have naturally excited loud and prolonged comment.

The mere inclusion of this article in the revised agreement of 1911 has, notwithstanding the fact that a general arbitration treaty between Great Britain and the United States has never been signed, doubtless enabled all intelligent Japanese to

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form a fairly accurate estimate of the attitude Great Britain would adopt in the event of Japan going to war with the United States; but the news that Great Britain had been long definitely insured against any responsibility in this direction, and that the Japanese Government were aware of the fact came undoubtedly as a surprise. Indignant comment immediately followed; but it is to be noticed that this was only in a certain section of the press and that it was directed not so much at England as at the Japanese Government, which had for seven years concealed from the nation the fact that England regarded the Peace Commission Treaty concluded with the United States and other countries as equivalent for the purposes of the alliance to a general arbitration treaty. It happened too that at the moment Lord Northcliffe's statement appeared in the "Times" the Diet was in session, with the inevitable result that questions were asked on the subject in the Lower House and the position of the Government thereby rendered much more embarrassing than would have been the case had the disclosure taken place at any other time of the year.

Newspaper comment has on the whole been couched in a moderate tone, and, as I have already said, when caustic language was used it was, generally speaking, directed at the Japanese Government.

In an article published early in January, the "Osaka Asahi" expressed the opinion that the feeling in England in favour of the alliance had cooled because Great Britain no longer needed Japan's aid, and because her present policy was to win the favour of the United States. This was the true explanation. Commercial rivalry and the desire to bring into existence an Anglo-Saxon Alliance were much more potent factors than any suspicions of Japanese militarism.

In the circumstances there was no need to renew the alliance, and for this reason Lord Northcliffe's statement was to be welcomed since it would help to open the eyes of those Japanese who wished to maintain Japan's international position by blind reliance on England.

The article went on to say that there was no question of any grievance against Great Britain; on the contrary her friendship was essential to Japan in the same way as was that of America. But an alliance which was only one in name was worse than useless. Moreover, the idea of a League of Nations was fundamentally incompatible with alliances involving the principle of the balance of power, and if Japan and Great Britain remained in a special relation to each other over and above the League, the possibility of their defences being combined must be taken into consideration. For this reason America regarded renewal with suspicion. It was only by abandoning the alliance that Great Britain could dispel those suspicions, and only by dispelling those suspicions could Great Britain and Japan avoid the evils of naval competition. An alliance was not necessary for the maintenance of mutual friendship.

In another article published at the end of the month, the same newspaper adopted a less outspoken attitude, professing itself not absolutely opposed to the continuance of the alliance, provided always that it was honourable and reciprocal in its terms. Japan should not be content to remain simply a planet in the orbit of British diplomacy. It was all very well for people in England to say that as a condition precedent to renewal an international conference should be held to settle all questions pending between Japan and China; but if Japan had to agree to all the terms dictated by Great Britain, she might be compelled to undertake the task of maintaining peace and order not only on the Indian frontier but also in Persia, Mesopotamia and the Crimea. Such a situation was impossible of acceptance.

The "Tokyo Nichi Nichi Shimbun," a paper with a good reputation, in a leading article in its issue of the 11th January, admitted that the alliance had done valuable service and had been indispensable to both nations; but it expressed doubts as to the absolute necessity for renewal, as far as the maintenance of peace in the Far East and the vindication of the interests of the two countries were concerned. It nevertheless expressed itself in favour of renewal, because, although the Russian menace had been removed, the general state of the world was one of unrest, and in the circumstances the disappearance of the existing bond of union would be a disadvantage. The article concluded with the statement that the alliance had never contemplated the possibility of war between Japan and the United States.

The three papers quoted may be taken as representing the opinion of sober-minded people.

On the whole it does not differ greatly from that of the less responsible or liberal-minded section of the press, as will be seen from the following comments taken from the "Kokumin" and the "Yomiuri."

The latter in an article in its issue of the 10th January, declared that the mere existence of article 4 in the Treaty of Alliance showed that, even though Great Britain was from the strictly legal point of view still under an obligation to carry on joint operations with Japan, no dependence could be placed on her in the event of war with America. The Peace Commission Treaty no one in Japan had ever heard of, but as Baron Hayashi had disclaimed on the part of Japan any expectation of help from England, it was to be presumed that the British Government had in fact made some communication or other on the subject to the Japanese. If so, why had the nation not been informed?

It is on this particular point that the "Yomiuri," which has referred to the subject on various occasions since the date just mentioned, concentrates. Was such a communication ever made, and if so, why was it kept secret from the nation? Why had the Japanese people been allowed to live for seven years in a fool's paradise? If Great Britain did inform the Japanese Government that she considered article 4 to cover the Peace Commission Treaty, her interpretation should have been contested and not tacitly admitted. The net result of silence was that the alliance had become practically a dead letter.

This comment is followed illogically enough by the statement that, as the alliance was not concluded with a possible war between Japan and Amercia as an objective, the aid of Great Britain was not counted upon.

The "Kokumin," an organ of the military and bureaucrat parties, adopts an attitude towards the alliance in the main antagonistic. It is rumoured that this is mainly because this paper is afraid that India may be included in the scope of the new agreement, should one be made, and to any stipulation of the kind the "Kokumin" is hostile for reasons which are sufficiently obvious. Notwithstanding this, its earlier articles in January on the alliance were, if at times somewhat obscure, still quite moderate in tone.

The object of the alliance, it says in one, is a spiritual relationship between the two countries, and the instrument itself differs from others of its kind in that the parties concerned use their forces simply in accordance with the stipulations prescribed. For this reason Great Britain observed neutrality during the Russo-Japanese war. Whether the alliance will be renewed or not it is impossible to say, but in any case no difficulty can arise between the two countries as long as they are spiritually in sympathy with one another. From the outset the alliance had not contemplated the possibility of war between Japan and the United States.

Later utterances of the "Kokumin" are not quite so philosophic in tone. Following the example of the "Yomiuri" it professes profound astonishment not only that the Japanese Government should have allowed the alliance to become emasculated by their tacit acquiescence in the notice given by Great Britain seven years ago, but also that this state of affairs should so long have been kept concealed from the Japanese nation. The alliance is now absolutely one-sided, for, whereas Great Britain is under no liability to help Japan in the event of war with America, Japan will be under an obligation to defend India in the case of Bolshevik attacks. Some consolation is, however, found in a report that the Japanese Foreign Office is considering how to lighten the burdens imposed upon this country. This is apparently to be done by assuming the position that the substance of the new agreement must be sought in the Covenant of the League of Nations, and that it should take the shape of a mere formal memorial of diplomatic cordiality between the two nations.

It is asserted in some quarters that the press has been privately warned by the authorities not to print articles commenting unfavourably on renewal.

Enclosure 2 in No. 1.

Extract from "Japan Advertiser," February 18, 1921.

SHOULD JAPAN DROP THE BRITISH ALLIANCE?

Japanese Liberal puts forward a New Point of View.

IT is no secret that negotiations are going on between the Japanese and British Governments for the renewal of the Treaty of Alliance. No information is available

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concerning the progress of these negotiations, and there is absolutely no means of forecasting their probable issue. The moment, therefore, seems opportune to venture upon a calm and careful consideration of the pros and cons concerning the renewal of the alliance.

To be perfectly frank, we are in serious doubt as to the wisdom of continuing the special political engagements existing between the two countries. The alliance lost its vitality when the fortunes of war swept from the political horizon of Asia, as, indeed from the world stage, the menace of Germany which, after the disappearance of the Russian peril, constituted its chief objective. Where is now a Power that threatens the common interests of Japan and Great Britain in Eastern Asia? None so far as we can see. Soviet Russia it is true is pointed at by some as a possible danger to its Asiatic neighbours. It is, of course, not impossible that Soviet Russia, already militarised to a remarkable extent, may be forced by circumstances to launch on a career of conquest. But such a contingency seems remote, and even if it does come about, its immediate effect will probably be felt in Europe and not in Asia. As for the menace of Bolshevik propaganda which is sometimes adduced by militarists as a reason for a hostile policy against Soviet Russia, and which has been mentioned to us by more than one Britisher as a reason for the continuance of the alliance, the matter is hardly worth serious consideration. We fail to see how a danger of this kind, supposing it actually existed, could be effectively fought by a political alliance, however powerful that may be.

The United States is regarded in some quarters in the light of a possible disturber of the political equilibrium in these waters. We feel no hesitation in characterising this view as born of unfounded suspicion and gross ignorance. In the commercial and industrial development of China, we must be prepared to find in Americans keen and formidable competitors. It cannot of course be lost sight of that economic competition, under certain circumstances, is quite capable of jeopardising peaceful relations between nations. But the Chinese market is large enough to provide fair opportunity to all comers, and furthermore, it will be found practicable for Japanese and Americans to co-operate in this development of China's natural resources. In any case, so long as American activities in China are confined to economic spheres, and no attempts are made by America to play a political rôle such as may clash with our legitimate position and interest in that country, there is no reason whatever to fear any occasion for a rupture with America. And we have too much confidence in the sense and judgment of the American people to believe them liable to fatal blunders like that. As for the problem of the unfair discriminations practised against our countrymen in some parts of America, delicate and annoying as it is, it will never be suffered to occasion breach of peace between the two countries. For the rest it will require provocations of the most aggravating character to plunge them into war with each other, for leaders of thought and affairs on both sides know perfectly well that neither nation will gain anything by fighting the other.

There is thus no possible common enemy in sight, and without such common danger, the alliance would be devoid of all practical value or justification. The only conceivable advantage of its renewal will be a negative one of avoiding a possible sense of estrangement that might result from the discontinuance of the pact. Against this negative advantage of doubtful value, there must be set up disadvantages and inconveniences of a serious import.

The first obvious inconvenience or injury resulting from the renewal of the Anglo-Japanese Alliance will be the suspicion it will inevitably create among Americans that it is ultimately directed against them. That America does not enter into the consideration of either the Japanese or British Government as a possible future enemy, we do not entertain the slightest doubt. It is still fresh in the memory of all students of international politics that, when Great Britain concluded with America an arbitration treaty which subsequently failed to be ratified by the Senate, she proposed to Japan with remarkable haste to modify the then existing Treaty of Alliance by excluding from the scope of its provisions all countries with which either contracting party had entered into a treaty of arbitration. Japanese showed equal promptness in accepting the proposal, thus proving to the whole world how sincerely anxious both Powers were to satisfy the United States as to the entire absence on their part of all intentions to utilise the Treaty of Alliance against that country. An entirely new situation, it is true, has since been developed as the result of the elimination of Germany as Britain's chief competitor for empire and trade. In a sense that competition has now been transferred between Britain and the United States.

In naval armament the latter bids fair in a few years to outstrip the former, a prospect which is as soothing to American pride as it is disquieting to the British people for whom supremacy on the sea is a necessary condition of empire. To them it is a matter of life and death.

From this and other obvious causes, the relations between Great Britain and the United States are no longer what they used to be a few years ago. We hesitate to believe that the Anglo-American rivalry, however keen it may develop (and it will undoubtedly become dangerously bitter), will ever precipitate an armed conflict between the two nations. In any case the situation between them is such that, however loudly the London Government may declare its friendliness to America, the renewal of the alliance with Japan is bound to excite an unfortunate suspicion in America as to the real intentions of the signatory Powers. Such suspicion will naturally be strengthened by the fact, which is apparent to everybody, that apart from America there is no Power in sight who might be conceived as a possible antagonist against whom Britain might consider it necessary to be provided with an Ally. Supposing that the race for predominance on water was inevitable between Britain and America, it is easy to see that Japan's allegiance would be an advantage of great value to Britain. But it is less easy to discover what benefits might accrue to Japan from binding herself to a prospective enemy of the United States, with whom it is necessary for her to be on the best of terms.

Another important reason that urges us to oppose the renewal of the alliance, is the fact that the result will be such deep disappointments on both sides as probably to force the two nations to part as enemies. As we have endeavoured to make clear, there is no possible menace to the common interests of the two nations in Eastern Asia, and the alliance renewed under the circumstances will possess no living force, it will at best be an ornament with no practical significance. This fact will be patent to all thinking men on both sides, and they will be free from disillusionment, for they will never attach much importance to the alliance. But it will be different with the man in the street, who will have frequent occasion to grumble because he will expect from the alliance what it was never meant to accomplish. When the time comes, as it must come, for the two Governments to drop the alliance, the inevitable consequence will be an unfortunate estrangement between the two peoples. More or less unpleasantness must in any case result from the abrogation of the alliance, but it will be many times more intense if it is postponed another round of years. Such a result will be sincerely deplored by all intelligent Japanese, for alliance or no alliance, we strongly wish that there should always exist a most cordial friendship between the two nations. The Japanese have a real and profound admiration for the British people on account of their sterling personal qualities, their high civilisation, and their unique culture. English is destined to become almost our second national language, and it is from English history and English literature that we get some of our noblest inspirations for reform and progress. World-wide as is the British Empire, Japan is fortunately so far away from the centre of that Empire and our vital interests are concentrated within so narrow limits, that nowhere do the interests of the two countries come to an essential clash. We do not aspire to a dominant position as a maritime Power; nor do we intend to challenge British primacy in the field of world finance and trade. Japan and Britain can, therefore, be good friends without binding themselves by any written engagement, and it would be the height of folly to jeopardise this natural friendship by trying to bolster up an unnecessary and artificial framework of an alliance.

The third and last ground of our objection to the renewal of the alliance, is that it will interfere with the work of reconstruction, which it is high time for Japan to carry out in all departments of her national life. We now need a period of self-introspection and a fresh orientation of our national progress and development. Not the least important item of reform will consist in the proper subordination of the military to the civil power. A successful accomplishment of reforms of this kind is conditional upon a certain frame of mind conducive to self-interspection on the part of the military. Such a frame of mind will be induced by a sense of new responsibilities consequent upon the Empire's complete diplomatic isolation. A survey of our situation will reveal to the dullest of intellects the important fact that our position is one of extreme strength and boundless possibilities, provided we follow a right course of policy. With an armament on land and sea amply sufficient for purposes of defence, we can defy the whole world if we shape our policy according to justice and humanity. With the largest potential market in the world at our very door, we can successively compete there with any rival on equal terms, and enrich

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ourselves beyond the dreams of avarice. With a fair and sympathetic attitude toward our fellow Asiatics, it will not be impossible for us to establish a claim for a moral ascendency over nearly half the human race. To make our claim good in this respect, the first requisite is a complete elimination of the sinister militarist influences from the domain of our domestic and foreign policy. And this desirable end can, as we have pointed out, be best promoted by a period of complete international isolation.

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Mr. Christie C 41181

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CONFIDENTIAL.

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E. 14.

AMERICAN POLICY IN THE FAR EAST.

I CIRCULATE to the Imperial Cabinet the copy of a despatch which has just been received in the Foreign Office from His Majesty's Consul-General at New York, and which reflects (from an unimpeachable and authoritative source) the views of the Harding Administration.

C. OF K.

Foreign Office,
June 16, 1921.

MEMORANDUM RECEIVED THROUGH HIS MAJESTY'S CONSUL-GENERAL AT NEW YORK.

(Confidential.)

A new American policy on the part of the Harding Administration is responsible for the tentative decision of this Government to concentrate its principal naval strength in the Pacific, abandoning the traditional and historic plan of maintaining the first-line naval fighting force in the Atlantic.

The correspondent is able to announce on authority that is unquestionable that President Harding and his advisers have decided that the future interests of the United States lie toward the south and the west and not toward the east. They have decided that henceforth this Government's greatest field of endeavour lies in South America and in Asia, and the naval policy of concentration in the Pacific only follows this policy.

This, of course, is a tremendously important decision on the part of this Administration. It means a reversal of a policy that since the beginning of this Government has caused this nation to look to Europe for its trade, its commerce and its money supply. It means that in the future the Government is to devote itself to upbuilding that great trade in the south and the west that has hardly been scratched. It means that European development, for the first time in history, is to be made of secondary and not of primary importance.

The whys and wherefors of this decision can best be explained by economists and trade experts, but it can no longer be kept secret that military considerations are now and will be in the next few years constantly urging the United States to mass its greatest strength in that part of the world where the United States is finding its new opportunities. At the same time, it is no longer possible to deny that this Government now feels that if a war is to come again to this country, it will come from the Pacific and not from the Atlantic side.

As explained to the correspondent, by one who could not go into the very greatest detail because of the White House rule of secrecy on the meetings of the Cabinet, the naval concentration in the Pacific is to be no sudden warlike move that will arouse the suspicions of the entire world and provoke the Japanese, with whom this Government is now conducting amicable negotiations for the settlement of a great many difficulties. On the contrary, this concentration is to be a slow and studied affair, that it may take some time to complete, but which is as certain to come, according to the informant, as the night follows the day. So, therefore, when Secretary of the Navy, Denby, smilingly replies to enquiries about naval concentration in the Pacific by saying :—

"No order for such a concentration has been given," he is telling the truth. No orders have been given and no such order will be given. Just the same, it is the policy of the Navy Department to order each new vessel into the Pacific, to put the finest and best of the fighting force there, and to leave only the second class and reserve ships in the Atlantic.

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Not only this, but from time to time the best destroyers, the new airplane carriers, and even some of the present first-line ships in the Atlantic will be ordered to the Pacific. It will be a slow process. The Atlantic fleet will not assemble as if for parade and steam majestically through the Panamá Canal to join its sister fleet in the Pacific, there to remain permanently. On the contrary, the dismantling of the Atlantic fleet, since the birth of the republic, the greatest fighting force of the nation, will be a slow and tedious process that will take months to accomplish, but which is certain to come.

The newest of the great Dreadnoughts, the "Tennessee," which has only recently had its trial trip, may be the first to be ordered to join the Pacific squadron. Indeed, naval officers even now assume that assignment of the "Tennessee" to the Pacific is a foregone conclusion. The "California," sister ship of the "Tennessee," is being built in Pacific yards and will stay where she is when completed. The present flagship of the Atlantic fleet is the "Pennsylvania," built some years ago, and it is notable that none of the newer ships of the navy even now are in the Atlantic.

The problem that is worrying the Navy Department is that of bases and yards for the Pacific squadron. Because the Navy Department is unable at this time to explain its policy, the Senate on Monday defeated its plan for a great supply base at Alameda, but this has not discouraged the navy. The view there is that the whole thing was tragic, especially since it was only the short-sightedness of a few senators that defeated the thing, but it is not an irreparable loss and that the navy will go ahead without it.

Something of the importance of this great decision by President Harding and this Administration may be seen from the fact that it virtually means abandonment of the Atlantic to Great Britain. It means that affairs have reached the stage where this Government does not believe itself greatly menaced by Great Britain, now the only naval power in the Atlantic capable of concentrating a great force on these shores. It means that the Administration is not even considering the possibility of a German or French attack, and that it regards Spain and Russia and Italy as entirely out of the naval running.

On the other hand, the new policy means that Great Britain must acknowledge, in its turn, the naval superiority of the United States in the Pacific. Australia, New Zealand and Canada must recognise the ground of common interest with the United States and look to this country for protection rather than to Great Britain. In short, one of the principal bi-products of the tentative Harding naval policy is the formal announcement to the world of a great union of the English-speaking peoples of the world bound, not by treaty or covenant, but by common language, common institutions and by common customs.

There is only one thing that prevents immediate announcement to the Powers of the world of the new policy. That is the appearance of the new policy toward Japan. It has been determined, chiefly by Secretary of State Hughes, that under no circumstances must this Government at this time make a move that might be construed by the Japanese as being warlike.

It is no secret that some in the Cabinet were in favour of going ahead and of letting the Japanese think what they pleased and "be damned." But this rather peremptory and aggressive policy was soon put aside by the more conservative in the Cabinet, who have agreed with Secretary Hughes that there are many ways of accomplishing the same end and that the worst of all ways is that of disregarding the feelings of others.

Nevertheless, the United States has large interests in Asia that need attention more at this time than at any since Commodore Perry first visited Japan. Since the start of the war in Europe Japan's aggressions in Asia have constantly increased in scope, despite protests made by this Government to which Japan has never paid any particular attention.

A list of Japanese encroachments in Asia would be a long one. Japan has seized the northern half of Saghalin Island from the helpless Russians and has kept it, despite the protests of this Government made during the Colby incumbency in the Department of State. She has made greater and greater inroads in Manchuria and Siberia, and has refused to withdraw her large force of troops from that area, despite the understanding of this Government that she would withdraw. She has made a vassal State of Korea and has taken the Shantung peninsula, which she says she is about to give up, but which she still retains.

Because of the war, this Government has never been able to push effectively or to back up its protests about Japanese aggressions, but the prospects are that once this Government gets into the question of Japanese exploitation of Asiatic territory, great

international questions will be raised that will bring issues of moment between the two nations.

It cannot be said that this Administration is seeking war with Japan. On the contrary it is doing the very thing that it hopes will lead away from war with Japan. It desires to demonstrate to Japan that the United States is ready and willing to conserve and maintain its interests in Asia as well as in the rest of the world, and while Secretary of State Hughes pursues a vigorous diplomatic policy toward Japan, Secretary of the Navy Denby will be expected to amass his fleet slowly but surely on the Pacific as an evidence that the protests of this Government are to be reckoned as more than mere statements of opinion.

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SECRET.

E–15.

(*Also C.I.D.* 144–*C.*)

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STRATEGIC SITUATION IN THE EVENT OF THE ANGLO-JAPANESE ALLIANCE BEING DETERMINED.

MEMORANDUM BY THE COMMITTEE OF IMPERIAL DEFENCE.

Situation prior to 1914.

PREVIOUS to the outbreak of war in 1914 the rise of Germany as a naval Power led to the peace distribution of the British fleet being designed to meet a hostile combination of European naval Powers. Attention was almost entirely directed to the North Sea as the probable scene of naval operations, and the probability of a war with Germany, either alone or in combination with the other Powers of the Triple Alliance, was always accepted as the governing factor when considering how the not unlimited naval and military resources of the British Empire could best be disposed.

2. Moreover, the existence of the Anglo-Japanese Alliance and the general grouping of the world Powers at that time were held to make it unlikely that the main British naval forces would be called upon to operate outside European waters. In fact, broadly, it may be said that the likelihood of Great Britain having to undertake naval and military operations on a large scale in the Pacific was completely overshadowed by the greater menace which threatened her in Europe.

3. It thus came about that, on the several occasions in the years preceding the war on which the Committee of Imperial Defence considered the defence of British possessions in the Pacific, they took the view that the existence of the Anglo-Japanese Alliance might be regarded as relieving His Majesty's Government of the necessity of considering Japan as a possible enemy, and that British naval requirements in the Pacific would be met if the combined British and Japanese fleets were superior to any reasonably probable combination of naval forces in those waters likely to be arrayed against her.

4. At the same time, in considering the defences to be provided at Singapore and Hong Kong, the Committee always had in mind the possibility of the determination of the Anglo-Japanese Alliance and the steps which would have to be taken to meet the situation if this were to happen.

5. The importance of having naval bases in the Far East available in an emergency for the use of the British fleet was a factor never lost sight of. For it was fully recognised that, even though it were not possible at that time to maintain a fleet in the China seas of superior power to the Japanese fleet, it was nevertheless essential that the main British fleet could be moved to those waters at short notice if a situation were to arise which demanded it. This was so because it was always realised how necessary it was to be fully prepared in an emergency to maintain British prestige in the Far East and to provide for the defence of Australia and New Zealand. On the other hand, there was never any question of Japan possessing a fleet comparable with the British naval forces, nor did any question arise as to the ports in the Far East not being sufficiently developed for expansion in an emergency into fleet bases if required.

Post-War Situation.

6. So much for the past. As regards the present and future the war has led to a more or less complete change in the general situation. Concurrently with the disappearance of Germany as a naval Power, the navies of the United States and Japan have considerably increased in strength, and both these Powers are still carrying

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out large shipbuilding programmes, and constructing warships of the latest types. Instead, therefore, of the North Sea and European waters being the likely scene of naval operations everything points to the Western Atlantic and the Pacific, especially the latter, being the centres of naval interest for the next decade.

7. Further, the defeat of Germany, leading as it has done to the end of the menace threatening the British Empire in Europe, has made it no longer necessary for the British naval forces to be prepared at short notice to undertake naval operations in European waters, and to this extent the situation from the British point of view has improved in so far as there would not now on an emergency arising be the same strategic objection to moving the main British fleet to the Far East as there would have been in 1914.

8. On the other hand, it must be observed that this change does not enable us to make any fundamental alteration in the peace distribution of our fleet, though it may be of the greatest importance in a war. It is clearly impossible in existing circumstances to maintain large British fleets in both the Pacific and the Atlantic. For this reason, coupled with the administrative and financial difficulties in maintaining in time of peace a fleet at a great distance from the main naval dockyards, it is necessary to keep the main British fleet concentrated and ready in a central position in European waters whence it can quickly reinforce either to the East or the West as strategic necessity may dictate. Consequently, our plans must be so laid that while the main British fleet is concentrated in these waters it can be moved quickly to any theatre of war in which it may be required.

9. The strategical situation in the Far East has also deteriorated from a British point of view. The United States of America and Japan, which already possess the second and third strongest navies in the world and undoubtedly will in the next few years, unless further construction is undertaken in the British Empire, become the first and second naval Powers of the world, are both countries which have special interests in the Pacific, and, while the completion of the Panamá Canal has from a stategical point of view added materially to the potential strength of the United States fleet by facilitating the transfer of warships from the Atlantic to the Pacific seaboard, the strength of the Japanese fleet has increased out of all comparison to what it was in 1914.

10. Again, the "capital ship" of to-day has grown in size out of all proportion to the corresponding vessel in the years preceding the war, and docks such as those in the Far East and Pacific, which in the year 1914 were capable of accommodating the biggest warships, can no longer be counted on as available for use by the larger vessels in the battle fleets of to-day. Further, owing to the introduction of oil-fuel in the Royal Navy, it is actually the case to-day that for want of oil-fuel reserves at the ports in the Far East the main British fleet could not under existing conditions operate in the Pacific within any reasonable time after the outbreak of war.

11. Even though, therefore, the disappearance of Germany as a naval Power has reduced the risk which the sending of naval forces to the Far East would be likely to incur by uncovering vital interests in European waters, Great Britain is on the whole, having regard to the increase in the strength of the Japanese navy and the lack of docks, oil-fuel reserves and other facilities in the Far East, in at least as weak a position to-day for operations in the Pacific as she was in 1914.

Effect of Determination of Anglo-Japanese Alliance.

12. The Committee are advised that one result of the determination of the Anglo-Japanese Alliance at the present time would probably be that a spirit of resentment towards the British Empire would replace in Japan the feeling of friendship now existing there, and in such an eventuality the whole strategic situation in the Far East would have to be reviewed by His Majesty's Government in concert with the Governments of the Dominions and India.

13. Whether the Alliance is determined or not, a state of things which makes it impossible for the British fleet, for want of oil-fuel reserves and docking facilities, to operate in the Far East within a reasonable period after the outbreak of war, should not be allowed to continue indefinitely. Steps must therefore be taken in any case to develop the port or ports in the Far East considered most suitable as places of concentration, supply and repair, but the urgency or otherwise of completing this work in the shortest time possible must depend on whether or not it is decided to determine the Alliance.*

* This question is further dealt with in C.I.D. Paper No. 143-C.

14. In the event of the determination of the Alliance it will be necessary at once to carry out the work of developing the ports as a matter of urgency, although prices are now high and the exigencies of national finance impose the strictest economy. This will, however, be the only alternative to running grave risks in regard to British interests in the Pacific, a course which the Committee of Imperial Defence cannot recommend.

Conclusions.

15. To sum up, and taking into account the considerations referred to above, the Committee of Imperial Defence are of opinion—

(*a.*) That, from a strategical point of view, the principal advantage to be derived from the renewal of the Anglo-Japanese Alliance is that such renewal will render the possibility of a war with Japan in our present unprepared condition more remote.

(*b.*) That, unless it is thought that some satisfactory understanding with the United States and Japan regarding a common policy in the Pacific is within the range of practical politics, thus making war a very improbable contingency, Great Britain has, from a purely strategic point of view, much to gain by the renewal of the Anglo-Japanese Alliance. Nothing, however, in this paragraph should be taken to prejudge the political and international complications due to naval rivalries and racial antagonism.

(*c.*) That, whether the Anglo-Japanese Alliance is renewed or not, the existing situation, under which it is impracticable for the British fleet to operate in the Pacific within any reasonable time after the outbreak of war, should not be allowed to continue, and that, in accordance with a conclusion reached by the Standing Defence Sub-Committee at a previous meeting and approved by the Cabinet, a development of the naval bases in the Far East is an essential part of British naval policy.

(*d.*) That, in the event of the Anglo-Japanese Alliance being determined without some such understanding as is referred to in paragraph (*b*) above, the whole strategic situation in the Far East will require to be reviewed by His Majesty's Government in concert with the Governments of the Dominions and India, and that the provision for the development of the essential naval bases in the Far East will have to be taken in hand not gradually, as might otherwise be the case, but as a matter of urgency.

2, *Whitehall Gardens*, S.W.,
June 17, 1921.

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Mr. Christie C 41187

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CONFIDENTIAL.

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E.17.

ANGLO-JAPANESE AGREEMENT.

I CIRCULATE the following additional papers about the renewal of the Anglo-Japanese Agreement.

C. OF K.

June 17, 1921.

No. 1.

Text of Notes exchanged between the United States and Japanese Governments regarding their Policy in China, and Declaration by the Chinese Government on the Subject.

(1.)

Memorandum communicated by Japanese Ambassador, November 3, 1917.

IT is an undeniable fact that Germany has in the past been at pains to create discord between Japan and America, and circumstances are not lacking showing that the political situation in China has also been exploited for this purpose. The matter was made the subject of discussion in the conferences recently held between the Special Ambassador of Japan and the American Secretary of State, and as the result of the exchange of their views, the Governments of Japan and the United States have come to the decision to publish the accompanying notes, deeming as they do that the public announcement at this juncture as to the existence of complete harmony of views between the two countries in regard to their position and policy in China would carry a long way in defeating the German machination. It is further believed that such an announcement would not only serve the interests of both countries and China equally, but would prove at the same time to be an additional demonstration of the resolute solidarity of the Allies.

Enclosure.

Exchange of Notes.

(i.) *Note from Mr. Lansing to Viscount Ishii.*

Excellency, *Washington. November* 2, 1917.

I HAVE the honour to communicate herein my understanding of the agreement reached by us in our recent conversations touching the questions of mutual interest to our Governments relating to the Republic of China.

In order to silence mischievous reports that have from time to time been circulated, it is believed by us that a public announcement once more of the desires and intentions shared by our two Governments with regard to China is advisable.

The Governments of the United States and Japan recognise that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognises that Japan has special interests in China, particularly in that part to which her possessions are contiguous.

The territorial sovereignty of China nevertheless remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that, while geographical position gives Japan such special interests, they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in the treaties with other Powers.

The Governments of the United States and Japan deny that they have any purpose to infringe in any way the independence or territorial integrity of China, and they declare furthermore that they always adhere to the principle of the so-called "open door" or equal opportunity of commerce and industry in China.

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Moreover, they mutually declare that they are opposed to the acquisition by any Government of any special rights or privileges that would affect the independence or territorial integrity of China, or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.

I shall be glad to have your Excellency confirm this understanding of the agreement reached by us.

Accept, Excellency, &c.

LANSING.

(ii.) *Note from Viscount Ishii to Mr. Lansing.*

Washington, November 2, 1917.

Sir,

I HAVE the honour to acknowledge the receipt of your note of to-day, communicating to me your understanding of the agreement reached by us in our recent conversations touching the questions of mutual interest to our Governments relating to the Republic of China.

I am happy to be able to confirm to you under the authorisation of my Government the understanding in the question set forth in the following terms :—

In order to silence mischievous reports that have from time to time been circulated, it is believed by us that a public announcement once more of the desires and intentions shared by our two Governments with regard to China is advisable.

The Governments of Japan and the United States recognise that territorial propinquity creates special relations between countries, and consequently the Government of the United States recognises that Japan has special interests in China, particularly in that part to which her possessions are contiguous.

The territorial sovereignty of China nevertheless remains unimpaired, and the Government of the United States has every confidence in the repeated assurances of the Imperial Japanese Government that, while geographical position gives Japan such special interests, they have no desire to discriminate against the trade of other nations or to disregard the commercial rights heretofore granted by China in the treaties with other Powers.

The Governments of Japan and the United States deny that they have any purpose to infringe in any way the independence or territorial integrity of China, and they declare furthermore that they always adhere to the principle of the so-called "open door" or equal opportunity of commerce and industry in China.

Moreover, they mutually declare that they are opposed to the acquisition by any Government of any special rights or privileges that would affect the independence or territorial integrity of China, or that would deny to the subjects or citizens of any country the full enjoyment of equal opportunity in the commerce and industry of China.

I take this opportunity, &c.

ISHII.

(2.)

Mr. Page to Mr. Balfour.—(*Received November* 8.)

THE American Ambassador presents his compliments to His Majesty's Secretary of State for Foreign Affairs, and has the honour to transmit, herewith enclosed, for Mr. Balfour's information, a copy of a note* which the Secretary of State in Washington addressed to Viscount Ishii, Special Ambassador of Japan, with reference to the policy of the United States and Japan in regard to China.

Viscount Ishii, in his reply, confirmed verbatim the understanding set forth in Mr. Lansing's note.

In giving these communications to the press on the 6th November, Mr. Lansing issued a statement, of which a copy is also enclosed herewith. Mr. Page would be greatly obliged if Mr. Balfour would be good enough to cause Mr. Lansing's statement to be given to the British press.

London, November 7, 1917.

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* For text see the Japanese Ambassador's memorandum of November 3.

Enclosure.

Statement issued to the Press by Mr. Lansing.

VISCOUNT ISHII and the other Japanese commissioners, who are now on their way back to their country, have performed a service to the United States as well as to Japan which is of the highest value. There had unquestionably been growing up between the peoples of the two countries a feeling of suspicion as to the motives inducing the activities of the other in the Far East, a feeling which, if unchecked, promised to develop a serious situation. Rumours and reports of improper intentions were increasing, and were more and more believed; legitimate commercial and industrial enterprises without ulterior motives were presumed to have political significance, with the result that opposition to those enterprises was aroused in the other country.

The attitude of constraint and doubt thus created was fostered and encouraged by the campaign of falsehood which for a long time had been adroitly and secretly carried on by Germans, whose Government, as a part of its foreign policy, desired especially so to alienate this country and Japan that it would be, at the chosen time, no difficult task to cause a rupture of their good relations. Unfortunately, there were people in both countries, many of whom were entirely honest in their beliefs, who accepted every false rumour as true, and aided the German propaganda by declaring that their own Government should prepare for the conflict, which, they asserted, was inevitable, that the interests of the two nations in the Far East were hostile, and that every activity of the other country in the Pacific had a sinister purpose.

Fortunately this distrust was not so general in either the United States or Japan as to affect the friendly relations of the two Governments, but there is no doubt that the feeling of suspicion was increasing, and the untrue reports were receiving more and more credence in spite of the earnest efforts which were made on both sides of the Pacific to counteract a movement which would jeopardise the ancient friendship of the two nations.

The visit of Viscount Ishii and his colleagues has accomplished a great change of opinion in this country. By frankly denouncing the evil influences which have been at work, by openly proclaiming that the policy of Japan is not one of aggression, and by declaring that there is no intention to take advantage commercially or industrially of the special relations to China created by geographical position, the representatives of Japan have cleared the diplomatic atmosphere of the suspicion which had been so carefully spread by our enemies and by misguided or over-zealous people in both countries. In a few days the propaganda of years has been undone, and both nations are now able to see how near they came to being led into the trap which had been skilfully set for them.

Throughout the conferences which have taken place, Viscount Ishii has shown a sincerity and candour which dispelled every doubt as to his purpose and brought the two Governments into an attitude of confidence toward each other which made it possible to discuss every question with frankness and cordiality, approaching the subject in such a spirit and with the mutual desire to remove every possible cause of controversy.

The negotiations were marked by a sincerity and good-will which from the first insured their success. The principal result of the negotiations was the mutual understanding which was reached as to the principles governing the policies of the two Governments in relation to China. This understanding is formally set forth in the notes exchanged and now made public. The statements in the notes require no explanation; they not only contain a re-affirmation of the open-door policy but introduce a principle of non-interference with the sovereignty and territorial integrity of China, which, generally applied, is essential to perpetual international peace as clearly declared by President Wilson, and which is the very foundation also of pan-Americanism as interpreted by this Government. The removal of doubts and suspicions and the mutual declaration of the new doctrine as to the Far East would be enough to make the visit of the Japanese Commission to the United States historic and memorable, but it accomplished a further purpose, which is of special interest to the world at this time, in expressing Japan's earnest desire to co-operate with this country in waging war against the German Government. The discussion, which covered the military, naval, and economic activities to be employed with due regard to relative resources and ability, showed the same spirit of sincerity and candour which characterised the negotiations resulting in the exchange of notes.

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At the present time it is inexpedient to make public the details of these conversations, but it may be said that this Government has been gratified by the assertions of Viscount Ishii and his colleagues that their Government desired to do their part in the suppression of Prussian militarism, and were eager to co-operate in every practial way to that end.

It might be added, however, that complete and satisfactory understandings upon the matter of naval co-operation in the Pacific for the purpose of attaining the common object against Germany and her allies have been reached between the representative of the Imperial Japanese navy, who is attached to the Special Mission of Japan, and the representative of the United States navy

It is only just to say that the success which has attended the intercourse of the Japanese Commission with American officials and with private persons as well is due in large measure to the personality of Viscount Ishii, the head of the mission. The natural reserve and hesitation which are not unusual in negotiations of a delicate nature disappeared under the influence of his open friendliness, while his frankness won the confidence and goodwill of all. It is doubtful if a representative of a different temper could in so short a time have done as much as Viscount Ishii to place on a better and firmer basis the relations between the United States and Japan; through him the American people have gained a new and higher conception of the reality of Japan's friendship for the United States, which will be mutually beneficial in the future.

Viscount Ishii will be remembered in this country as a statesman of high attainments, as a diplomat with a true vision of international affairs, and as a genuine and outspoken friend of America.

(3.)

Chinese Minister to Mr. Balfour.—(*Received November* 12.)

Your Excellency. *Chinese Legation, London, November* 9, 1917.

UNDER instructions from my Government, I have the honour to communicate to your Excellency, for the information of His Britannic Majesty's Government, the enclosed copy of a telegram which I have received from the Wai-chiao Pu, Peking, in reference to the notes exchanged between the Governments of the United States and Japan regarding relations with China.

I have, &c.
SAO-KE ALFRED SZE.

Enclosure.

Copy of a Telegram from the Wai-chiao Pu, Peking, dated November 8, *and received by the Chinese Minister in London on November* 9, 1917.

THE following declaration, anent the exchange of notes between the United States and Japan *vis-à-vis* China, was delivered to the American and Japanese Ministers to-day with the request that the same be communicated to their respective Governments:—

The Government of the United States and the Government of Japan have recently, in order to silence mischievous reports, effected an exchange of notes at Washington concerning their desires and intentions with regard to China. Copies of the said notes have been communicated to the Chinese Government by the Japanese Minister at Peking, and the Chinese Government, in order to avoid misunderstanding, hastens to make the following declaration so as to make known the views of the Chinese Government. The principle adopted by the Chinese Government towards the friendly nations has always been one of justice and equality, and consequently the rights enjoyed by the friendly nations derived from the treaties have been consistently respected, and so also, even with the special relations between countries created by the fact of territorial contiguity, but only in so far as they have already been provided for in her existing treaties. Hereafter the

Chinese Government will still adhere to the principle hitherto adopted, and it is nereby again declared that the Chinese Government will not allow herself to be bound by any agreement entered into by other nations.

Communicate the above to the Government to which you are accredited.—WAI-CHIAO PU.

No. 2.

Sir C. Eliot to Earl Curzon.—(*Received December* 14.)

(No. 462. Secret.)
(Telegraphic.) *Tokyo, December* 12, 1920.

YOUR Lordship's despatch No. 371, asking for my observations on papers respecting renewal of Anglo-Japanese Alliance.

My immediately preceding telegram will show that I am not blind to grave faults of Japanese in international matters, but in the only sphere where I have experience of some length—namely, Siberia—I have found Japanese policy not dishonourable and, if wanting in consistency, not more inconsistent than that of other Powers. They have hitherto made good their assurances about Siberia, and all accusations of plots to seize Chinese Eastern Railway and complicity with band itself have hitherto proved unfounded. But I do not doubt that they desire to acquire or control Eastern Siberia and Northern Saghalin.

In practical politics China should not be contrasted with Japan as democracy versus militarism; under Manchu Empire there was hardly any aristocracy, and bureaucracy governed largely by persuasion. With the disappearance of empire there is merely a chaos of petty despotism, but no machinery or aptitude for democratic government. At Hong Kong I was long in contact with students of rival generic, and found their views almost all invariably bellicose, though crude and childish. They were unanimous in wishing to abolish extra-territorial rights and European settlements. Quite apart from policy of any particular Government, there is strong and persistent popular feeling amongst Japanese that they have a special mission in China, but educated opinion is becoming more sober and beginning to realise that recent war has not reduced rest of world to impotence and left Japan only strong Power. I think that present Government are ready to make a reasonable arrangement about Tsingtao, but have had no opportunity of discussing question with them.

I regard Japan as a moderately strong Power at present, less threatened by internal troubles than most countries. In a few years, if her naval and military programme is executed and no internal trouble occurs, she will be very strong, and if we do not make her our Ally she will be decidedly hostile. I anticipate grave difficulties in India and our other Asiatic possessions in near future, and we cannot count on American sympathy there. I do not think that we can afford to risk enmity of Japan.

I must supplement my statement that Japanese will accept almost any modification of present treaty rather than have no treaty by adding that they are capable of rejecting any proposed treaty which they think derogatory. I therefore deprecate any attempt to make them feel they are on their good behaviour. One of main causes of our present unsatisfactory relations is tendency of Europeans in Far East to treat Japanese with suspicion and contempt.

I am in favour of renewal, subject to modifications rendered necessary by Covenant of League of Nations. If alliance marked a new policy, friction might arise with United States, but I do not see how United States can object to renewal of a treaty which has done them no harm in past, whereas failure to renew it would offend Japanese.

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No. 3.

Sir A. Geddes to Earl Curzon.—(*Received November* 16.)

(No. 769. Very Secret.)
(Telegraphic.) *Washington, November* 15, 1920.

YOUR despatch No. 1183 and my telegram No. 746: Renewal of Anglo-Japanese Alliance.

This matter has been discussed in my presence at various times by a considerable number of prominent American newspaper proprietors, editors, business men and politicians, including the Secretary of State, the Assistant Secretary of State, Mr. Elihu Root, and I have myself informally raised the question with various friends in different parts of the country. The impression left in my mind is that representative American opinion is almost unanimously suspicious of Japan, but recognises that her position is one of great difficulty owing to the expansion of her population, her shortage of raw material and her limited territory.

Americans undoubtedly wish to avoid a serious clash with Japan, but are determined to prevent Japanese settlement on American soil. I have no doubt that the majority of sober-minded Americans would welcome an exchange of identic notes between Britain, America and Japan, affirming the nations' adherence to the policy of the open door in China, and simultaneously the conclusion of an Anglo-American understanding that the two countries will each maintain such naval forces in the Pacific as will collectively outnumber, or at least outclass, the naval forces of Japan.

There is, however, little chance of the Senate agreeing to anything of the nature of an Anglo-American alliance, and I do not believe that America could be relied upon to stand indefinitely or for many years by any informal undertakings entered into by the executive unless it were clearly to her interest to do so. Even if a formal treaty were made, it would in all probability not bind American action longer than her interest appeared to be served by it, so that there is not much difference in effect between a treaty with America and an understanding.

I believe, however, that an understanding entered into by a President will be observed by him to the close of his period of office, so that if an agreement with regard to Far Eastern policy and naval strengths in the Pacific could be made with the new Administration early in their term of office it would substantially have four years' validity attaching to it so far as diplomatic action is concerned.

That seems to be the most that could be hoped for in present circumstances.

On the other hand, American public opinion will undoubtedly be really hostile to any renewal of an Anglo-Japanese alliance, unless the alliance be so watered down as to be practically meaningless. It is doubtful, however, if this hostility will add much strength to the oil, the Irish and the other anti-British factions, and there is no doubt in my mind that the existence of the Anglo-Japanese alliance has the effect of making even the most virulent anti-British agitators in America a little chary about seeking to push their hostile ambitions to extremes.

I anticipate considerable difficulty in dealing with the new Administration, and I should regard a decision taken now definitely not to renew the Japanese alliance as premature, unless we are prepared to accept the position that absence of friction with America is the first of our international objects, but in that case we must be prepared to be called upon to give way on every question that America cares to raise.

On balance of considerations, I venture to recommend that the Anglo-Japanese Treaty be renewed, but modified to bring it into harmony with the League of Nations Covenant, without a military clause and without an adhesion clause. The parties to the treaty should be limited to ourselves and Japan. The term of renewal should be limited to four years to coincide in duration with the term of the American Presidency. We should then endeavour to secure agreement with America to expire on the same date as the treaty. The agreement should be in some form not requiring ratification by the Senate. We should then aim to engage America, President by President, for so long as we consider it desirable or until the temper of the Senate changes.

No. 4.

Sir A. Geddes to Earl Curzon.—(*Received December* 14.)

(No. 1385.)
My Lord, *Washington, December* 3, 1920.

AT your request I have already, in my telegram No. 769, informed you of my views with regard to the question of renewal or non-renewal of the Anglo-Japanese alliance. I desire in this despatch to add an expression of some considerations which appear to me to be not without importance.

Japan may not have proved to be an ideal ally, but it is doubtful if America would be more easy to work with in double harness, at least in her present frame of mind. As I pointed out in my despatch No. 1260 of the 18th October, America is intensely dissatisfied with her own national record since the day of armistice, and is almost hysterical in her efforts to justify herself to herself and to prove to her own satisfaction that she is a greater Power than the British Empire. As the adoption of the eighteenth amendment to the American Constitution showed, her unwieldy population is open to be coerced by a determined minority not too nice in its choice of methods. This is a weakness which we must not overlook, for there is a determined anti-British minority in America which knows no scruple, and this minority, in the words of one of its leaders, Mr. Martin J. Gillan, has determined that the time has come when "Brother Jonathan must take John Bull by the throat and force him to disgorge," Ireland of course, but also sea power and anything else America may fancy, principally the British West Indies, the resources of Canada, and more recently Australia.

For this reason, among others, I think that it is eminently desirable that there should be no break between ourselves and Japan. The mere existence of an Anglo-Japanese link makes even the most hot-headed anti-British American pause when he thinks of pushing matters to extremes.

The great majority of Americans, while they are at present ashamed of their own record, are not anti-British. They do not object to, but admire Britain. There is, however, behind their admiration no driving force comparable with the dynamic hate of the anti-British minority. But the majority so far has normally been represented in the presidential chair by some individual in the main like the average easy-going majority American in his view of Great Britain.

To me, therefore, it seems essential that we should strive to get each new President committed to general co-operation with us early in his presidential term, for once pledged the average President will stand by his pledge. This is really our only safeguard, because, though political power in America is at presidential election time in the hands of the majority, between elections it appears to be in those of the minority, and this appearance may easily sway a weak and unpledged President. This is a misfortune, but it appears to be inevitable in a country with a Constitution and population like those of the United States. It means that at least the Irish question is out of the way, and the hot temper of the American-Irish partizans has had time to cool; we shall have to be content, if we desire to co-operate with America and to have her co-operation, to base our policy upon a theory of co-operation with America's Presidents. I, at least, see no immediate escape from this conclusion.

A further peculiarity of the country is this: in the minds of a majority of Americans there is only one foreign Power which seriously competes with them. This they call England, and conveniently ignore the United Kingdom and the Empire. Anything therefore that goes wrong in America's foreign policy, foreign trade or whatever it may be, is easily presented as a result of England's craft or bad faith. For a minority of Americans there are two foreign Powers of importance—England, from which America won its independence by force of arms, and the one in which their own ancestors lived, Germany, Italy, Greece, whatever country it may be. This ancestor land they naturally see in a rosy light. To these, too, England is easily represented as the hinderer and hamperer.

This peculiarity has to my mind the importance that if we adopt a policy based upon an intention to co-operate with America's Presidents, we shall require before each presidential election to seek to the limit of our power to avoid any action which could give the anti-British minority material likely to inflame even a temporary sense of anti-British irritation in the minds of the more easy-going majority, under possible penalty of having an avowed anti-British President elected.

I venture to lay some stress upon this point because I believe that the price of Anglo-American co-operation in the nearer future would be the introduction into

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British foreign policy of a periodicity determined by the recurring presidential elections, and not only should we have to adopt such a periodicity for ourselves, but we should have to seek to impose it on any nation with which we are also co-operating.

The more I study this question the more convinced I feel that, even if the United States enter the League of Nations, her periodicity will have to be allowed for by the nations that seek to co-operate with her. This is the result of America's antiquated Constitution in combination with her people's abyssmal ignorance of world affairs, and of their having no considered foreign policy or even any body of accepted doctrine in the field of international affairs other than the avoidance of "entangling alliances" and the support of the Monroe Doctrine.

I believe that for a period of years it will remain an important British interest to secure co-operation with America, even at the price of introducing some periodicity into our own policies, but it would be a high, and I believe unnecessary, price to pay to purchase it at the cost of Japanese enmity.

These are some of the special considerations which helped to determine the recommendations which I have already submitted to your Lordship.

I have, &c.

A. C. GEDDES.

No. 5.

Sir C. Eliot to Earl Curzon.—(*Received July* 23.)

(No. 296.)

My Lord, *Tokyo, June* 17, 1920.

WITH reference to my despatches Nos. 243, 278 and 290, I have the honour to submit to your Lordship a few observations on the general question of renewing the Treaty of Alliance now in force between Great Britain and Japan.

In the present state of negotiations it seems premature to enquire what should be the exact scope or terms of a new treaty brought into harmony with the League of Nations, and I propose to limit myself to considering the reasons for and against the continuance of any alliance, and to enquire whether it would be well at the present juncture to let Great Britain and this country drift apart.

It is possible that in the forthcoming session of the Diet the proposal to renew the alliance may be criticised for party motives, but all the important personages in the political world whom I have had an opportunity of meeting have expressed in public utterances or private conversation their hope that the treaty relations at present existing between our two countries will continue. Prince Yamagata, the chief of the Genro or Elder Statesmen, whose opinion carries great weight both at the Court and in political circles, spontaneously informed me that he was strongly in favour of renewing the alliance, and that it was a relief to him to know that a preliminary discussion on the subject had already begun between Viscount Uchida and myself. The press is also practically unanimous in approving renewal. The few exceptions which I have noticed seem due to a desire to be unconventional or to prove that even the best case has two sides.

This favourable feeling towards the alliance is to some extent the result of sentiment and pride, for it pleases the Japanese to think that they are on the same footing as the Great Powers because they are the Ally of one of them. They fear that, if the alliance were terminated by Great Britain, they might seem to be considered as less important than formerly, and rather than be placed in such a position they might themselves take steps to terminate it. But that would be an act of despair, and the chief impression that I have derived from my conversations with Viscount Uchida is that in order to preserve a dignified and friendly position they will consent to almost any alteration of the treaty which will render it unobjectionable to the League of Nations, Australia and America.

But apart from such sentiments of gratified or wounded pride, there is a very real fear of isolation. Whatever might happen in the future should the existing alliance lapse, it could hardly be convenient to Japan to make any immediate pact with Russia or Germany, and she might find herself alone and face to face with the united hostility of Great Britain and America. I am told by an official of this Embassy who has recently been making a tour in Kobe and the neighbourhood that there is a widespread apprehension that Japan may soon be forced into war with the United States, although there is no desire to provoke this or any other conflict. On the contrary, it is generally hoped that a continuation of the alliance with Great Britain will lead to a better understanding with America.

When I turn to consider what Great Britain will gain from a renewal of the alliance, I must admit that my views are coloured by my personal experience. I was at Hong Kong during the greater part of the war, and I feel that, but for the action of the Japanese, that colony and perhaps Singapore might have been captured by the Germans. More than this, it is admitted that this same action assured the safety of Australia, New Zealand and the Pacific coast of Canada. I cannot be so optimistic as to believe that the League of Nations has removed the risk of war for a long time to come, and, in the event of war, an alliance with Japan might again give us immediate and direct assistance. Nor do I attach very great importance to the argument that Japan proved a lukewarm Ally in the late conflict and therefore must be considered untrustworthy in the future. In the printed memoranda with which your Lordship has furnished me it is stated that she kept her word and gave all she was bound by treaty to give, while it is admitted that at the beginning of the war His Majesty's Government desired to impose restrictions on Japan's activity as a belligerent "which could hardly fail to be galling to a high-spirited nation," and were "primarily the cause of the bad relationship which from that moment began to arise between the two countries." I have also heard here that the search of Japanese ships by British men-of-war in 1916 intensified the feeling of the Japanese that they were not receiving the treatment that an Ally might expect, and caused an irritation that they made no attempt to conceal. But if we pay attention to their susceptibilities I see no reason to doubt that they will show as much loyalty as is usual in international relations.

The second advantage which we might gain from a renewal of the alliance is a greater power of controlling Japan's foreign policy than we should have if we were not united by any tie justifying the expectation of a confidential exchange of ideas respecting important questions of policy. This applies not only to Japan's designs on China, but to her intentions in the Pacific, Siberia and other regions. It is, of course, hardly to be expected that friendly advice from an Ally will make a nation renounce a policy on which the majority of the population have set their hearts, but there is a great difference between the real aspirations of the people and the policy which may be forced on them. If such a policy has to be abandoned, the change need not produce any national discontent. Now, in Japan what appears to be the national policy is often merely a scheme originated by cliques or individuals. There is no country in the world where apparently subordinate officials are given so free a hand, or where the military authorities have so independent a position. For instance, I believe that at present the general public and civilian officials are as a whole sincerely averse from all military expeditions, especially in Siberia, but it would not be safe to say that the aversion is shared by the military authorities. It is in supporting this general pacific tendency and strengthening the hands of the civil administration that the influence and intimacy which ought to be the consequence of the alliance might render valuable service to our Empire. There can be no doubt that democratic sentiment and popular interest in international questions are growing in Japan. The mercantile classes are beginning to realise that high politics are not entirely divorced from commerce, and that the Chinese boycott is a very disagreeable result of a forward policy in China.

But one condition is indispensable for any such result, namely, that our relations with the Japanese should be really cordial. Many British subjects have personal friendships with Japanese, but as a rule British officials and merchants in the Far East, especially on the mainland of Asia, show an open dislike of the Japanese Government and all its actions, which seems to me hardly sane, and certainly most injudicious. Such people regard any advantage that may be gained by the Japanese —who are still our Allies—as a direct menace to the British Empire. I have heard British military and naval officers of high rank openly describe the Japanese by vulgarly abusive epithets, and such outbursts, of course, come to the ears of Japanese officials, who take their revenge in petty tyranny and aggravating interference when the opportunity offers. Such annoyance produces much ill-feeling, and the Japanese are seen at their worst when exercising their authority in foreign countries, such as Siberia and Shantung, because their ignorance of foreign languages and foreign habits leads to continued misunderstandings. But though I remember several cases in Siberia (such as attempts to stop and search the special trains of foreign officials) in which the action of Japanese subordinate officers was offensive and threatened to provoke serious international incidents, yet I found the conduct of the higher officials, such as General Otani and Mr. Matsudaira, invariably courteous, straightforward and conciliatory. I do not think that in my diplomatic experience I have ever met with more honourable and reasonable colleagues.

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If the alliance is to be of any use, we must make use of the good qualities of the Japanese and treat them frankly and cordially. The nation has lost credit of late years, owing to the number of *parvenus* engaged in both politics and commerce, who have no good traditions to guide them, and rely on mere cleverness or trickery to obtain their immediate gains. But I believe that there is still a considerable number of statesmen who preserve a high standard of honour and sagacity, and are able to distinguish between sound policy and ephemeral successes. But such men expect to be consulted, and are unwilling to accept intimations that they have to follow the course prescribed by other Powers; they are keenly sensitive to acts or language which imply that Japanese are really inferior to Europeans, that they have not the same ideas of integrity, and that their assurances cannot be trusted.

If we do not renew the alliance, shall we lose any advantages which we now possess? In the event of war, we should, so far as I can judge, be unable to defend Hong Kong, and other of our possessions might be in an uncomfortable position. It is also to be feared that the termination of our old relations, unless effected in a very skilful manner, would strengthen and embitter the anti-British elements in Japan, and these might take pleasure in wantonly obstructing and embarrassing British interests. I agree with some remarks made by Viscount Kato in an interview which has been published in the press here:—

> "Perhaps it would be unnecessary," he is reported to have said, "to make the alliance now if it were being proposed for the first time; but it has been in existence for twenty years and it has been useful to both countries. If it is not renewed, the position will not be the same as if it had never been made. The tendency will be for the two countries to drift apart. If the necessity for an alliance should arise in the future, it would be more difficult if there has been an interruption of these close relations."

But the danger which is most important and most seriously discussed is the possible formation of a German-Japanese or Russo-German-Japanese alliance. As already mentioned, this is hardly conceivable at the present moment, and unless the condition of Russia undergoes a great change, the fear of introducing Bolshevism in Japan would be a powerful deterrent to the oligarchic and military party, which would naturally take a special interest in the formation of new international combinations. But I cannot help feeling that the Japanese have a real sympathy, not perhaps with German aims, but with German methods. Their Court, army and other institutions have been rearranged on German models, and many soldiers and diplomatists have studied in Germany. I shall be greatly surprised if Dr. Solf, who is now on his way here as German representative, does not at once attempt to bring about a rapprochement between the two countries and do all in his power to separate Great Britain and Japan. In spite of the fear of Bolshevism, Japan, if she believed herself to be threatened by Great Britain and America, might join in a tripartite alliance, should the Germans ultimately prove able to take Russia in tutelage, and it is perhaps unwise to suppose that only the military and oligachic party could make such an alliance. There are revolutionary tendencies in Japan as well as in Germany, and the three Powers might unite in a combination which for want of a better terminology might be described as both Bolshevik and militarist.

One aspect of the hostility of Japan, whether acting alone or in concert with Germany, is the effect that it might have on our Asiatic possessions. I do not think that we should treat the possible effects of Japanese ill-will in India as negligible, and since the Bolsheviks are at present strong in Turkestan and Central Asia, and are disposed for their own purposes to create trouble in India, a deliberate attack on India from those regions can hardly be regarded as impossible in the future.

Lastly it remains to enquire what are the objections to continuing the alliance. The most weighty of them is that it might be displeasing to the United States and injuriously affect our relations with them. It is perhaps fortunate for us that we need not renew the treaty until the Presidential campaign is finished and American politics are in a normal condition. My acquaintance with Washington is of so ancient a date that I hardly feel competent to express any opinion as to the temper of America in such matters, but from observation in the Far East I should have thought that though there are many Americans who would object to the alliance, such persons are chiefly of an inferior class, and that the more important personages, whether diplomatists, military officials, financiers or commercial magnates, would take a reasonable view of the arrangement. America neither owns nor wishes to own territory on the continent of Asia; her desires must be for peace and commercial

facilities, and from that point of view why should she object to an agreement which has for its object the maintenance of harmony between two great Asiatic Powers, especially as the influence of Great Britain must tend to promote the policy of the open door and to discourage any aggressive designs which Japan may cherish against China?

I spoke on one occasion to Viscount Uchida about the suggestion made in various newspapers that America might have some part in the alliance. He replied that he did not see how the United States could become a party to it in view of their well-known objection to commitments abroad, but that there would be no objection from the Japanese side to consulting them as to the terms of the treaty and ascertaining that it was not displeasing to them.

Any objections which might arise from the fact that the text of the alliance as it stands is not in complete concordance with the Covenant of the League of Nations are, as your Lordship is aware, being dealt with at present, and I anticipate that there will be no serious difficulty. It has been argued that the alliance, if not contrary to the League, is at least superfluous, inasmuch as it takes over the work which ought to be performed by the League itself in the Far East. But to this the Japanese press replies that at the present moment, when America is not even a member of the League and almost every country in Europe presents problems which demand immediate and prolonged attention, it is hard to believe that the League will be able to restore order in these distant regions should disturbances occur.

Some apprehension is felt here as to the possible result of consulting the Dominions, but the objections of Canada and Australia, as far as they can be gathered from the press (which is my only means of learning their nature), seem to confuse the two questions of renewing the alliance and of permitting Japanese immigration. The latter question is quite separate, and has always been treated so by Viscount Uchida on the rare occasions when he has mentioned it to me. If the Japanese were to plead that the existing legislation of Australia and Canada respecting immigration is incompatible with a proper alliance the position would be difficult. As it is, they appear to accept that legislation in silence and to be anxious to conclude an alliance covering quite different ground. So far as I can judge, an alliance such as is contemplated cannot but be beneficial to our Dominions, for at least it must tend to moderate any ambitions of the Japanese in the Pacific, which would be obviously detrimental or disagreeable to their Allies.

A somewhat similar answer meets the argument that Japan's intentions in China are aggressive and antagonistic to our interests. So long as we have an alliance, possibly including special stipulations as to China, it is more easy for us in case of need to address remonstrances and ask for explanations than it would be if we were connected by no special tie and, worse than that, had broken the ties which formerly existed.

Perhaps the most serious charge brought against the Japanese, and the principal cause of the hostility felt by British merchants in all parts of the Far East, is the accusation that they will not follow the policy of equal commercial opportunities, but persistently resort to unfair and insidious methods in order to favour unduly Japanese merchants and injure or expel foreign competitors. I have discussed this question with Viscount Uchida and Baron Hayashi. They deny the allegation, and say that the demand for an open door comes oddly from countries which refuse to admit Japanese. But both of them seemed willing to insert some more detailed clause in a new treaty respecting the policy of equal commercial opportunities, and Baron Hayashi was particularly candid in his admission that the commercial policy of his country in the past had been largely mistaken.

I have, &c.
C. ELIOT.

No. 6.

Mr. Clive to Earl Curzon.—(*Received October* 14.)

(No. 508.)
My Lord, *Peking, July* 14, 1920.

WITH reference to Sir Beilby Alston's despatch No. 411 of the 4th ultimo, I have the honour to transmit herewith copy of a letter addressed by the Association of British Chambers of Commerce in China and Hong Kong to His Majesty's consul-

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general at Shanghai, covering copy of a joint memorandum from the Tsingtao and Tsinan Chambers on the subject of the Shantung question and the renewal of the Anglo-Japanese Alliance.

(Copy to Tokyo.)

I have, &c.
R. H. CLIVE.

Enclosure in No. 6.

Tsinan and Tsingtao British Chambers of Commerce to Association of British Chambers of Commerce, Shanghai.

Dear Sir, *June* 4, 1920.

WE beg to inform you that the members of the Tsinan and Tsingtao British Chambers of Commerce desire to accord their strongest support to the petition relating to the Anglo-Japanese Alliance which has been forwarded in the name of the Association of British Chambers of Commerce, and of which a copy was enclosed in your letter of the 28th May.

The petition appears to have been forwarded before there was time to give consideration to the views put forward in our previous joint letter of the 19th May, and we would now, therefore, enquire whether the Association are prepared to adopt these views and submit them to the Foreign Office as the views of the Association. It may be convenient to restate our position as follows:—

We are of opinion that stress should be laid upon the damage done to British interests and British prestige in China by affixing our signature to a document which purports to have for its object the maintenance of the independence and integrity of China, although it is patent to all the world that the one result of our action is to permit the gradual subjugation of China by Japan. In Europe the language of diplomacy and diplomatic documents is often depreciated currency—high-sounding phrases which are not meant to be taken literally—and an European atmosphere makes it difficult to realise that the Chinese take such phrases at their full face value and judge us accordingly. England's greatest interest in the Far East is to have a powerful, independent and united China, while it is the openly avowed policy of Japan to keep China weak and disunited. Consequently, when England, in conjunction with Japan, puts her signature to a document guaranteeing the independence and integrity of China, the Chinese, not unnaturally, regard our action with the deepest suspicion, and our commercial interests suffer from the discredit in which we are thus involved.

British merchants attempting to trade in Shantung realise very acutely that while Japan pays lip-service to the "principle of equal opportunities for the commerce and industry of all nations in China," she at the same time is straining every nerve to prevent British and other merchants from trading on a fair footing at Tsingtao. We fear that the success which has attended the efforts of the Japanese military administration to obstruct British enterprise at Tsingtao may have obscured the immense potentialities of this port in the future trade of China. Whatever course the political situation may take, Tsingtao must inevitably become the principal port for the trade of the whole of the north of China, and British Chambers of Commerce naturally, therefore, consider that the main point at issue is whether or not British merchants are to be excluded from the trade of Tsingtao. We desire, therefore, to urge upon His Majesty's Government that the carrying out of her repeated promises to return Tsingtao and the sovereign rights in Shantung to China should be made the test of Japan's good faith, and that an equitable settlement of the Tsingtao question should be made a condition precedent to the continuance or renewal of any treaty of alliance with Japan.

Yours faithfully,
J. L. BOWKER, *Hon. Secretary,*
Tsinan Chamber of Commerce.
W. T. ALWAY, *Hon. Secretary,*
Tsingtao Chamber of Commerce.

No. 7.

Sir B. Alston to Earl Curzon.—(Received May 20.)

(No. 201.)
Telegraphic. (D.) *Peking, May* 17, 1921.

MY despatch No. 379 of 26th May last year: Anglo-Japanese Alliance.

Chinese Government recently published note enclosed in despatch above mentioned. They have now addressed to me a further note in view of approaching meeting of Imperial Conference, repeating that if the alliance is extended and if in terms of treaty reference is made to China, China should first be consulted as otherwise violence would be done to China's sentiments.

Minister for Foreign Affairs begs me solemnly to bring above again to your Lordship's attention.

(Repeated to Tokyo.)

No. 7A.

Enclosure in Peking Despatch No. 379, Confidential, of May 26, 1920.

(No. 379. Confidential.)
My Lord, *May* 26, 1920.

WITH reference to my telegram No. 267 of the 21st instant, I have the honour to transmit herewith translation of a memorandum handed to this Legation by the Wai-chiao Pu containing a warning to the effect that the Chinese Government and people will not be able to recognise the validity of such portions of any renewed Anglo-Japanese Treaty of Alliance as may concern China and her territory, unless China shall have been first consulted in the matter.

This communication emphasises the need for considering the sensitiveness of Chinese public opinion which I ventured to bring to your Lordship's notice in my telegram No. 241 of the 4th May, and I do not doubt that His Majesty's Government will give this aspect of the matter all the attention it deserves.

(Copy to Tokyo.)

I have, &c.
B. ALSTON.

Enclosure in No. 7A.

Memorandum from Wai-chiao Pu to His Majesty's Minister.—(Received May 20, 1920.)

(Secret.)

REPEATED reports have been received to the effect that, in view of the approaching expiration of the Anglo-Japanese Treaty of Alliance in July of next year, and the provision in the treaty that in the event of extension the matter must be arranged a year in advance, the British Government is engaged in an informal exchange of views in London with the Japanese Government. It is also said that, in the event of its being decided to renew the alliance, the text of the treaty will probably be modified.

This matter very greatly affects the Far East and China, and the public in this country are very anxious on the subject. The latter hold that according to international custom treaty arrangements between two friendly countries can only protect the interests within their respective spheres of sovereignty. Moreover, now that the European war is at an end all races are advocating the doctrine of international equality. If, therefore, mention is made in the aforesaid treaty of China and her territory, and China has not been consulted in the matter, her national dignity and her people's honour will be prejudicially affected.

If, therefore, the alliance is renewed and the above conditions are still maintained, there will be portions of the treaty of which the Government and people of this country will be quite unable to recognise the validity.

The above is brought in strict confidence to the notice of his Excellency in the hope that he will transmit it to his Government for their serious consideration at the time of the revision of the treaty, in the interests of friendly relations.

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No. 8.

Sir A. Geddes to Earl Curzon.—(*Received June* 7.)

(No. 388.)
(Telegraphic.) *Washington, June* 6, 1921.

YOUR telegram No. 325.

Anti-British propaganda in United States has in the course of the last six months had the effect of increasing popular American suspicion of Anglo-Japanese Alliance.

In quarters which should be responsible for it, renewal, if it be renewed, is characterised as an unfriendly act. It is also quite common to hear of such remarks as this: "England has to make her choice as to whether America is to be her friend or enemy depending on whether she makes Japan her enemy or friend." This exaggerated talk is in some measure reflected in Cabinet circles; for example, Secretary of State, not to me, but with the certainty that his remark would reach me, said that, in his view, renewal of Anglo-Japanese alliance would be "disastrous."

Whole question of alliance is associated in America's mind with her ambition to dominate the Pacific. I have despatched by bag (despatch No. 565) copy of report of an interview given by young Theodore Roosevelt, Assistant Secretary of Navy, to "New York Sun," which was suppressed as being alarmist, but which reflects mind of Administration seen through distorting and exaggerating mind of Roosevelt.

I have also despatched by bag (despatch No. 553) extracts from a speech by Mr. Hoover which accurately embodies the attitude of outraged virtue with which America regards British commercial activities as hampering her legitimate economic development.

Our alliance with Japan appears to her as part of hampering process.

In view of developments in the situation, I desire slightly to modify recommendation I made last year in my telegram No. 769.

I now recommend that instead of a treaty between ourselves and Japan we should endeavour to make a tripartite agreement between Britain, Japan and United States with a term of four years scope and limits of agreement to be as indicated in my telegram under reference.

No. 9.

Sir C. Eliot to Earl Curzon.—(*Received June* 13.)

(No. 216.)
(Telegraphic.) *Tokyo, June* 8, 1921.

YOUR telegram No. 114.

I see no reason to modify the views which I have expressed during the last year about the renewal of the alliance, nor do I think that there has been much real change in the political situation here.

At the beginning of the year the press and educated public opinion were somewhat lukewarm about the alliance, as certain utterances had led them to believe that it would not help against American aggression: later, the reception of the Crown Prince created a markedly cordial feeling for Great Britain and a desire to maintain existing engagements, but the attitude of the Government has not materially altered except that they clearly understand that British opinion is against renewing the alliance in a form objectionable to America. It is difficult to say whether the conference mentioned in my telegram No. 203 and others will really have much influence on high politics, but I am inclined to think that on most points it has deliberately recommended a policy which is imagined to be acceptable to both the United States and China especially in Siberia and Shantung. On the other hand, there is an undoubted [group undecypherable] [?change] in Northern Saghalin, and though the Government may be ready to discuss the restoration of Shantung to China, it is probable that Japanese firms and individuals have acquired so much land and other rights there that Japanese interests are securely established.

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C 41201

Mr L. C. Christie

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S E C R E T.

Copy No...37..

E.21.

ANGLO-JAPANESE AGREEMENT.

Memorandum by Lord Curzon.

The two alternative plans suggested by me this morning were these :-

A. Renewal of the Agreement with Japan for a term of 4 or 5 years, after consultation with the United States, China, and the League of Nations, so as to make the new agreement conform to their general views and to remove the doubtful or suspected features from it.

The renewal might even be in such a form that the American Government might at a later date, if it chose come in.

This renewal to be independent of an International Conference on the Pacific Question, though not, of course, inconsistent with it.

B. Temporary renewal of the existing agreement (brought into harmony with the Covenant of the League of Nations, and with mention of India possibly omitted) for a space of say, one year from October, 1921, so as to provide for the holding of an International Pacific Conference in the interval.

Such a Conference would consist of the Governments of Great Britain, America, Japan, the Dominions (Canada, Australia and New Zealand), China, France and Holland. The inclusion of the Pacific States of Central and Southern America may be a subject for discussion but would probably be found an encumbrance.-

(Intd.) C. of K.

June 28th, 1921.

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JAPAN. [June 30.]

CONFIDENTIAL. SECTION 3.

[F 2392/301/23] No. 1.

Sir C. Eliot to Earl Curzon.—(*Received June* 30.)

(No. 274.)

HIS Majesty's representative at Tokyo presents his compliments to the Secretary of State for Foreign Affairs and has the honour to transmit herewith a copy of a memorandum respecting the reception of the Crown Prince of Japan in England.

Tokyo, June 3, 1921.

Enclosure in No. 1.

Memorandum.

THE Crown Prince's reception in England.

The very cordial reception accorded to the Crown Prince of Japan by the authorities at the various British ports at which he called on his journey to Europe, and in particular by the Royal Family and the British nation after his arrival in England, has elicited unusual expressions of appreciation and gratitude in Japan.

His Imperial Highness left his native country in circumstances which were not entirely auspicious. This is the first occasion on which the heir to the throne has travelled abroad, and there was, not unnaturally, among the ultra-conservative and old-fashioned elements of the nation, who still regard the Imperial House as of divine descent, a certain feeling of aversion to the institution of a new precedent. This feeling was accentuated by the ill-health of the Emperor, by the attempt to break off the Prince's betrothal in the spring of this year, and by the fear lest during the course of his journey attempts might be made on his life by revolutionists or by disaffected Koreans. Among Japanese who have been educated abroad, or who have a more or less intimate acquaintance with conditions in the outside world, there was also, perhaps, a certain anxiety lest the Prince himself, who has hardly been beyond his palace walls, is not conversant with foreign ways and knows no foreign language, might not show up to the greatest advantage. This anxiety was somewhat deepened by the choice of the suite to accompany him, for, although Prince Kannin has, for a member of the Japanese Imperial House, an unusual knowledge of the world, and Count Chinda's long residence in England has made him fully conversant with conditions in that country, there were altogether only about three members of the suite who knew English well, and among the others some knew no language but their own and had never been to Europe at all.

There was also some apprehension as to the nature of the reception which awaited the Prince at his destination. It was felt for various reasons, not the least among them being Japan's attitude during the recent war, that the old friendliness which characterised the relations of the two countries during the early days of the Alliance had somewhat cooled, and many Japanese unfamiliar with the English character feared in consequence lest this, combined with the general anti-Japanese sentiment abroad, might conceivably have a certain effect in England.

These fears and anxieties, as far as they existed, have been completely falsified, and the result is evident not only in the tone of the press, but also in the comments of individual Japanese with whom one comes into contact. In all quarters is manifested, in language savouring sometimes of hyperbole, a real and deep appreciation of the genuine friendliness and kindliness shown towards the young Prince by both the Royal Family and the British nation.

It may be of interest to notice some of the remarks in the press.

In its issue of the 9th May the "Jiji Shimpo," after referring to the relief felt in Japan at the Prince's safe arrival in England, says that it must have caused his Imperial Highness the greatest pleasure to receive from the King the rank of a general in the British army. "The whole Japanese nation," it adds, "is transported with joy and gratitude at each succeeding item of news from London."

The same paper, in an article published on the 12th May, voices the deep gratifi-

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cation of the Japanese nation at the fact that the King himself met the Crown Prince on his arrival in London. It then comments on the very friendly tone of His Majesty's speech on the occasion of the royal banquet at Buckingham Palace, adding that his Imperial Highness greatly appreciated the warmth of the reception extended to him by both the Royal Family and the people of Great Britain. The article concludes by expressing the hope that the members of the Prince's suite will do their best to convey to his hosts the profound thanks of the people of Japan.

In the opinion of the "Osaka Asahi" Japan has much to learn from Great Britain in the matter of the relations between sovereign and people. Like the "Jiji Shimpo," it, too, expresses gratification at the fact that both the King and the Prince of Wales met His Imperial Highness on his arrival. The hearty welcome he has received is due to the real friendship entertained for Japan by both the King and his people. The King's speech at the royal banquet was, it adds, the embodiment of kindness itself, and, although the Crown Prince's visit has no political significance, the hearty welcome accorded to him may indirectly contribute to the renewal of the Alliance.

In a subsequent issue the same journal, after again expressing deep gratification at the very friendly feeling shown in all quarters towards the Prince, says that his visit has had two important results. One is that the Prince has acquired a better knowledge of Great Britain, and the other that he has formed a fast friendship with another future sovereign, the Prince of Wales. There has also been an increase in the intimacy of the two nations, and this will not fail to have a salutary effect on the future of the Alliance.

The "Kokumin," also appreciatory in its language, believes that for his safe and pleasant journey the Prince is indebted to the watchfulness of the British authorities.

The "Chugwai Shogyo Shimpo" says that the Japanese nation cannot help being deeply moved at the extremely cordial and enthusiastic reception accorded the Prince. The exchange of courtesies between the King and his guest at the royal banquet at Buckingham Palace symbolises not only the cordial relations between the Royal Family of Great Britain and the Imperial House of Japan, but also the spiritual ties binding the two peoples. Japan is profoundly grateful for the hospitality shown to His Imperial Highness.

It is the most pleasurable duty of all Japan, remarks the "Yamato," to give vent to their deep feelings of gratitude towards the Royal Family of England and the British people for their cordial reception of the Crown Prince. The nation has been particularly touched by the parental care and kindness shown by the King towards his guest.

The press generally is full of similar comments.

 W.L.M. Christie

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Printed for the Cabinet. July 1921.

CONFIDENTIAL.

E-28.

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[F 2333/2330/23]

JAPANESE-AMERICAN RELATIONS AND NAVAL POLICY.

I CIRCULATE the following extracts from a report on the Japanese Navy by the Naval Attaché to His Majesty's Embassy at Tokyo.

C. OF K.

July 6, 1921.

Sir C. Eliot to Earl Curzon.—(Received June 27.)

(No. 260.)

My Lord, *Tokyo, May* 25, 1921.

I have the honour to transmit herewith copy of the annual report on the Imperial Japanese Navy which has been drawn up by the Naval Attaché to His Majesty's Embassy, together with a supplementary section (No. XII) subsequently added to it.

I have incorporated the substance of Captain Marriott's report in my annual report which I am submitting to your Lordship. Captain Marriott has distributed copies of his report direct to all naval centres interested.

I have, &c.
C. ELIOT.

Enclosure.

(Extracts from Captain Marriott's Despatch.)

Section XI.—JAPANESE NAVAL POLICY.

The Japanese Naval Staff at the moment are giving limitation of naval armaments their serious consideration, and they are of the opinion that such a measure brought into force, with satisfactory safeguards for the integrity of the Empire of Japan, would be welcomed by Japanese officers generally.

Offensive militarism does not exist to-day in the navy, and the officers of this Service are fully alive to the fact that Japan's civil state must be bettered.

However, Japan being the weakest of the three great naval Powers of the world will never take the initiative in asking for partial disarmament, but if the U.S.A. proposed such an understanding to Great Britain or *vice versâ*, and this resulted in an offer being made to all nations to enter such a contract, Japan would gladly come in.

Japan has never seriously considered a "Naval Holiday," and furthermore does not consider a complete cessation of work on naval armaments expedient, owing to the large numbers who would be thrown out of employment.

Before seriously proceeding to solve a great problem like reduction of armaments, naval officers consider it is necessary that outstanding differences of opinion should be cleared up, and warlike measures and misunderstandings discontinued and dissipated.

Japan at the moment disagrees with the U.S.A. over—

1. Californian question;
2. Policy in China;
3. Policy in Siberia;
4. The future of Yap;

whilst they notice that—

5. U.S.A. has a most ambitious naval programme;
6. Naval bases and expansion are forecast in Honolulu and Manila; and
7. Mr. Daniels's avowed naval policy is to keep a great fleet in the Pacific.

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Japan considers these measures are directed solely against the empire. The naval policy is to proceed with the 8–8 programme (which is the maximum effort), and the fleet in March 1928 will put Japan in a favourably *defensive* position *vis-à-vis* the U.S.A., at the same time it is hoped that the promised conversations on the reduction of armaments may materialise and save Japan the huge outlay on her navy, which under the present circumstances cannot be avoided.

Japanese naval officers are bitterly anti-American, and throughout the navy the U.S.A. is regarded as a potential enemy.

The American Naval Attaché, Captain Edward Watson, accredited to the American Embassy here, is strangely unpopular, and it is exceedingly hard to know why. Captain and Mrs. Watson take the greatest pains to entertain and to get to know the Japanese; the result is negative.

The American Naval Attaché has been the victim of outrageous newspaper attack recently, and generally the vernacular press are antagonistic to everything American. Captain Watson is the son of Admiral Watson (retired), and the latter gentleman is president of the "Friends of Korea Society" in America; this has not helped him in Japan.

The American Naval Attaché recently told the British Naval Attaché here he was pestered by Japanese spies who offer secrets for sale; in every case he has reported the matter to the Admiralty and received their thanks. Captain Watson is of the opinion that this annoyance is connived at.

There is one more incident of U.S.A. *vis-à-vis* to Japan which is worth recording. In October last, thirteen American Naval decorations arrived in Tokyo for bestowal on Japanese naval officers of all ranks, from the Minister of Marine downwards. It was suggested that the presentation should take place at the American Embassy on a day named by the Minister of Marine. At first the naval authorities objected to going to the Embassy at all, and finally gave in, saying that the Minister of Marine could not attend, in which case Mr. Bell, the American Chargé d'Affaires, said the presentation would have to be at the residence of the Naval Attaché. Again the Japanese naval authorities changed their minds and said they would come to the Embassy; thinking the trouble was over, and because he wished to be pleasant, Captain Watson invited all the recipients of medals to lunch at his house after the presentation—and they refused *en bloc*.

It is very hard work for the American Naval Attaché, and he says he often has very rude things said to him which have to be accepted without a rupture.

The above shows the feeling in naval circles towards the U.S.A. is bad, and it seems altogether uncalled for, but what it really means is that Japan thinks one day America is going to try to dictate to the empire—a state of affairs the Japanese as a nation have no intention of putting up with.

Section XII.—Warlike Thoughts and Measures.

All forecast and statement on this subject is academic, open to severe criticism and flat contradiction, but it would appear useful to give an opinion thereon, arrived at after eight months in Japan where the subject of conversation ofter arises both in official and commercial circles.

First let it be granted that a war between Japan and Great Britain, and between Great Britain and the U.S.A. are both out of the question, this adduces the possibility of war between Japan and America—and it may be assumed it would be a *naval war*.

As stated in Section XI Japan's building programme is a defensive one against the the U.S.A., the latter state the Great American Navy is also a defensive measure; if these two countries act on the defensive only no trouble will arise, but there are many differences of opinion at the moment which might cause a rupture.

With such an eventuality in sight it is natural that warlike talk is bruited about, that war plans are discussed and studied deeply. Japanese and American naval officers seem to agree that if war broke out between their countries that the following results would immediately ensue:—

(1.) China would side with the U.S.A.
(2.) Japanese shipping would disappear off the Pacific, and more or less off the seas.
(3.) Korea and Formosa would try to revolt and give trouble.
(4.) Manchuria would be a menace to Korea.
(5.) Vladivostok would have to be evacuated.
(6.) Supplies of foodstuffs and raw materials to Japan would cease.

And the opinion of the Japanese naval officer is that:—

Japan, without assistance, would be beaten, as the power and resources of such an adversary are enormous, and the people of this country now realise that American grit and determination are very real things.

Dealing first of all with the Japanese conception of the strategy of such a war:—

The Staff College, who under Vice-Admiral H. Kato, K.C.M.G., are now studying this subject, are divided in opinion; half consider any naval warlike measures undertaken by America or Japan would end in a stalemate owing to geographical positions, whilst the remainder contend America could establish a great fleet in China, based on Hawaii and Manila, and from there fight Japan to the limit of the empire's power of endurance.

Japanese naval officers never appear anxious for war or assured of a victorious result, they are more inclined to say "we will fight to the last man rather than be bullied." This may be accepted as the mentality of the Japanese nation.

The American view of the possible strategy they would adopt in the event of war is roughly as follows, and these statements are the summary of conversations with American officers:—

War plans against Japan are now being seriously discussed at Washington by a class of sixty-five specially picked officers. All information is gathered for this assembly by the Admiral commanding the American fleet in the Orient, whose squadron is purely an intelligence organisation, and the staff officers are sent from time to time to study the conditions in Asian waters from Admiral Strauss' flagship. American naval strategists consider that they could establish a fleet in Asian waters, and Nimrod Sound* is now being used for war-game purposes.

It would appear that the fact that the Japanese usually have their manœuvres off Kyushu gives some credence to such a strategic move on the part of the U.S.A. being possible and probable to the Japanese naval staff.

On the outbreak of war the American Commander-in-chief in the Orient goes straight to Manila, and American naval officers consider the islands and fortress could withstand a severe siege.

Manila now has a garrison of 8,000 men and is strong in naval defence by submarine, mining, aircraft and destroyers, and the policy is to go on gradually reinforcing. Pearl Harbour is to be adapted to naval requirements and have a large garrison, who would immediately be reinforced when war was imminent by units from navy, army and air force. If America, therefore, could seize Nimrod Sound and base a fleet there, which would be supplied from Hawaii and Manila, the strategic position would be very strong, but not necessarily in a position to fight a decisive action with Japan.

Japan in this case would command the sea of Japan, and possibly all the passages leading to it, whilst the fleet could lie safely in the inland sea.

If the Japanese fleet refused action and naval activities were limited to destroyer attacks, submarine work, mining and aircraft, the war might last a long time, but the factor for grave consideration is Japan's power of endurance, which probably is less than a year.

Therefore it seems that war between these two countries is *most* unlikely, but the year 1928 will be an anxious one for both U.S.A. and Japan, when it is to be hoped that the statesmen of these two countries will be level-headed and wise.

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* N.B—Nimrod Sound is on the coast of Chekiang, about 100 miles due south of Shanghai

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Japanese naval officers never appear anxious for war or assured of a victorious result, they are more inclined to say "we will fight to the last man rather than be bullied." This may be accepted as the mentality of the Japanese nation.

The American view of the possible strategy they would adopt in the event of war is roughly as follows, and these statements are the summary of conversations with American officers:—

War plans against Japan are now being seriously discussed at Washington by a class of sixty-five specially picked officers. All information is gathered for this assembly by the Admiral commanding the American fleet in the Orient, whose squadron is purely an intelligence organisation, and the staff officers are sent from time to time to study the conditions in Asian waters from Admiral Strauss' flagship. American naval strategists consider that they could establish a fleet in Asian waters, and Nimrod Sound* is now being used for war-game purposes.

It would appear that the fact that the Japanese usually have their manœuvres off Kyushu gives some credence to such a strategic move on the part of the U.S.A. being possible and probable to the Japanese naval staff.

On the outbreak of war the American Commander-in-chief in the Orient goes straight to Manila, and American naval officers consider the islands and fortress could withstand a severe siege.

Manila now has a garrison of 8,000 men and is strong in naval defence by submarine, mining, aircraft and destroyers, and the policy is to go on gradually reinforcing. Pearl Harbour is to be adapted to naval requirements and have a large garrison, who would immediately be reinforced when war was imminent by units from navy, army and air force. If America, therefore, could seize Nimrod Sound and base a fleet there, which would be supplied from Hawaii and Manila, the strategic position would be very strong, but not necessarily in a position to fight a decisive action with Japan.

Japan in this case would command the sea of Japan, and possibly all the passages leading to it, whilst the fleet could lie safely in the inland sea.

If the Japanese fleet refused action and naval activities were limited to destroyer attacks, submarine work, mining and aircraft, the war might last a long time, but the factor for grave consideration is Japan's power of endurance, which probably is less than a year.

Therefore it seems that war between these two countries is *most* unlikely, but the year 1928 will be an anxious one for both U.S.A. and Japan, when it is to be hoped that the statesmen of these two countries will be level-headed and wise.

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* N.B—Nimrod Sound is on the coast of Chekiang, about 100 miles due south of Shanghai

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JAPAN. [July 7.]

CONFIDENTIAL. SECTION 1.

[F 2483/63/23] No. 1.

Foreign Office to Cabinet Offices.

Foreign Office, July 7, 1921.

Sir,

WITH reference to the letter from this Office of the 8th July, 1920, I am directed by the Marquess Curzon of Kedleston to transmit to you herewith a further communication to the League of Nations from His Majesty's Government and the Japanese Government relating to the Anglo-Japanese Agreement of the 13th July, 1911.

Lord Curzon would be glad if immediate steps could be taken to place this communication in the hands of the League.

The Japanese Ambassador has intimated the anxiety of his Government to publish the text of the enclosed communication in Japan on the 12th July, or at latest the 13th July. It has been explained to his Excellency that it would hardly be fitting to publish the text before the League, to whom it is addressed, have had the opportunity of themselves making it public, and his Excellency has admitted the force of this contention. At the same time, in view of the importance of the contents of the communication and of the fact that the 13th July is the date mentioned in the earlier notification of the 8th July, 1920, it seems not unreasonable that the text should be made available to the British and Japanese public if possible on the 12th July.

I am accordingly to enquire if matters could be so arranged with the League that the British and Japanese Governments might proceed to publication in Great Britain and Japan respectively without in any way giving cause for complaint to the League.

As it is essential to keep the Japanese Ambassador informed of what is arranged, I am to request the favour of a reply at your earliest convenience so that Baron Hayashi may be in a position to arrange matters in time with his Government.

I am, &c.

V. WELLESLEY.

Enclosure in No. 1.

Notification to the League of Nations.

WHEREAS the Governments of Great Britain and Japan informed the League of Nations in their joint notification of the 8th July, 1920, that they recognised the principle that if the Anglo-Japanese Alliance Agreement of the 13th July, 1911, is continued after July 1921, it must be in a form which is not inconsistent with the Covenant of the League, they hereby notify the League, pending further action, that they are agreed that if any situation arises whilst the agreement remains in force in which the procedure prescribed by the terms of the agreement is inconsistent with the procedure prescribed by the Covenant of the League of Nations, then the procedure prescribed by the said Covenant shall be adopted and shall prevail over that prescribed by the agreement.

HAYASHI. CURZON OF KEDLESTON.

London, July 7, 1921.

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JAPAN. [July 7.]

CONFIDENTIAL. SECTION 6.

[F 2562/2562/23] No. 1.

Mr. Churchill to Sir Eyre Crowe.—(Received July 7.)

Downing Street, July 5, 1921.

My dear Eyre Crowe,

I SHOULD be much obliged if you would refresh my memory on the circumstances attending the entry of Japan into the late war. My recollection is as follows :—

It was admitted that there was no treaty obligation, but about the middle of August 1914 the attitude of Japan towards Germany suddenly became one of fierce menace. Our Ambassador on the spot strongly deprecated the entry of Japan into the war, and so did our representative in China. Sir Edward Grey definitely telegraphed either discouraging Japan coming into the war or markedly declining to encourage her. Thereupon the Japanese stated that their public opinion had risen to such a pitch of anger against Germany that they could not stand out. There was, however, no particular public opinion on this point in Japan. They then proceeded to send an ultimatum to Germany to surrender Kiaochou. The terms of this ultimatum reproduced exactly the ultimatum which Germany had sent them at the close of the Japanese war with China, compelling Japan to evacuate Port Arthur in 1898 or 1899. Thus the reason for the entry of Japan into the war was not the alliance nor any special care for the Allies, but the resentment she had harboured against Germany for depriving her of the fruits of her war against China and necessitating the subsequent second siege of Port Arthur, and the repugnance with which Japan regarded the establishment of a German naval base in the Far East.

Yours sincerely,

WINSTON S. CHURCHILL.

[6547 g—6]

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JAPAN. [July 11.]

CONFIDENTIAL. SECTION 2.

[F 2562/2562/23] No. 1.

Sir Eyre Crowe to Mr. Churchill.

Dear Mr. Churchill, *Foreign Office, July* 11, 1921.

I MUST apologise for not having let you have an earlier reply to your letter of the 5th July, but it has required a little time to check the facts.

Your recollection of what passed with Japan in 1914 is not quite correct. This will be clearer to you if you can spare the time to glance through the enclosed précis of the correspondence that passed at the time.*

From this you will see that every step taken by Japan between the 2nd August and her ultimatum to Germany of the 23rd August was taken on the basis of treaty obligation. It was from us that on the 6th August the incentive came for her to take action against Germany. It is true that, as the result of subsequent reflection based on what our Minister at Peking said, we later sought to limit her sphere of action and that in this we failed. But it was undoubtedly on our direct request that she took action against Germany in the Far East.

Once the push had been given, no doubt public feeling in Japan against Germany was worked up purposely, just as it was here in England. And there was naturally a good field for this in Japan, for her treatment at the hands of Germany in 1895 had always rankled with her, and rightly so. But it could not be maintained that it was that feeling, and not our direct application, which brought her into the war.

The terms of Japan's ultimatum to Germany did in some respects resemble those of the 1895 memorandum handed to her by Germany, France and Russia. But there is no shadow of doubt that the reason for Japan's entry into the war was primarily the alliance and our appeal of the 6th August that she should hunt out and destroy German commerce raiders. You will probably remember that message, for it was sent after personal consultation between yourself, Lord Grey and the First Sea Lord.

I have shown this correspondence to Lord Curzon.

Yours sincerely,
EYRE A. CROWE.

* Enclosure 1, July 8, Section 4.

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JAPAN. [July 8.]

CONFIDENTIAL. SECTION 4.

[F 2562/2562/23] No. 1.

Memorandum respecting the Entry of Japan into the Great War, by Mr. Gwatkin.

I HAVE dealt with this question in detail because the outline of events, as given by Mr. Churchill, is not borne out by the documents in the Foreign Office archives.

Thus, both parties to the alliance agreed that there was a treaty obligation, and every step taken by Japan from the 2nd August down to the ultimatum on the 23rd August was taken on the basis of such treaty obligation. The incentive for Japan to join in the war came in the first instance from Great Britain, especially as a result of Sir E. Grey's telegram No. 40 of the 6th August to Tokyo. It is true that we tried, unsuccessfully, to limit Japan's assistance to action at sea, even to the point of attempting on the 10th August to cancel our request of the 6th August. But the Japanese replied, not unreasonably, that things had by that time gone too far. The substitution of an ultimatum instead of a declaration of war in no way implies departure from the obligations of the alliance. Sir C. Greene does not throw any light on the reasons for this change. It may have been a desire to repeat as closely as possible Germany's action towards Japan in 1895; the poetic justice of the situation would appeal to the Japanese. It may have been a sincere desire to give Germany a chance for peaceful withdrawal, and to avoid the general suspicions to which warlike action by Japan would clearly give rise.

Our Minister in China deprecated Japan's intervention, but our Ambassador at Tokyo did not do so. Sir E. Grey discouraged Japan coming into the war, but only after he had invited her to do so. Public opinion in Japan was strongly against Germany in August 1914. The terms of the ultimatum did in some respects resemble the terms of the 1895 memorandum handed by Germany, Russia and France to Japan. But the reason for Japan's entry into the war was primarily the alliance, and the idea of revenge on Germany was an afterthought.

However much Japan may have exploited the situation subsequently, her attitude at the beginning of the war seems to have been entirely correct and loyal to the alliance.

F. ASHTON-GWATKIN.

Foreign Office, July 8, 1921.

Enclosure 1 in No. 1.

Précis of Correspondence respecting Japan's Entry into the War.

ON the 1st August Sir E. Grey instructed His Majesty's Ambassador at Tokyo to inform Japanese Minister for Foreign Affairs that if we intervened in the war it would be on the side of France and Russia, and therefore it was not likely that we would have to apply to Japan under our alliance, or that the interests dealt with by the alliance would be involved. — To Tokyo, No. 35, Tel., Aug. 1, '14.

On the 2nd August Sir C. Greene telegraphed that Japanese vernacular papers were discussing possibility of Japan being invited to support her ally in defence of her interests in the Far East, and that the view generally taken seemed to be that Japan would gladly accept responsibility. — Tokyo, No. 57, Tel., Aug. 2, '14.

On the 3rd August Sir E. Grey telegraphed to Sir C. Greene to warn Japan that if hostilities spread to the Far East, and an attack on Hong Kong or Wei-hai Wei were to take place, we should rely on their support. — To Tokyo, No. 36, Tel., Aug. 3, '14.

On the 3rd August Sir C. Greene telegraphed, with reference to Sir E. Grey's telegram of the 1st August, that Japan has no interest in a European conflict, but if British interests in East Asia should be placed in jeopardy, Japan would at once come to the assistance of her ally with all her strength, if called on to do so, leaving it entirely to us to formulate the reason for and nature of assistance required. German Ambassador at Tokyo was so informed. The Japanese navy was lying ready for immediate action if required. — Tokyo, No. 58, Tel., Aug 3, '14. — Tokyo, No. 61, Tel., Aug. 4, '14.

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To Tokyo, No. 122. Desp., Aug. 4, '14.

To Japanese Ambassador, Aug. 6, '14.

St. Petersburg, No. 216, Tel., Aug. 4, '14.

On the 4th August Sir E. Grey thanked the Japanese Ambassador for the offer, and said we had appreciated the way in which Japan, at the time of her war with Russia, had demanded nothing of us but what was strictly in accord with the terms of the alliance; we, in return, should avoid, if we could, drawing Japan into any trouble. But if we needed her help we should gladly ask for it. (This message was communicated in writing to the Japanese Ambassador on the 6th August.) Meanwhile, on the 4th August, the Russian Minister for Foreign Affairs stated that he thought this attitude on our part a mistake. Japan might regard it as a slight; as she was well disposed, we ought not to discourage her. She could render valuable service by damages inflicted on German trade.

On the 4th August, midnight, our ultimatum to Germany expired.

To Tokyo, No. 40, Tel., Aug. 6, '14.

On the 6th August, after personal consultation with First Lord and First Sea Lord, Sir E. Grey telegraphed that it was essential Japanese should hunt out and destroy German armed merchant cruisers. It meant act of war by Japanese against Germany, but we did not see how this was to be avoided. (Admiralty authorities, in their minute, were explicit that Japan should not take Kiaochow, but should be recompensed financially.) A private letter from Sir C. Greene to Mr. Alston of the 11th August (see No. 36648 of the 7th August, 1914) shows how anxious Baron Kato was to leave no doubt that the initiative in this step came from His Majesty's Government and not from the Japanese side.

Tokyo, No. 64, Tel., Aug. 7, '14.

On the 8th August this proposal was laid before Japanese Cabinet. In notifying this to Sir C. Greene on the 7th August, Baron Kato said he thought the quickest way of settling the business would be by attack on Tsingtao. Sir C. Greene replied that Japanese Government would be best judges of whether this were so or not. Baron Kato said that in any case it meant war with Germany, although a declaration of war might not be necessary.

Tokyo, No. 66, Tel., Aug. 8, '14.

On the 8th August Sir C. Greene telegraphed that Cabinet had favoured acceding to the British request. Baron Kato thought that Japan must make a formal declaration of war against Germany, in accordance with article 1 of Hague Convention respecting opening of hostilities. The declaration would set forth—

1. That peace of the Far East was imperilled.
2. That special British interests referred to in preamble of alliance were in jeopardy.
3. That His Majesty's Government had invoked assistance of their ally in virtue of above.

Baron Kato thought declaration would be issued in Emperor's name on the 10th or 11th August.

To Tokyo, No. 43, Tel., Aug. 9, '14.

On the 9th August, on receiving this, Sir E. Grey telegraphed Sir C. Greene to ask Japanese to defer declaration of war till there had been time to consult British admiral on China station and British Minister at Peking. Latter was apprehensive that extensive operations might have serious effect on stability of China. Sir E. Grey was therefore anxious at present to limit operations of war on China station to protection of commerce at sea, and wished to have time to consider the matter further with the Japanese Government.

Peking, No. 146, Tel., Aug. 9, '14.

Sir J. Jordan had warned Sir E. Grey of the dire effects of Japanese intervention on a large scale, which was both dangerous and unnecessary.

Peking, No. 148, Tel., Aug. 9, '14.

Japanese Ambassador, Memo., Aug. 10, '14.

On the 10th August the Japanese Ambassador informed Sir E. Grey that Japan could not confine her action to the destruction of armed merchantmen, and suggested that the reasons for Japan's participation in the war should be made on broad grounds, as stated in the agreement of the alliance. The Japanese Government would therefore state in the declaration of war against Germany that, as a consequence of aggressive action by Germany, the British Government finding that the general peace was threatened in East Asia and that the special interests of Great Britain were in jeopardy, had requested the support of Japan, to which request she had acceded. The Japanese Government asked His Majesty's Government to concur in this statement.

Tokyo, No. 69, Tel., Aug. 9, '14.

(In his telegram of the 9th August Sir G. Greene had transmitted a similar request; he had also pointed out that the only object which made it worth Japan's while to abandon neutrality was the complete removal of Germany from the Far East.)

To Tokyo, No. 45, Tel., Aug. 10, '14.

On the 10th August Sir E. Grey told the Japanese Ambassador that under the circumstances His Majesty's Government would for the present refrain from invoking

action under the treaty. (In view of what had happened in the meanwhile Sir C. Greene refrained from transmitting an identic message to the Japanese Minister for Foreign Affairs.) For on the 10th August Baron Kato had informed Sir C. Greene that matters had gone too far to be held up. Public sentiment, inflamed by awakened memory of German intervention in 1895, was growing daily. The German Ambassador had called at the Japanese Foreign Office on the 9th August, and used threatening language. International relations between Japan and Germany was almost at breaking point, and were evidently in a hostile state, even without a declaration of war.

Tokyo, No. 75, Tel., Aug. 11, '14.

Tokyo, No. 71, Tel., Aug 10, '14.

On the 11th August Sir E. Grey agreed to a statement that it was necessary for each Government to take action to protect the general interests contemplated by the Anglo-Japanese Alliance. He wished it also to be stated that the action of Japan would not extend to the Pacific Ocean beyond the China seas nor extend beyond Asiatic waters westward of the China seas nor to any foreign territory except territory in German occupation on the continent in Eastern Asia.

To Tokyo, No. 47, Tel., Aug. 11, '14.

On the 12th August Baron Kato objected to embodying this last restriction in an Imperial proclamation; and suggested that a formal assurance instead should be given to Great Britain, as also to any other Power, that it was not intended in any way to molest their possessions in the seas indicated.

Tokyo, No. 78, Tel., Aug. 12, '14.

On the 15th August Baron Kato agreed to make a general reference in formal statement as to geographical limits of action.

Tokyo, No. 84, Tel., Aug. 15, '14.

On the 15th August Sir C. Greene telegraphed that the Japanese Government, instead of making a declaration of war, had determined to send an ultimatum to Germany. Baron Kato stated that he regarded this whole procedure merely as a formality enacted in reference to the wishes of certain members of the Cabinet; operations by sea and land would continue without delay.

Tokyo, No. 85, Tel., Aug. 15, '14.

On the 15th August the ultimatum was handed to Germany (text attached), based on the obligations of the Anglo-Japanese Alliance.

Tokyo, No. 86, Tel., Aug. 15, '14.

On the 15th August Sir Edward Grey proposed making public the following statement:—

To Tokyo, No. 63, Tel., Aug. 15, '14.

> "His Majesty's Government have received a statement from the Japanese Government that their intention is to operate in the Chinese seas and Asiatic waters west thereof and against German territory or occupied territory in the eastern continent of Asia, but not to extend their operations to islands or territory in the Pacific Ocean."

He said that some such statement was essential, though it need not be in the Japanese proclamation of war.

On the 17th August Baron Kato refused specifically to give a written assurance of this kind "as the words used therein seemed to imply that the Imperial Government were acting under the dictation of His Majesty's Government." Sir C. Greene remarked that it looked as if Cabinet were reluctant to commit themselves to limits specified.

Tokyo, No. 88, Tel., Aug. 17, '14.

On the 18th August Baron Kato drew Sir C. Greene's attention to reports of his (Baron Kato's) remarks taken from vernacular newspapers. In these he is quoted as saying "he particularly wished to emphasise fact that, in order to avoid all misapprehension at home or abroad, the attitude of the Government rested entirely on the Anglo-Japanese Alliance, and had not the slightest territorial or other designs."

Tokyo, No. 92, Tel., Aug. 18, '14.

On the 18th August British Press Bureau published the following:—

To Tokyo, No. 70, Tel., Aug. 18, '14.

> "The Governments of Great Britain and Japan, having been in communication with each other, are of opinion that it is necessary for each to take action to protect the general interests in the Far East contemplated by the Anglo-Japanese Alliance, keeping specially in view the independence and integrity of China, as provided for in that agreement. It is understood that the action of Japan will not extend to the Pacific Ocean beyond the China seas, except in so far as it may be necessary to protect Japanese shipping lines in the Pacific, nor beyond Asiatic waters westward of the China seas, or to any foreign territory, except territory in German occupation on the continent of Eastern Asia."

Tokyo, No. 98, Tel., Aug. 20, '14.

On the 20th August Baron Kato drew attention to this Press Bureau telegram, and said that he would have to make a counter statement to the Japanese press, that the Imperial Government had not agreed to limit their action in deference to His Majesty's Government.

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Japanese Ambassador, Note, Aug. 23, '14.

On the 23rd August Japan declared war on Germany. The Imperial rescript declaring war refers to the fact that Great Britain "our ally" has been compelled to go to war with Germany. "Peace of the Far East is thus in jeopardy. Accordingly, our Government and that of His Britannic Majesty, after a full and frank communication with each other, agreed to take such measures as may be necessary for the protection of the general interests contemplated in the agreement of alliance."

Foreign Office, July 8, 1921.

Enclosure 2 in No. 1.

Ultimatum presented by Japan to Germany, August 15, 1914.

CONSIDERING it highly important and necessary, in the present situation, to take measures to remove all causes of disturbances to the peace of the Far East, and to safeguard the general interests contemplated by the agreement of the Alliance between Japan and Great Britain in order to secure a firm and enduring peace in Eastern Asia, the establishment of which is the aim of the said agreement, the Imperial Japanese Government sincerely believe it their duty to give advice to the Imperial German Government to carry out the following two propositions:—

1. To withdraw immediately from Japanese and Chinese waters German men-of-war and armed vessels of all kinds, and to disarm at once those which cannot be withdrawn.
2. To deliver, on a date not later than the 15th September, 1914, to the Imperial Japanese authorities, without condition or compensation, the entire leased territory of Kiaochow, with a view to eventual restoration of the same to China.

The Imperial Japanese Government announce at the same time that, in the event of their not receiving by noon of the 23rd August, 1914, the answer of the Imperial German Government signifying unconditional acceptance of the above advice offered by the Imperial Japanese Government, they will be compelled to take such action as they may deem necessary to meet the situation.

Enclosure 3 in No. 1.

Intervention of the three Powers in 1895.

THE text of the Russian Memorandum (23rd April, 1895) was as follows:—

Memo. communicated to F.O. by Japanese Minister, April 27, '95.

"The Government of His Majesty the Emperor, my august Master, in examining the conditions of peace which Japan has imposed upon China, finds that possession of peninsula of Liao-tung, claimed by Japan, would be constant menace to the capital of China, and, at the same time, it will render illusive independence of Korea; that henceforth it would be obstacle to the permanent peace of the Far East; consequently, Government of His Majesty the Emperor, my august Master, would give a new proof of his sincere friendship for the Government of His Majesty the Emperor of Japan by advising it to renounce definitive possession of the peninsula of Liao-tung."

This text, with the necessary verbal alterations, was also adopted by the French Minister, and ultimately by the German Minister.

Tokyo, No. 43, Tel., April 24, '95.

Our archives do not give the original text of the German note, but Mr. Trench, in telegram from Tokyo, No. 43 of the 24th April, 1895, observes that it was the strongest of the three.

Count Hayashi, in his memoirs ("The Secret Memoirs of Count Tadasu Hayashi," London, Eveleigh Nash, 1915, pp. 76–79), gives his opinion that Germany had determined to intervene, whatever were the conditions of peace made between China and Japan; but he is at a loss to explain Germany's sudden hostility to Japan. He tells how first the Russian and then the French Ministers called on him on the 23rd April, 1895, and left copies of the note as above. Then the German Minister

called. He brought with him a memorandum written in romanised Japanese, which the Secretary, Herr Weipert, read out, but which Count Hayashi could barely understand. This memorandum said that there was no possibility of Japan being able to hope for a victory in fighting Russia, Germany and France, and therefore it would be beneficial for Japan if the advice tendered by the three Powers should be accepted. Count Hayashi protested against this suggestion that the question might be solved by force of arms, and added that, the memorandum being written in Japanese, with which the Minister was unfamiliar, errors might have been made in the use of words. The German Minister, in the most awkward manner, said that such warlike suggestions were not so meant, and there must be errors in the Japanese wording. He promised to cancel the memorandum, and asked Count Hayashi to regard the memorandum as being identical with those of the Russian and French Ministers.

Japan yielded to the advice of the three Powers, and restored the Liao-tung peninsula to China in return for a further indemnity.

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CONFIDENTIAL.

C.P. 3122.

C A B I N E T.

ANGLO-JAPANESE AGREEMENT.

Note by the Secretary.

The accompanying Joint Notification by the British and Japanese Governments dated July 7th, 1921 has been communicated to the League of Nations and is circulated to the Cabinet for information. The Notification will be published shortly.

A copy of the former Notification dated July 8, 1920 is attached for convenience of reference.

(Sgd.) M.P.A. HANKEY,

Secretary, Cabinet.

2, Whitehall Gardens, S.W.

11th July, 1921.

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JOINT NOTIFICATION.

WHEREAS the Governments of Great Britain and Japan informed the League of Nations in their joint notification of July 8th, 1920 that they recognise the principle that if the Anglo-Japanese Alliance Agreement of July 13th, 1911, is continued after July, 1921, it must be in a form which is not inconsistent with the Covenant of the League, they hereby notify the League pending further action, that they are agreed that if any situation arises whilst the Agreement remains in force in which the procedure prescribed by the terms of the Agreement is inconsistent with the procedure prescribed by the Covenant of the League of Nations, then the procedure prescribed by the said Covenant shall be adopted and shall prevail over that prescribed by the Agreement.

(Signed) HAYASHI.

(Signed) CURZON OF KEDLESTON.

London,
7th July, 1921.

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(AMENDED COPY)

No. 1.

FOREIGN OFFICE to SECRETARY, Cabinet Offices.

Foreign Office,
July 8th, 1920.

Sir,

I am directed by Earl Curzon of Kedleston to transmit to you herewith a communication to the Secretary-General of the League of Nations, which it is requested may be forwarded to its destination with the least possible delay.

I am, &c.

(Sgd.) V. WELLESLEY.

ENCLOSURE 1 in No. 1.

FOREIGN OFFICE TO LEAGUE OF NATIONS.

Foreign Office, 8th July, 1920.

Sir,

I am directed by Earl Curzon of Kedleston to transmit to you, herewith, to be laid before the Council of the League of Nations, a joint communication from the Governments of Great Britain and Japan to the effect that if the Anglo-Japanese Agreement of the 13th July, 1911, be continued after the 13th July, 1921, it must be in a form which is not inconsistent with the Covenant of the League of Nations.

I am, &c.

V. WELLESLEY.

ENCLOSURE 2 in No. 1.

Spa, July 8th, 1920.

THE Governments of Great Britain and Japan have come to the conclusion that the Anglo-Japanese Agreement of the 13th July, 1911, now existing between the two countries, though in harmony with the spirit of the Covenant of the League of Nations, is not entirely consistent with the letter of that Covenant, which both Governments earnestly desire to respect. They accordingly have the honour, jointly, to inform the League that they recognise the principle that if the said Agreement be continued after July 1921, it must be in a form which is not inconsistent with that Covenant.

CURZON OF KEDLESTON.
CHINDA.

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REPORT OF A CONFIDENTIAL
MISSION TO CANADA, UNITED STATES,
AND ENGLAND IN 1921.

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A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

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WRITTEN BY AN ENGLISHMAN,

MR. LENOX SIMPSON

Better Known by His Pseudonym of

PUTNAM WEALE.

\+ \+ \+

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C 41220

REPORT ON A CONFIDENTIAL MISSION TO CANADA, ENGLAND AND THE UNITED STATES IN 1921.

A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

We publish this morning the first instalment of a most interesting report on a confidential mission to America and England undertaken during the latter part of last, and the beginning of this, year, by a Foreign Adviser to the Chinese Government. We reserve our comments on the revelation contained in this illuminating document until the final instalment has been printed. The crossheadings, in most instances are our own. ---Ed.

DR. YEN'S INSTRUCTIONS.

In March, 1921, the writer received instructions from the Foreign Minister, Dr. W.W.Yen to prepare to proceed abroad if he were willing to undertake the difficult task of making known in the English-speaking countries, by any methods he chose, China's case, and particularly her attitude in regard to the renewal of the Anglo-Japanese Alliance. It was felt particularly necessary that there should be someone in London, during the British Imperial Conference which was due to open in June.

WHO "PROMPTED" CHINA'S DIPLOMACY?

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WHO"PROMPTED" CHINA'S DIPLOMACY?

The writer has pleasure in inviting the attention of the President and Government to the narrative that follows, as it is an extraordinary record in which the writer had frequently to take desperate chances, relying on his own resourcefulness to pull him out of difficulties, and being forced to use every weapon. The only status the writer could claim was that he was officially on leave of absence from his post in Peking and was speaking in the name of the Chinese people. It is necessary to note, however, that just as the writer was opposed by the British Foreign Office so was he supported by the Parliament and Press in England who quickly understood that traditional diplomacy was at fault and that full consideration must be given to the new situation which had arisen in the Far East and on the Pacific as a result of the European War. The writer was particularly conversant with every aspect of the Anglo-Japanese Alliance in so far as it affected China as every step taken by China in previous years had been prompted by him. The writer had advised strong action as early as the beginning of the year 1920. The series of inquiries and notes sent to Britain by the Chinese Government in the spring of 1920, had culminated in a Chinese declaration which the writer used as the basis of his action.

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That the Alliance was a harmful and dangerous instrument so far as China was concerned was an obvious proposition: the difficult matter was to make it so that the renewal would be harmful and dangerous to the British Empire and an open threat against the United States. It was along these lines that the writer proceeded to work.

Part 1- Canada.

IN CANADA.

The writer left Peking on the 30th March and Shanghai on the 2nd April, reaching Vancouver in Canada on the 17th April. During the two or three days prior to arrival in Canada, the writer drew up a lengthy statement for the Press, regarding which he consulted Dr. Wang Chung-hui who was on board the same steamer proceeding to the League of Nations Revision Committee in London. In this statement he declared that China was not an enemy of Japan, but an enemy of certain policies, such as the Anglo-Japanese Alliance, the Lansing-Ishii Agreement, and certain articles in the covenant of the League of Nations. She could never rest until these policies were destroyed. By a curious mistake, due to the dropping of several lines of type in the printing press containing the writer's name, this statement was attributed to Dr. Wang Chung-hui and caused great embarrassment in London for Dr. Wang, necessitating a correction.

Proceeding from Vancouver to Toronto, which is the

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intellectual centre of Canada, the writer arrived there before the end of April and opened a deliberate campaign in all the newspapers against the Anglo-Japanese Alliance, pointing out the peculiar dangers of that instrument to Canada in the event of the war which could not fail to come if America and Japan continued to arm and pursue policies diametrically opposed and were spurred on to so so by a renewal of the Alliance. He also utilised the occasion to get introductions to the influential men in Ottawa, the political capital, so that when he arrived he could attack the problem directly with the Canadian Government.

CANADA'S POSITION IN THE EMPIRE.

It is necessary here to point out the peculiar position of Canada in the British Empire system, as this is undoubtedly the main reason why events took their course in London at the Imperial Conference and why the Washington Conference was ultimately summoned.

Canada is the oldest British Colony and was the first to attain Dominion Status i.e., to have complete self-governing status, the only links with the mother country being a ceremonial British Governor-General, coupled with the right to appeal law suits to the highest court in London which is the King's Privy Council. It is also the most populous English territory of the British

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empire having about ten million inhabitants, who are increasing at the rate of several thousand a year. In fifty years it is believed that Canada will have a greater population than the mother country and therefore the centre of the British Empire will tend to move towards the North American continent. These facts are important because they are well realised in England and are the subject of much study and concern.

RELATIONS BETWEEN CANADA AND U.S.

The relationship of Canada to the United States is also very important. At the time of the American Revolution 150 years ago, Canada was half-English and half-French, the French portion having been captured by the British in prior wars. As a result of the American Revolution, many English left the United States and settled in Canada and these English are strong patriots who advocated close links with the mother country. Since those days, however, there has been a large flow of American into the western Canadian agricultural provinces and a large flow of towndwelling Canadians back into American towns. By geographical incluences, then, in spite of the loyalty of the older Canadian population, there tends to be an ever greater approximation of the Canadian to the American people as well as an identity of commercial interests. It is

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also necessary to note that the border between the United States and Canada is entirely unfortified, an agreement to that effect having been successfully maintained for over a 100 years in spite of occasional friction, and now being in the nature of a fixed principle which nothing can disturb.

The result is that the destinies of Canada and the United States are inextricably mixed. In some places the frontier runs through the middle of a town, one side being British and the other American. In one case the frontier actually divides a house. The commercial relations are so close that the same money is used, the measure being the American dollar.

These facts were well-known to the writer before he left China. This is the reason why he made up his mind that the success or failure of his mission would be registered in Canada long before he reached London. Although many Chinese imagined that Australia and New Zealand would be important at the Imperial Conference in deciding the policy of Britain regarding the Anglo-Japanese Alliance and the whole problem of the Pacific, the writer knew positively that the action of Canada would cause the plan to stand or fall, and that he must leave no stone unturned to secure that Canada adopted the Chinese view.

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CANADA'S INFLUENCE IN ENGLAND.

There was one further very important fact. The European war had greatly increased the influence of Canada in England since Canada had sent half-a-million troops to France.

The British Empire Council which had sat in London during the War had been forced more and more to pay attention to Canadian wishes. The Canadian delegate, Sir Robert Borden, having on one historic occasion threatened to remove the Canadian troops because he held that they were being sacrificed uselessly in certain offensives. The principle had also been settled during the war that in the British Empire Council, sometimes called the Imperial Cabinet, after the Prime Minister of England, who sat as Chairman, came the Prime Minister of the senior Dominion, Canada, who was 'ex-officio' Vice-Chairman. Therefore if the British Premier were absent at any sitting, the chairmanship fell into the hands not of another member of the British or London Cabinet, but of the Canadian Prime Minister, who therefore exerted great influence.

This additional circumstance has also to be borne in mind. Canada knew that if war came between the United States and Japan, the Canadian population would rush across the frontier to assist America no matter what the

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Government might decide. Then if anything untoward occurred between Britain and the United States as a result of fighting in the region of the Pacific Ocean, American troops would have no difficulty in coming into Canadian territory as there were no fortifications or real divisions between the two countries, America having a population of 110 millions and Canada only 10 millions.

Consequently the Anglo-Japanese Alliance renewal question had already become a great issue. In taking the stand he did, the writer was merely fanning a fire which was already burning and which only needed astute handling to burn the dangerous document.

"BEGGING THE QUESTION."

It was soon felt in Canada that for England to say the Alliance would not operate against America in the event of an American-Japanese war was begging the question. For the writer now adduced new arguments which had hitherto not been used. He showed it in articles and interviews how China could not fail to be drawn into any fresh war which might break out in the Far East. Her deeply aroused national sentiment would cause her to commit acts of aggression against the Japanese and she would finally be fighting openly on the side of the United States. Then what would be the position of

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Britain under the Japanese Treaty? England would undoubtedly have to assist Japan in China under the terms of the Treaty and so by natural processes this would infallibly bring her into collision with the United States somewhere in the region of the Pacific and so possibly precipitate the break-up of the British Empire.

THE SITUATION AT OTTAWA.

Proceeding to Ottawa, the capital, the writer was able to meet at once most of the principal people there, members of parliament, members of the Cabinet and leading public men, and to discover where lay the balance of power in Canadian politics.

He found that the essential element was the Prime Minister Meighen who was already in a difficult position through party troubles, and the bitterness with which his policies were being attacked. Prior to the writer's arrival in Ottawa there had been two great debates in the Ottawa Parliament, lasting two days,-- one covering the matter of Canada having her own Ambassador (an unprecedented step the London Government had already been forced to assent to) and secondly, the very matter of the Imperial Conference, and what steps Canada should take to secure that there should be no fresh call on her for military or naval contributions.

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These two issues, which the writer can only briefly summarise, had produced through debate these conclusions;

1. That Canada was determined to deal with her national business with the United States by herself without interference:

2. That great nervousness was exhibited over the matter of the Imperial Conference, the Canadian Parliament attempting to instruct the Prime Minister in such a way that he had no liberty left and would refer all decisions back home for confirmation:

3. That the Canadian Parliament demanded that any treaties made in London would not be binding on the Canadian people until they had been ratified by the Canadian Parliament.

The last conclusion was most important. It meant that if any new agreement were made with Japan, Canada would have to ratify it, and if Canada demanded this right all the other Dominions would ask the same, making ratification by five Parliaments necessary since the London Parliament would have to have the same right.

Moreover, the official leader of the opposition party in Parliament, Mr. Mackenzie King, who has since become Prime Minister, had actually brought a resolution in Parliament to this effect which although defeated, had great weight:

"That the Canadian Parliament while recognising the

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propriety of Canada being represented at any Imperial Conference or Conferences of the Prime Ministers of the Empire that may be called, desires to record its opinion that at the coming Conference no steps should be taken in any way involving any change in the relations of Canada to other parts of the Empire, and that in view of the present financial position of Canada no action should be taken implying any obligation on the part of Canada to undertake new expenditures for naval or military purposes."

The meaning of this resolution was simply that Canada, having come to the rescue of England in the European war declined to pledge her credit on her resources to further any imperialistic policy, and demanded that Great Britain make a radical change in her foreign policy.

INTERVIEW WITH MR. A. MEIGHEN.

On the 3rd of May, the writer received the following from the Chinese Consul-General in Ottawa, Mr. Yang Shu-wen:

Dear Sir,-

The Prime Minister, the Hon. Arthur Meighen is ready to receive you at 4 o'clock this afternoon, 3rd of May, in the House of the Parliament."

The writer proceeded to Parliament at the hour named. A great number of political people were waiting to see the Prime Minister as the air was already charged with the crisis which a few months later forced the Prime Minister

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out of office. Before introducing the writer the private secretary informed the writer he could only stay five minutes as there were many appointments waiting. Consequently as soon as the writer had been introduced and taken his seat he said: "I have come merely to hand you the terms of the new Anglo-Japanese Treaty which you are being called to London next month to sign in common with the other British Dominion Prime Ministers."

Mr. Meighen who was sitting at his desk, pen in hand and many papers in front of him, dropped every thing and asked what the writer meant. Thereupon the writer handed him a brief summary of the new Treaty, which he had compiled on information from a number of sources and which he learnt later in London was accurate. The main modifications in this draft were the abandonment of the present preamble, the substitution of a clause specifically excluding the United States from the operation of the Treaty, elision of reference to China, and a shortening of the term of the agreement to five years. Thereupon the Canadian Prime Minister already deeply concerned because of his own parliamentary position, allowed the writer to proceed, and for one hour as fast as he could talk, the writer expounded the problem of the Far East and the great danger which was arising from the position in China. When he had

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finished the Prime Minister asked the writer to embody his exposition in a Memorandum. The writer during the next day composed the document which follows and which was placed in the papers of the Canadian External Affairs Department for the London Conference:

A MEMORANDUM.

MEMORANDUM PREPARED FOR THE PRIME MINISTER OF CANADA AT HIS REQUEST SUMMARISING THE CONVERSATION OF THE 3RD MAY, 1921, AT PARLIAMENT HOUSE, OTTAWA.

CHINA AND THE ANGLO-JAPANESE ALLIANCE.

The steps China had taken in regard to the renewal of the Anglo-Japanese Alliance are rehearsed in the copy of the press communique issued in June last year which is annexed hereto;

(1) China, having no status in the matter except as a protestant, could not raise the essential point in her communications,--that is, that any renewal of the Alliance would be considered by all China as an endorsement by Great Britain of all the wrongs Japan inflicted upon her during the war, and also a deliberate endorsement of the admitted outrageous Shantung clauses in the Versailles Treaty.

It is well at the very start to grasp these points thoroughly, since whatever decisions are arrived at at the Imperial Conference they will infallibly be measured by the Government and people of China by this yardstick.

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The writer is unable to say officially whether the sketch of the four modifications in the Treaty, copy of which he handed the Prime Minister, is accurate or not, as they only reached the Peking Government as a confidential communication, reporting informal conversations. But the probabilities are that they are accurate in the main. We know that a London Foreign Office Commission, including Sir John Jordan, presently British Minister to China, has been sitting for a year engaged in "a study of the Treaty." Obviously by now these 'studies' must be embodied in a draft, and this appears to be the document of which we have received a telegraphic sketch.

So far as the ostensible aim of the Alliance is concerned namely to guarantee peace and security- the proposed new agreement will be must as ineffective as the three preceding instruments. In fact the only possible character it can possess is that of a fighting compact, a military document, to be invoked when it suits the senior partner, Great Britain. And because beneath its smooth phrases the Alliance possesses precisely this quality, Britain is forced to allow Japan to recoup herself for the risk involved to her own policy by spoilations carried out in China.

This point is thoroughly realised by the Peking Government who know that their principal enemy is not Japan

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but British policy which for twenty years has declined to infuse morality into its consideration of China's political future.

The chief and indeed the only reason for the Alliance in the past has been weakness and ineffectiveness of China as an international factor. The first steps which would be taken were China a European country instead of an Asiatic country would be to find the seat of the trouble. And because of the importance of this point the writer would venture particularly to bring to the notice of the Prime Minister what he is quite sure is the source of China's difficulties which ought to be considered at the Imperial Conference if that Conference desires to safeguard peace on the Pacific- and to do away with the possibility of war between Japan and the United States.

The principal weakness of the Central Government in China is that it is debarred by the commercial Treaties from increasing the Customs tariff, indirect taxation being the only really profitable taxation in a country where the standard of living is very low and where it is impossible to make other levies without riot.

At the present moment the Chinese Custom Tariff is the same as it has been for 80 years, i.e., based on a nominal 5% levy which in practice owing to rise in values is not more than 3% or 4% and which produces annually not more

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than $80 million or say gold 40 million. This ridiculous sum which is quarter of what Canada gets from her Tariff is entirely absorbed on the service of the foreign debt,-nothing is left for the Government which must rely on the what tax, railway surpluses, stamps and wine and tobacco taxes for its upkeep and matter substance.

No attempt has been made for 20 years to deal with this matter.

The continued absence of funds is the source of all the trouble in China, no Government being able to exercise authority unless it disposes of adequate revenues. The palliatives which Western Nations have offered is entirely wrong, that is to form a banking Consortium which will lend money so long as it is granted monopolistic rights. China requires to be prevented from borrowing not assisted. If she accepts banker's terms she would today be given money in quantities and another Turkey created. That is the position.

What she really needs is an emergency tariff, which will give her double the Customs revenues she possesses today. With that money in hand a commencement would at least be made towards consolidation and reform.

This is a subject which can be fitly considered in connection with the problem of the Anglo-Japanese

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Alliance for Japan is one power that would certainly block such a reform indefinitely unless there is direct British pressure,- and the only time Britain can exercise effective pressure is at a moment such as the present when Japan is seeking renewal of her British understanding in any form that Britain will grant.

The second point which can be equally well considered at the Imperial Conference is the settlement of the Shantung question. In view of the Chinese contention that any fresh understanding with Japan this summer will in effect be a British endorsement of all Japan's actions in China during the war, it seems elementary prudence to solve the Shantung issue and thereby get China's signature to the Versailles Treaty. What will satisfy China is this:

(1) Evacuation of all Japanese troops from Shantung.

(2) Handing back of the leased territory of Kiaochao.

(3) Sale of the Shantung Railway to China, after independent valuation, and uniting this road with the Chinese Government railway system, Japanese being retained in technical posts in the same proportion as on the British built railways in China (peking-Mukden Railway, Shanghai-Nanking).

(4) Creation of a port authority at the port of Tsingtao, under the chairmanship of the local commissioner of

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Customs, with all docks, piers, etc., lately German Government property, paid for by bond issue as in the case of the Port of London authority and controlled by the local board.

These four points will solve the Shantung question and diminish the possibility of war in the Far East to a very considerable extent by removing a great portion of the present Chinese passion.

In the opinion of the writer the only two urgent matters in regard to China are the tariff and Shantung and just handling of them at such a juncture as the Imperial Conference will give an entirely new colour to the international situation, and check the disturbing tendencies which are rapidly growing.

It will certainly arrest the Turkification of China.

It will have a powerful influence on American opinion which unites with Chinese opinion in nearly all matters the writer has discussed.

Moreover if instead of a dangerous document such as Alliance Treaty, and commitments Britain and Japan care to enter into on the subject of defence are covered by the exchange of Notes, which can be voluminous or terse, explicit or general in character; then the precedent made by the United States herself, in the case of the Lansing-Ishii Notes of 1917 will be followed, and a vast amount of the present American suspicion and anger done away with.

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If on the other hand, stereotyped diplomacy wins the day and a new Treaty of Alliance is signed, (modified but still retaining its old character) this is what will happen. China must seek a rapprochement with the United States and offer her naval bases on her coasts together with any other concessions she may desire.

Already there is a naval scheme drawn up called "the defence of the Gulf of Pechili scheme" which is under consideration, and is designed to protect the approaches of the capital, Peking, pending American mobilisation. This document which is strictly confidential is annexed hereto.

A new Treaty of Alliance between Britain and Japan would also force China to avail herself of the constant offers of help she is receiving from Russia. Such a Treaty of Alliance would tend indeed to drive China in the direction of Russia and Afghanistan, both of which countries have found that they get more consideration from the Soviet Government than from Britain.

Finally there is this to be remembered. No treaty can be called a Treaty of Alliance unless it can be invoked against someone. Even if the new treaty is so worded that it exempts Britain specifically and absolutely from participation in an American-Japanese struggle, it will have to apply against China if she throws in her lot with the

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United States. And thus sooner or later it would in effect bring Britain and the United States into collision with one another, first on Chinese soil and then by natural processes everywhere on the Pacific.

"This Memorandum, though written hastily and without notes, gives a true view of the situation as it actually exists."

OTHER CONFERENCES AT OTTAWA.

In addition to this Memorandum the writer explained clearly to Mr. Mackenzie King, the official leader of the Opposition who has since become Prime Minister, the absolute necessity of realising that a renewal of the Anglo-Japanese in any form would mean war and a complete impossibility of escaping from a chain of events which would imperil her status and might bring separation from England.

The writer also conferred with the political lawyers and others who have so much influence in western countries. He also arranged with the legal adviser of the Government who is head of the Canadian Department of External Affairs, to inform him privately of the action and proposals of the United States. The following telegram was sent to Peking:

"I have received assurances from the Prime Minister of Canada Anglo-Japanese Alliance question totally unsettled Chinese views receiving support. Steps are being taken regarding which I am informing you by letter."

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Subsequently the writer sent all the pertinent information by mail to Peking.

Proceeding now to Montreal, the biggest city in Canada, the writer published more views in the newspapers of that city and arranged with Editors that their correspondents in Washington would visit him as soon as he reached there.

From Montreal he went to New York and published in two separate interviews of the leading newspapers, the New York Times, an exposition of Chinese views and the impossibility of avoiding war in the near future if the Anglo-Japanese Alliance were renewed. The writer specifically mentions those interviews as they were destined to have a somewhat unexpected sequel.

INTERVIEW WITH SECRETARY HUGHES.

Arriving in Washington the writer was able to see almost immediately Secretary Hughes, thanks to a personal introduction from Minister Crane. To him he gave a copy of his Canadian memorandum and expounded once again the inner significance of the situation. The writer reminded Secretary Hughes that for years before when President Li-Yuan-hung was still in office, he had been sent to baulk the mission of Viscount Ishii by giving the American Government early information of the proposals which Japan had in mind in the summer of 1917. Had the American Government then stood firm, the writer reminded Secretary Hughes, it would have

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been quite unnecessary to sign the Lansing-Ishii Notes which were the negation of the so-called fundamental American policy contained in the Hay doctrine of the Open Door.

The writer laid great emphasis on the fact that the American Government must speak openly and firmly before the Imperial Conference came to an end, as although the writer had great confidence in Canada and in the forthcoming Canadian action it was still uncertain what the upshot would be. The writer returned to the point again and again, declaring that if the United States committed itself to the doctrine that the renewal of the Anglo-Japanese Alliance would be held an unfriendly act, no British Government that renewed the Agreement could live a day.

U.S. SENATORS' VIEWS.

Still nervous regarding the Position the writer the next day visited the Senate and lunched with several members of the Foreign Relations Commission. It was after this luncheon that the writer received from Senator McCornick the declaration which he got telegraphed everywhere, namely that while Great Britain and Japan could no doubt make a treaty which would satisfy the American Government it would be impossible for the two to make a treaty which would satisfy the American people and as it was the American people who in the East analysis controlled

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American policy the inference was obvious."

To this declaration Senator Lodge, Chairman of the Foreign Relations Committee, added that "Great Britain must not forget that there was an Empire as great on this side of the Atlantic Ocean as on the other."

The writer also met Senator Borah who was already engaged on the draft of his resolution, which was subsequently added to the Navy Vill calling for a Navy Conference between America, Britain and Japan to secure naval reductions. He also met Senator Hiram Johnson of California and Senator Hitchcock, all strong opponents of Japan and expounded to them the policy to follow.

Consequently, as a result of various assurances, the writer felt justified in telegraphing on the 18th May, the following message in cipher to Peking:

"The American Government opposes the renewal of the Anglo-Japanese Alliance. There is a possibility of a General Conference to consider the question. Steps are being taken regarding which I am informing you by letter."

This was no doubt the first information the Chinese Government received of the proposed Washington Conference an Inkling of which had been imparted to the writer by Secretary Hughes and confirmed by various Senators.

ADVISE TO DR. SZE.

The writer had now an animated discussion in Washington

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with Minister Sze owing to the fact that Minister Sze was working hard so as to get a consideration of China's case from the State Department and was not yet aware how much depended upon Canada's action in London at the Imperial Conference, since without Canada blocking British action nothing could be done regarding the summoning of a general Conference. For if Canada assented to a new treaty with Japan then British would certainly decline to surrender the initiative concerning the Pacific into American hands and above all would decline to go to Washington. It was the subsequent failure of the Imperial Conference in London which made the Washington Conference possible. On this point, and on the manner in which American journalists reported his views some calling him official spokesman for China; the writer insisted that it was necessary to beat the big drum and awake alarm in the public mind. He knew well that success could only come for China by adopting an uncompromising threatening attitude as if the Chinese people were determined to carry out the severest measures should their legitimate aspirations be brushed aside.

On returning to Canada the writer informed the External Affairs Department of the Canadian Government of the lines along which the American policy was working so as to assist them in framing their own policy and then set sail for England.

(To be continued)

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REPORT OF A CONFIDENTIAL MISSION TO CANADA, ENGLAND AND THE UNITED STATES IN 1921.

A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

We publish this morning the second instalment of a most interesting report on a confidential mission to America and England undertaken during the latter part of last, and the beginning of this, year, by a Foreign Adviser to the Chinese Government. The cross-headings in most instances, are our own.-ED.

Part II.

ENGLAND AND THE IMPERIAL CONFERENCE.

The writer arrived in London on the 1st June. He was at once aware that here was a new atmosphere. People were indifferent to the problem of the Pacific and still thought of Japan as an ally in the war sense. They had been kept totally uninformed regarding the march of events in the Far East for several years. Moreover, nothing had been done to arouse the public to the importance of the Imperial Conference; China had become an unknown land buried under the vast post-war preoccupation. Consequently on the 2nd June he felt justified in sending his third telegram in cipher to Peking in the following sense:-

"I arrived here yesterday. I find a more unfavourable position. Still I have a great confidence in success: Will commence to work and report as soon as possible."

Immediately after despatching this cablegram, the

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writer proceeded to Reuter's Head Office. This important news agency being on good terms with the writer, very kindly compiled and sent out on the 6th June the following statement which was dictated by the writer and was virtually the first shot fired in the desperate battle which now commenced:-

CHINA AND THE JAPANESE ALLIANCE.

Statement of Chinese Political Adviser.

June 7th, 1921.

Reuter's Agency learns that Mr. _____Political Adviser to the Government of China, has arrived in London for the purpose of making known the views of China regarding Far Eastern problems generally, and the question of the Anglo-Japanese Alliance in particular. Since he left Peking he has been six weeks in Canada and the United States, where he had conferences both at Ottawa and Washington with members of the Canadian and American Governments and laid before them the Chinese views. During his visit to England he will see as many members of the Government as possible. He expects to remain in this country for a couple of months and is awaiting further instructions from Peking as to his future movements.

In view of the delicacy of the matters under discussion he was specially careful while in the United States not to attempt to commit any member of the American administration

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to any special declaration on the subject of Japan, but states that he found general agreement in the pronouncement made by Senator McCormick in the presence of Senator Lodge, Chairman of the Foreign Relations Committee, which was, that although it might be possible for Great Britain and Japan to make a treaty acceptable to the American Government, these two Powers could make no Treaty acceptable to the American people, and that as it was the American people who decided American policy, in the last analysis, he drew the natural inference from this. After Senator McCormick had made the statement referred to, Senator Lodge added that it was well for all to remember that while the interests of a Great Empire on the one side of the Atlantic were involved, it was equally a question for a Great Empire on the other side of the water to be considered and that a false move could be fatal.

Mr. ---- stated that all members of the American Administration with whom he discussed the question showed great anxiety regarding the naval question in the Pacific. They did not disguise the fact that America was strengthening herself in every possible way by shipbuilding, dock-construction, etc. The Secretary of Navy evinced a great deal of interest and anxiety in the published details of new British battleships to be laid down, and consequently

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the amendment then being added in the Senate to the Naval Appropriations Bill to call a conference on disarmament between the United States, Breat Britain and Japan was in the forefront of all discussions. President Harding had expressed himself as being in agreement with this amendment and it was believed that if the Bill went through, both Houses, an invitation would be issued as soon as the Bill had received the President's signature, which of course would have a vital bearing on the problems awaiting discussion by the Imperial Cabinet in London.

Regarding the Canadian official view as expressed to him Mr. --- said it was natural that Canada owing to her geographical relation to the United States should be very much affected by the American attitude on all the issues discussed, and Canadian statesmen were anxious to learn from him after his visit to Washington what were the exact views of the Harding Administration. Mr. --- duly communicated the gist of what he had learnt to the Prime Minister's Department at Ottawa. With regard to this he continued, "In view of the forthcoming conference Mr. Meighen, the Canadian Prime Minister, would not express any view except to emphasize the fact that no Dominion was more concerned in the question of the Alliance than Canada, owing to her position as a portion of the British Empire standing between Great Britain on one side and the United States

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on the other. The renewal of the Alliance was a question of immediate importance to Canada as it was scheduled as one of the four vital questions on the London Agenda." Mr. ---- added, "In conversation with the official and unofficial members of the Dominion Parliament I found them unanimous that if the Alliance were renewed in any form they would insist on the inclusion of a paragraph by which the treaty should have to be ratified by the Dominion Parliament before it becomes binding."

In conclusion, dealing with the views in China on the Alliance, Mr. --- said, "The view as declared to me a few hours before I left Peking by Dr. Yen, the Chinese Foreign Minister, was that the Chinese Nation would regard a renewal of the treaty as a formal ratification by Great Britain of Japanese policy in China during the war, including such issues as the question of Shantung and many others still totally unsolved, and as the Chinese signature to the Treaty of Versailles was lacking, this view was worthy of the attention of the British people. China it should be emphasized, has no real quarrel with Japan. Only a question of policy is involved, and the interpretation of documents. All passion and ill-feeling between the two Far Eastern countries would disappear if Chinese views received due consideration and it is solely because the Chinese standpoint is not known in Europe that I have been

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sent on this mission by my Government. Quite apart from the official view in China, the feeling among the Chinese merchant class generally is very intense on this subject and an anti-British boycott in China has been looming nearer and nearer during the past few months because, rightly or wrongly, the native press is never tired of declaring that after all Japan is only an instrument of British policy and that Britain must bear the chief responsibility for the whole question that has arisen in the Far East."

The reception of this political message by the British press was curious. Some leading newspapers disregarded it and did not print it: others printed it partly: but three of the most important newspapers The Daily Telegraph the Manchester Guardian and the Scotsman not only published it, but gave it great prominence on the morning of the 7th June. It was looked upon as a daring move on the part of the writer, but the political sense shown in the statements made and the way the writer dovetailed the facts together was properly understood to mean that a crisis was imminent and that there was no means of dodging the issue.

The result was that public attention was immediately aroused and the writer began to be besieged by reporters who desired interviews.

From now on for more than two months the writer was confronted by a daily stream of people desiring information.

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By keeping the subject always before the public and writing many articles himself the writer prepared the public for subsequent steps.

IN TOUCH WITH PARLIAMENT.

The writer had already got into touch with Parliament and now offered to address all committees and party meetings. On the 15th June the writer gave his first address at the House of Commons to the Coalition Foreign Affairs Committee, and he subsequently addressed many others. It was during his cross-examination after he had addressed the Committee, that the writer overheard one Member of Parliament say to another "that the British Government had at the end of May approached the Japanese Government to secure an extension of the Anglo-Japanese Alliance for three months, but that no reply had yet come and that the British Government was very anxious." The writer was the source which a few days later allowed the information to leak out so as to speed up American action.

These addresses necessitated a great deal of work, as in addition to making a speech of an hour in each case, the writer left a typewritten precis of his speech with every person present so that Members of Parliament could utilise the information given them for questions to Cabinet Ministers.

This English system of questions in the House of Commons is very important and merits a word of explanation. Immedi-

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ately after the House assemblies an hour or more is given over to written and oral questions prepared by Members and addressed to Cabinet Ministers. Cabinet Ministers are by custom required as far as possible to answer in person all questions addressed to them: therefore generally two clear days' notice is given and the printed questions are ciruulated the day before so that on the day they are answered each member sits with a printed copy awaiting the nature of the reply.

No method is considered more efficacious in forcing the Government to declare its policy and reveal what it is doing behind the scenes. During the three months the writer was in London more than 200 questions were asked in Parliament concerning China and the Far East, many of them if not all, traceable to the writer's addresses and activities. By constantly returning to the subject and asking for information on all imaginable aspects of the negotiations in the Imperial Conference over the Japanese Treaty, Parliament not only conveyed a sense of its anxiety to the London Cabinet but made Mr. Lloyd George's Government understand that it would not be content by the old method of diplomacy.

On the 14th June, the writer developed a new line of activities by having an interview with Lord Riddell, who is a newspaper proprietor, and confidential adviser to the Prime Minister, Mr. Lloyd George.

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MEMORANDUM FOR LORD RIDDELL.

Once more the writer explained the Far Eastern situation minutely and showed him how adversely any renewal of the Anglo-Japanese Alliance would affect British interests. Lord Riddell, visibly impressed, suggested that the writer should summarise his conversation as briefly as possible in the form of a Memorandum of short numbered paragraphs, and furnish him with copies which the writer duly did in the following form:

MEMORANDUM.

1. I have been sent to London by the Chinese Government to make clear China's position, which does not seem to be at all understood in England.
2. The seven years since the outbreak of war have caused China to be entirely forgotten. The great changes which have taken place there are unknown in England. Practically the only news published regarding China is bad news. This comes perhaps ten or fifteen times a year, but the fact is left entirely unrecorded that during the other three hundred and fifty days life is normal and uneventful.
3. One aspect regarding which hardly a word has appeared in the English press is the vast municipal improvements all over the country. Modern cities have arisen with broad wellmetalled thoroughfares, thronged with motor cars, lighted with electricity and furnished with

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telephones, waterworks, and policed by well trained constabulary. The old city walls are being torn down and boulevards constructed, the general tendency under the Republic being to become up-to-date in all conveniences of polite life. China is indeed fast losing Oriental character and resembles more a country such as Brazil. She should in fact be thought of more as a new country than an old one, with a new country's problems and a new country's hopes and roughnesses.

4. The great mass of people involved is also not understood. In the 21 years since the Boxer revolt there has been a nett increase of population between 60 and 70 millions. Both the Post Office and the Customs Administrations, which have European Organisation and general management, have this year independently investigated the population in every district and have arrived at the conclusion that the total today is 447 millions, or at least 30 millions more than the population of Europe. The biggest province (Szechuan) has a population considerably more than France's and approaching that of Germany.

5. Naturally in a country of such size there are from time to time serious happenings, but life is nevertheless safer in China than in Europe. The main characteristic of the country is its newslessness and commonplace life.

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6. The growth of public opinion is an enormous factor to be reckoned with today. There are 2,000 newspapers of which 800 are dailies. At least 20% of the population read newspapers or hear what they have said. This press is strongly nationalist and continually preaching nationalism. The biggest paper has a circulation of 50,000 but there are many with 10,000 and 20,000 serving their localities.

7. Foreign news and politics are a great feature. Great numbers of newspapers publish European and American telegrams. The big names in politics are just as familiar to Chinese newspapers readers as those of continental or American newspapers. The political issue is endlessly discussed and there is much passion being displayed regarding Chinese rights.

8. The student movement is another great feature. There are now 700,000 students in the great Students Union and they act like clockwork from one end of the country to the other in national matters. There are constant agitations and demonstrations, and such is the antipathy for Japan that no Cabinet Minister's life would be worth an hour's purchase if he dared for instance to discuss the possibility of negotiating with Japan on such an issue as Shantung.

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9. The trade of the country remains small on a <u>per capita</u> basis because of difficulties and disabilities referred to below. China's foreign trade is under 400,000,000 pounds a year, or less than one pound per head of population, whereas if it were pushed to the Japanese average (10 pounds per head) it would be worth 4,000,000,000 annually or considerably more than that of any modern State. The commercial possibilities are indeed so gigantic that all powers covet the premier place.

10. Mediaeval taxation is the chief cause for the small trade, total which is only about the value of the trade of Italy, when it should equal if not surpass the trade of the British Empire. This taxation i.e. Customs duties, is controlled through the Commercial Treaties by foreign nations, without whose unanimous consent nothing can be done. China for eighty years has had the same 5% tariff, producing not more than 10,000,000 pounds sterling in revenue. To make up for this, there is inter-provincial trade taxation, i.e. China is broken up into petty states and trade impeded simply because no nation has had sufficient intelligence to see that a Chinese Customs Union (Zollverein) with free trade within the limits of her own territory will bring such a vast increase of

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profit that all nations would benefit.

The entire British war debt could be paid off by the great increase in exports to China which would automatically come if England took the lead in this matter and brought it to a successful conclusion as she easily could with American co-operation.

11. Japan is opposed to all such reforms because she does not wish China to go ahead and increase in wealth and power so rapidly that the present position is reversed. Her aim and object, therefore, is to impede China's real progress until she can entrench herself on her territory so strongly as to offset China's natural advantage in numbers resources and extent of territory.
12. The real role of the Anglo-Japanese Alliance has been for the last ten years to impede China. Japan, by representing to China almost daily that she has the support of Britain, and by blocking all vital matters, is making a desperate effort to prevent the restoration of the natural equilibrium in the Far East which can only be based on a balance being preserved between the two countries. Every child in China knows this today. The native place has been repeating it daily for years and nothing will ever modify the Chinese conviction that the Alliance is an instrument to hold them down.
13. It is not generally understood that Sinn Fein as a method has been absorbed by every country in Asia. In China

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there is an absolute determination to begin practising first trade boycott, then other methods, if at this supreme opportunity of the Imperial Conference, China's rights are not respected and the Alliance as a military agreement terminated.

14. The fears expressed that the termination of the Alliance would be followed by dangerous Japanese action are based on ignorance of psychology of Asia - the same ignorance for instance, as was displayed in the post-war Anglo-Persian Agreement.

If the Alliance is ended nothing will happen anywhere except in Japan. There the more liberal elements in less than a year will gain control: there will be a collapse of the military party: a modification of the constitution: friendship with China and the settlement of such issues as Shantung.

At the present moment the British are looked upon throughout Asia as being foolish, if not actual fools, because they have not been able to see that the winning side is the nationalist or people side in each country. The writer has heard the expression 'fools' applied to them in three Asiatic languages. The net result of correct action in the Far East will be not the creation of new dangers, but simply a chorus passing round Asia that we have at last learned something and are admitting the existence of facts which everyone else has long known.

London, July 17th.

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On the very next day, the 18th of June, the writer received the following letter from Lord Riddell:

Dear Mr. -----:

I have received your letter with the enclosures, I have sent one to Sir Edward Grigg, Mr. Lloyd George's Secretary who deals with these matters, and have asked him to show it to the Prime Minister. The other I have sent to Sir William Tyrrell at the Foreign Office. I don't know whether I shall be seeing the Prime Minister this weekend, but directly I do see him I will mention the question of an interview. Unfortunately I have to go to Portsmouth tomorrow to address a meeting. I shall be glad to see you again next week.

Sincerely yours,

Riddell.

And on the 20th of June, the following additional letter:

Dear Sir,-

Lord Riddell has telephoned from the country asking me to let you know that he suggests you should call to see Sir Edward Grigg at No.10 Downing Street: also Sir William Tyrrell at the Foreign Office. His Lordship mentioned the matter to the Prime Minister yesterday and he said that he would ask Sir Edward Grigg to see you, and he also suggested that you should see Sir Maurice Hankey at No.2 Whitehall Gardens.

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Yours faithfully,

A.H.Dinsdale,

Secretary.

The writer took action in these matters at once. It is necessary to explain that Sir Edward Grigg is Mr. Lloyd George's Chief Political Secretary: Sir Maurice Hankey is Secretary to the Cabinet, and Sir William Tyrrell, permanent under-Secretary of the Foreign Office and in charge of the Asiatic Division of Foreign Affairs.

It was plain to the writer at once that the British Prime Minister, in view of the immediate assembling of the Imperial Conference had not only listened to Lord Riddell's account of the Far Eastern question, as outlined by the writer, but was anxious to have the writer make his view point plain to the permanent officials of the Government. For whilst under the system inaugurated by Mr. Lloyd George practically all important questions are dealt with directly at No.10 Downing Street (the office of the Prime Minister) and not at the foreign office, in order to diminish friction, particularly inter-departmental friction which exists, the Prime Minister gives the permanent officials an opportunity to push their own point of view. But there was another point. On the 17th June a full dress debate had taken place in the House of Commons on the subject of the

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Imperial Conference.

The writer had been given a seat in the special gallery where most of the dominion premiers were seated and had been the object of undeserved praise from the floor of the House by Mr. T.P.O'Connor, M.P., which had been heard by every one.

Mr. O'Connor said in the course of his speech when he referred to China:

"The Chinese are one of the most remarkable examples of a race that can overcome what are apparently insuperable difficulties. The great national resources are as yet not very developed. They have passed from the despotism of the old regime into something beyond and what may perhaps seem sometimes rather feeble efforts to establish democratic government, with a nation which has never known anything like it throughout its history. Recently I met that most remarkable Englishman, Sir--- who we all know, has been the advisor to the Republican Government succeeding the late Dr. Morrison, and I am glad to be able to say he is strongly of opinion that elements tending towards the settlement of the country are steadily increasing in strength and that there is in view a very great future and in all likelihood greater liberty, unity and prosperity ahead of the Chinese. I think this whole policy which has lasted so many generations among the European countries, and latterly Japan, of thinking they have a right to

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parts of China, making themselves entirely masters of it, and controlling the destinies of the people in that part is a policy which ought to be abandoned forever. It is not just. It is not practical. It always ends in disaster.

What is happening in Manchuria? If I were to endeavour to form an opinion of the conditions in Manchuria I would be driven to the decision that Manchuria might become a Japanese province. As a matter of fact you find there very much of what has happened to my own country, (Ireland). You find the conquered the conquerors: for there although Japanese rule exists, the Chinese, by their industry and their extraordinary ability have reconquered that control of the industries of Manchuria, wh which apparently had been taken away from them by the Japanese."

The curious error made in the official reporters' gallery whereby the writer was knighted in the official record of parliamentary proceedings, attracted a good deal of attention and amusement because it was now generally known in London that the writer's mission was to kill the Anglo-Japanese Alliance and because it began to be suspected that writer was receiving a good deal of clandestine support.

On the 20th June, before the writer had yet visited the permanent officials of the Government, the Imperial

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Conference opened. The writer had some days previously written a very strong article appealing to all the Dominion Premiers to pay serious attention to the dangers confronting any renewal of the Anglo-Japanese Alliance and had handed this article to the proprietor of The Daily Telegraph , Lord Burnham, who was a personal friend, asking him as a favour to publish it on the opening of the conference. Lord Burnham declined to commit himself, communicating the information that the British Foreign Office had already brought strong pressure to bear on all newspapers so as to prevent discussion of what they called "burning issues." The writer had called this proposed silence a fire trap: he insisted that the interests of the British people were identical with the interests of the Chinese people and as it would do England immense harm if she ran her head into a stone wall simply because she refused to open her eyes and went on blindly with an old policy.

Somewhat to the writer's surprise The Daily Telegraph not only published the article on the morning of the opening of the Imperial Conference (20th June) but gave it prominence.

AN ARTICLE IN THE "DAILY TELEGRAPH"

The writer's concluding sentences in his article were widely quoted and were as follows:

"There is one matter and that is all. This is the

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Japanese Treaty. So long as Britain maintains a military alliance with a Power that should stand independently and alone for the preservation of equilibrium in the Far East, so long will China be a prey to turmoil and intrigue. Hurt in her pride by the assumptions and implications of the Treaty - that she is a mere territory in which others have special interests and zones and leased areas: exposed to all sorts of intrigues set in motion by those who rely upon the Military Treaty to pull them through if complications arise, baffled at every turn by bayonets whenever she seeks freedom of action, China can never organize and be happy as long as this document exists. Allow it to lapse, and the change which will take place will be remarkable. Japan and China will become friends and equals, not as some imagine because they will at once set to work to make an Asiatic bloc to be a menace to the Western world, but simply because their normal condition of friendship will speedily return when such questions as Shantung find an honourable solution.

It has become a prime concern of the British Empire to secure world peace. I appeal to the British statesmen who have gathered from all over the world to study and grasp the central fact that it is the condition of China, coupled with Britain's Japanese commitments, which are the gravest menace today on the Pacific Ocean, simply because

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these things are unnatural and against all history and prudence, and cannot last.

Since the armistice was signed grave errors have been committed in Asia by the greatest of all Asiatic Powers - England. Far and wide there is discontent among Asiatic men in Asia Minor, in Persia, in Afghanistan in China. It cannot be that all these men are bad. It must be something else. It is that policy has been bad because it has not yet understood that all men love their country equally well, and that he who wishes to find an enduring place in their hearts and secure their allegiance should not trust to scraps of paper and treaties, but win their respect."

To this article the Daily Telegraph appended their editorial note in order to justify its policy of publication vis-a-vis the British Government:

Apart from his official connection with the Government of China, Mr. --- has long enjoyed a high reputation as an expert on Chinese affairs, and we have therefore no hesitation in placing before the public his views on the renewal of the Anglo-Japanese Alliance. It must be borne in mind, however, that this question is not one which turns solely on China, or even on our interests in that great country. There are many other factors of Imperial concern which must be reckoned with in a full

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consideration of the subject."

THE ADVISER'S STATUS.

The day following the opening of the Imperial Conference the writer by appointment began making the official calls indicated to him by Lord Riddell. Between the 21st and 24th June, he saw Sir Maurice Hankey, Chief Secretary of the Cabinet and Sir Edward Grigg, Political Secretary to the Prime Minister and others. He expounded to them once more his message and laid insistence on China's claims. Meanwhile he had received no reply to a letter he had written to the British Foreign Office. He was puzzled at the time but the meaning was soon made clear to him when the Chinese Legation in London privately informed him that the British Foreign Office was protesting energetically both in London and Peking at his activities and seeking to have restraint put on him. On the 27th June, Sir William Tyrrell answered the writer's letter telling him that he must be introduced officially by the Government which employed him since he described himself as political adviser. Dr. Wellington Koo was absent in Geneva and the writer waited for his return before he took up the matter. Dr. Koo would plainly have been embarrassed had he been forced to introduce the writer officially at a Government office engaged in energetically protesting

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against the writer's presence in London, and so it was decided that it would be more polite to let the matter drop. The writer had meanwhile reported to Lord Riddell that in writing to Sir William Tyrrell he had merely followed the Prime Minister's suggestion. The following is the answer the writer received from Lord Riddell which is interesting as showing the reaction which the writer's campaign was already provoking.

28th June, 1921.

PRIVATE.

My dear -------

Many thanks for your letter. Have you made your position clear to the Foreign Office? Have you shown them your credentials? It is unusual for the representative of foreign governments to engage in open propaganda and perhaps your action has rather surprised them. Of course we live in new times and I am not suggesting for a moment that you are not doing the right thing, but public officials are not prone to appreciate departures from tradition. China is a long way off and, quite naturally the Foreign Office would like to know what your mission is."

Henceforth the writer confined himself with renewed assiduity to the campaign he had mapped out for himself, fully convinced that the only way to win consideration for

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China was to hit hard. On the 23rd June the effect of the agitation in China regarding the Anglo-Japanese Treaty began to be apparent in London from answers made to questions asked in Parliament. Consequently the writer despatched his fourth telegram in cipher to Peking:

"The British Government and Secretary of State are very anxious because it is reported that the trade of Britain will be stopped if the Treaty is renewed; give the greatest attention to the Chinese Legation telegram as the decision is now with you."

Interviews, special articles, addresses to members of Parliament and the inspiration of a ceaseless stream of question in the House of Commons now consumed fifteen hours a day. The work increased almost from hour to hour. An enormous correspondence from the class of semi-idle persons began to pour in on the writer. Attracted by the struggle which they could see going on openly in the press and dimly in the meetings of the Imperial Conference, these letter-writers asked for information, sent suggestions, demanded interviews and generally busied themselves with the question of the hour. It was necessary to engage an expert woman correspondence clerk to deal solely with these matters. The writer had every letter and request answered and steadily worked to broaden the sphere of his activities.

A new development now came. As a result of the war

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regular bureaux have sprung up all over Europe dealing solely with propaganda and publicity. Many of these agencies now besieged the writer and sought to take charge of his campaign. One firm pointed out that Finland had spent 70,000 pounds in sixteen months to secure the award of the Asland Islands in competition with Sweden. Another firm came with book and papers showing the campaign which had been conducted in the interests of the ----Company to secure the reduction of duties on Havanna cigars, a matter which had meant millions for the International Tobacco Trust and which had been brought to a successful conclusion after the expenditure of a large sum of money. The writer was offered a universal campaign in the British Press against the Anglo-Japanese Alliance limited to six weeks 6,000 pounds flat, no auditing or a/c's to be asked for. The writer rejected such offers with the statement that China had no money to spend and that any publicity required would be attended to by the writer. Newspapers offered special China editions for lump sums: every kind of publicity was brought to the writer's doorstep and offers for sale. It was always and only a question of money. The writer mentions these details to show the highly complicated nature of this business and the methods which have now developed to the point that even highly-cultivated women are employed for lobby-

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ing work and for influencing men in control of political and other machinery. The accuracy with which the writer placed his blows was shown by the increasing concern of the Foreign Office. One Short interview in the labour organ, the Daily Herald, in which the writer conveyed fraternal greetings from the millions of China to the millions of England, made a veritable storm, as what the British Government really feared was Labour Party action.

(to be continued)

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Part 111.

REPORT ON A CONFIDENTIAL MISSION TO CANADA, ENGLAND AND THE UNITED STATES IN 1921.

A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

We publish this morning the third instalment of a most interesting report on a confidential mission to America and England undertaken during the latter part of last, and the beginning of this, year, by a Foreign Adviser to the Chinese Government. We need scarcely say that the M.S. of this Report was not handed to us by the author thereof. The cross-headings, in most instances are our own.----ED.

THE IMPERIAL CONFERENCE.

Meanwhile the Imperial Conference sat on shrouded in mystery not only to the general public but to Parliament and to foreign governments. A bitter struggle went on secretly, the details of which were, however, perfectly known to the writer from a certain source. Twice a day communiques were issued to the press which were misleading and full of platitudes and touched only on those matters which were without importance. The attitude of Canada soon became generally known. The story began to circulate in the political clubs that Mr. Lloyd George confronted by the unbending opposition of Mr. Meighen, the Canadian Prime Minister, to any renewal of the Japanese treaty had exclaimed angrily to him: "Sir, you speak like a citizen of the United States."

Here is a summary of what actually took place during

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the ten days prior to the dramatic announcement in the matter of the Anglo-Japanese Alliance.

AN ALLEGED SUMMARY.

The Conference opened with a general statement by Mr. Lloyd George and a repetition of his famous remark that prior to the worldwar Downing Street (or the London Government) had been in charge of the British Empire, but that since the war the British Empire had been in charge of Downing Street. He then stated that he wished the Anglo-Japanese Alliance to continue but that he also wished friendly cooperation with the United States. He added that he was ready to discuss with American statesmen any proposal for the limitation of armaments. Thus from the very start it was plain that the London Government aimed at renewal of the Alliance, together with later conversations with the United States and Japan on the subject of naval reductions. It is important to mark down and remember these points.

Following Mr. Lloyd George came the speeches of the Dominion Prime Ministers on the 21st June. Mr. Meighen the senior Dominion Premier avoided direct references to the Anglo-Japanese Alliance, but the Australian Premier, who was plainly working in Agreement with the London Cabinet, advocated renewal. On the 22nd, Lord Curzon, British Foreign Secretary gave a long exposition of British colonial policy.

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Further discussion both formal and informal rapidly brought the London Government to a realisation that the Dominion Government had grown so strong that it was dangerous to bring up contentious subjects such as the constitutional relations between the mother-country and the colonies --- to regulate which this Imperial Conference was supposed to be a preliminary meeting. Consequently at the very start all idea of trying to remodel the relations between the various British Governments was abandoned, attention being solely centred on the Anglo-Japanese question, even the question of naval defence being very imperfectly dealt with, since all the Dominion Governments were disinclined to commit themselves to new expenditures. To gurther the policy of the London Government in connection with the Anglo-Japanese Alliance inspired statements were sent across the wires to America by the British Foreign Office stating that London was keeping Washington fully informed regarding the Japanese Treaty renewal negotiations. This led to the remarkable step being at once taken by Secretary Hughes of issuing in Washington an official dementi in which he stated categorically that the American State Department was not informed regarding the plans of the British Government.

LLOYD GEORGE'S CONFIDENCES.

After five days' meetings and debates nothing was

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concluded. A statement issued then showed that opinion was still sharply divided whether the Anglo-Japanese Alliance should be taken up alone, or in conjunction with naval policy or as part and parcel of the general question of relations with the United States. On the 27th June, Mr. Lloyd George impelled to do so by the general embarrassment caused in the Imperial Conference by the official statement of Secretary Hughes in Washington, returned to the charge and took all the Dominion Prime Ministers into his confidence. He exposed to them in the strictest secrecy all the trials and tribulations British diplomacy had been through during the world war owing to Japanese action and the necessity of remembering that if the Alliance were discontinued Japan might seek vengeance. In order to prevent any of his statements becoming known , even the secretaries and legal advisers were sent out of the room, only Prime Ministers remaining. It is believed, however, that he detailed exactly what Japan had asked for each time England had suggested to her more military help during the War-- for instance, in 1916, a free-hand in the Dutch East Indies and Borneo in return for help in Mesopotamia and the Near East: and in 1917 a free hand and the cession of Vladivostock and the Chinese Eastern Railway from Harbin eastwards and southwards in return for a despatch of Japanese divisions

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to the Russian front. On both occasions Britain had rejected the terms.

The discussion was followed by fresh arguments by Lord Curzon and Mr. Balfour.

DOMINION OPPOSITION.

On the 29th June, Mr. Meighen, the Canadian Prime Minister, so far from being convinced, came out openly and squarely in his reply to all these arguments with the declaration that if the Anglo-Japanese Alliance were renewed it would not be binding on the Dominions unless the Dominion Parliaments ratified it separately and the military clauses were omitted.

He was followed by the other dominion Premiers, but everything was overshadowed by what he had said. Immediately the rumour spread through the press that there was to be a national referendum in Canada and Australia on the subject of the Alliance, both countries being given a chance to express their opinion; and that the reason the London Government had sought a three months' extension of the Alliance from Japan was to allow this referendum to be held.

THE LORD CHANCELLOR'S RULING.

The London Government was now plainly in a more desperately embarrassed position than ever. All the attempts

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at finding a common formula had failed and opposition to the Japanese Treaty was stiffening partly owing to America and partly to the writer's own campaign. The writer knew that Mr. Lloyd George, with his acuteness for changing his policy and picking the winning side, would not hesitate to drop Japan if he could find a smooth way of doing so. Consequently on the tenth day of the Conference, the assistance of the highest law officer in England the Lord Chancellor, was invoked by private arrangement. He stated that in his opinion the notification made to the League of Nations the previous year on the subject of the Anglo-Japanese Alliance (that if it were in conflict with the Covenant of the League it would be modified before its expiry on the 13th July, 1921) did not constitute a legal denunciation of the Alliance which could therefore continue to go on from year to year by virtue of Article XI.

CRITICISM BY THE "TIMES".

Following this the Times published a leading article severely attacking the Imperial Conference for having sat two weeks in secrecy and produced no result, except this singular denouement, which was virtually a confession that a trick was necessary to save the Government's face. The publication of this article and the constant stream of telegrams coming from America disclosing American anxiety began to produce a feverish atmosphere.

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Senator Borah's resolution calling for a conference between the three Naval Powers, England, the United States and Japan had already been passed, by being tacked on to the Naval Bill which had now gone through both Houses of Congress: but so far the Executive Authority in Washington had made no sign except that Secretary Highes had twice stated publicly that the United States was not being consulted by Great Britain in the matter of the Japanese Treaty. This showed that Secretary Hughes was paying the closest attention to the situation and following the writer's advice that the American Government should speak openly before any decision was taken in London. Incidentally the writer learnt that the American Embassy in London, had received copies of the documents the writer had left in Washington with Secretary Hughes.

THE WRITER'S ACTIVITIES.

On the 13th, June, the writer addressed the Lancashire Members and the Commercial Committee in the House of Commons. Once more he impressed on his listeners the importance of China being consulted in all negotiations concerning the Far East and having her standing improved by reforms in his commercial Treaties. He also declared that there would be a general boycott against British Goods in China, if the Anglo-Japanese Alliance were renewed without China being consulted. This fresh stimulation of Parliament, particularly from the commerdial

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angle, was shown in the large number of questions which were showered on Cabinet Ministers during the whole month of July.

On the 4th July the proprietor of the Daily Telegraph Lord Burnham gave a dinner to the writer to which many of the leading editors and writers in London were invited. After dinner the writer talked for more than an hour expounding China's point of view and asking for the support of newspapers. On succeeding days the writer redoubled his efforts, knowing that the fate of the Pacific was in the melting pot. An amount of general attention was now given to what he said that had previously been lacking, as it was seen that the British Government was confronted by a most serious situation. Canada declined to renew the Treaty: American was openly hostile: China was protesting in every possible way indirectly: and even Japan had shown herself unwilling to answer the British proposal to extend the Treaty previsionally for three months. That the Alliance could not drag on very long even by virtue of the interpretation given to Clause VI was generally realised, or no military arrangement which only has an absolute validity of one year (which was now the position of the Alliance) can be held a sound element in foreign policy.

LABOURITES AND LIBERALS.

On the 6th July the writer was the guest of the Labour

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Party in Committee Room No.11 and he attacked with great vigour the policy of the British Foreign Office. Many prominent political writers were present belonging to the advances or left wing of politics.

On the 7th July the writer was the principal guest and speaker at a lunch given him by the Independent Liberal party in the House of Commons. He again dwelt long and bitterly on the failure of the British Government to understand the Chinese situation, and he urged Members present, who comprised the leading elements in the official opposition in the House of Commons, to force matters to a decision in the matter of China.

A FOREIGN OFFICE COMMUNIQUE.

On the 7th July, the British Foreign Office incensed beyond measure by the support the writer was receiving from his fellow-countrymen, as well as desperate from the failure of policy, issued a communique taking exception to the use by the writer of the expression of political adviser to the Chinese Government. All the newspapers which received this statement sent special messengers to the writers with the communique asking what they should do. The writer replied telling them to publish with the writer's own note attached. In this note he briefly stated that the argument was a quibble, since foreign advisers in China were advisers to the President's Office: that the use of the

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word "political" was primarily to distinguish between legal and financial advisers: but that the main fact was that the writer was a paid servant of the Chinese Government whom the British Foreign Office had been trying vaily to force out of England.

ANOTHER CONTROVERSY.

Meanwhile in regard to the Anglo-Japanese Alliance a fresh controversy had started through some words let drop by the Prime Minister in Parliament. In answer to various questions on the subject of the Anglo-Japanese Alliance he stated that he was waiting for replies from America, Japan and China. These words were cut out of the official report owing to some mistake in the official reporters' gallery. But they were heard and reported in the newspapers and also telegraphed to America. For the third time since the Imperial Conference had started Secretary Hughes promptly telegraphed from Washington that there could be no reply from American regarding any matters as there was nothing to reply to.

The whole problem now appeared more and more mysterious. But the public understood that the British Government, in an effort to solve an insoluble problem, had made some inquiries or soundings regarding the possibility of having a Pacific Conference in London to settle the issue of the Pacific and the Japanese Alliance and that this was the reason why Japan had been originally asked to extend the Alliance for three

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months, so as to give time for this Pacific Conference in London before the expirty of the agreement.

This manoeuvre instead of improving matters had made them even more complicated. The United States also wanted to have a Pacific or Naval Conference, the American Government having now accepted the resolution which Senator Borah had attached to the Naval Bill. It was thus a question of England and America striving together as to who should summon the Pacific Conference. The British idea was to take advantage of the presence in London of the Dominion Prime Ministers and to invite the Ambassadors of the United States and Japan and the Chinese Minister to join in a special Far Eastern Conference. The American idea was to accept the mandate contained in Senator Borah's naval resolution, but to extend it so that all the principal Powers would be assembled in Washington, and so have a joint Disarmament and Pacific Conference.

THE CLIMAX.

In any case the climax came on Sunday 10th, July, Mr. Lloyd George was sitting disconsolately with all the Dominion Premiers at his country place in the afternoon when the American Ambassador arrived by motor car with an urgent telegram from Secretary Hughes inviting England to partake in a Disarmament and Pacific Conference at Washington. The story was published that Mr. Lloyd George leaped up and accepted the invitation with a shout. There was universal

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jubilation, as the Ministers of the Imperial Conference had reached a complete deadlock which presaged badly for the smooth relations of the British Empire.

Consequently, the next day the Prime Minister attended Parliament and made the statement which follows which merits a permanent record since the highly flattering reference to China showed an entirely new spirit and was a complete vindication of the policy the writer had steadfastly pursued. It is also an interesting illustration of the gentle art of skating round awkward facts.

SPEECH OF THE BRITISH PRIME MINISTER IN PARLIAMENT ON THE 11TH JULY, 1921.

The Prime Minister: --- When I told the House last Thursday that I hoped to be in a position, to make a statement on Pacific and Far Eastern questions today, I was awaiting as I explained at the time, replies to conversations which had taken place between the Secretary of State for Foreign Affairs and the representatives of the Government of the United States, Japan and China, as the result of our discussions in the Imperial Cabinet.

I am very glad to be able to inform the House today that the views of the Government of the United States reached me last night, and are extremely satisfactory. The Chinese Government is also favourable. We have not yet had a formal reply from the Government of Japan, but we have good reason to hope that it will be in the same sense. Now that these

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views have been received I am glad to be at liberty to inform the House of Commons fully regarding the course which our discussions in the Imperial Cabinet took. I do this with particular staisfaction because it will show how very valuable a step forward we have been able to take by common consent in the sphere of foreign affairs.

The broad lines of Imperial policy in the Pacific and the Far East were the very first subjects to which we addressed ourselves at the Meetings of the Imperial Cabinet, having a special regard to the Anglo-Japanese Agreement the future of China and the bearing of both those questions on the relations of the British Empire with the United States. We were guided in our deliberations by three main considerations. In Japan, we have an old and proved Ally. The agreement of twenty years standing between us has been of very great benefit, not only to ourselves and her but to the peace of the Far East. In China there is a very numerous people, with great potentialities, who esteem our friendship highly and whose interest we, on our side, desire to assist and advance. In the United States, we see today as we have always seen, the people closest to our aims and ideals with whom it is for us, not merely a desire and an interest, but a deeply rooted instinct to consult and co-operate. Those were the main considerations in our meetings and upon them we were unanimous. The object of our discussions was to

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find a method combining all these three factors in a policy which would remove the danger of heavy naval expenditure, in the Pacific with all the evils which such an expenditure entails, and would ensure the development of all legitimate national interests of the Far East.

We had, in the first place, to ascertain our exact position with regard to the Anglo-Japanese Agreement. There had been much doubt as to whether the notification to the League of Nations made last July constituted a denunciation of the Agreement in the sense of Clause VI. If it did, it would have been necessary to decide upon some interim measure regarding the Agreement pending fuller discussions with the other Pacific Powers, and negotiations with this object in view were, in point of fact, already in progress. If on the other hand, it did not, the agreement would remain in force until denounced, whether by Japan or by ourselves, and would not be actually determined until twelve months from the date when notice of denunciation was given. The Japanese Government took the view that no notice of denunciation had yet been given. This view was shared by the Secretary of State for Foreign Affairs: but, as considerable doubt existed, we decided, after a preliminary discussion in the Imperial Cabinet, to refer it to the Lord Chancellor who considered with the Law Officers of the Crown, and held that no notice of denunciation had yet been given.

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It follows that the Anglo-Japanese Agreement remains in force unless it is denounced, and will lapse only at the expiration of twelve months from the time when notice of denunciation is given. It is however, the desire of both the British Empire and Japan that the agreement should be brought into complete harmony with the Covenant of the League of Nations, and that wherever the Covenant and the Agreement are inconsistent, the terms of the Covenant shall prevail. Notice to this effect has now been given to the League.

The broader discussion of the Far Eastern and Pacific policy to which we then turned showed general agreement on the main lines of the course which the Imperial Cabinet desired to pursue. I have already explained that the first principle of our policy was friendly co-operation with the United States. We are all convinced that upon this, more than any single factor, depends the peace and well-being of the world. We also desire, as I have stated, to maintain our close friendship and co-operation with Japan. The greatest merit of that valuable friendship is that it harmonizes the influence and activities of the two greatest Asiatic Powers, and thus constitutes an essential safeguard to the well-being of the British Empire and peace of the East. We also aim at preserving the open door in China and at giving the Chinese people every opportunity of peaceful progress and development. In addition to these considerations

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we desire to safeguard our own vital interests in the Pacific, and to preclude any competition in naval armaments between the Pacific powers. All the representatives of the Empire agreed that our standpoint on these questions should be communicated with complete frankness to the United States, Japan and China, with the object of securing an exchange of views which might lead to more formal discussion and conference. The Secretary of State for Foreign Affairs accordingly held conversations last week with the American and Japanese Ambassadors and the Chinese Minister, at which he communicated to them views of the Imperial Cabinet, and asked in return for the views of their respective Governments. He expressed at these conversations a very strong hope that this exchange of views might, if their Governments shared our desire in that respect, pave the way for a conference on the problems of the Pacific and the Far East.

The views of the President of the United States were made public by the American Government this morning. It is known to the House. Mr. Harding has taken the momentous step of inviting the Powers to a Conference on the limitation of armaments, to be held in Washington in the near future, and he also suggests a preliminary meeting on Pacific and Far Eastern questions between the Powers most directly interested in the peace and welfare of that great region, which is assuming the first importance in international

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affairs. I need not say that we welcome with the utmost pleasure President Harding's wise and courteous initiative. In saying this I know that I speak for the Empire as a whole. The world has been looking to the United States for such a lead. I am confident that the House will esteem it as an act of far-seeing statesmanship and will wholeheartedly wish for success. I need hardly say that no effort will be lacking to make it so on the part of the British Empire, whichshares tothe full the liberal and progressive spirit inspiring it.

Let me add only one word as to the part played in these events by the gathering of the Imperial Conference in Downing Street. I venture to say that the action that we have taken could not have been taken in so prompt, effective, and unanimous a fashion but for the intimate personal consultation between the Prime Ministers of the Empire and the representatives of India which this gathering has enabled us to enjoy. We have taken counsel together without reserve. With this result before us, I need not elaborate the inestimable value of that intimate collaberation in the conduct of the Empire's affairs."

A QUESTION.

At the end of this remarkable speech which for the first time in many years given China her proper place, a Member asked this question in order that there should be no doubt left:

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Lieut-Colonel J.Ward:

"Would the right Hon. Gentleman inform the House and the world in general whether, in these negotiations with reference to the future of the Pacific, China is to be treated as a Sovereign State and her representatives left to give the decision of the Chinese Government without interference of any other Asiatic Power?"

The Prime Minister:

"China will be treated as what she is, an independent Power. We made the same communication to the Chinese Government as to the other Governments."

A LAST MISUNDERSTANDING.

A last misunderstanding had to be cleared away. It will be noticed that in the British Premier's speech reference is again made to the fact that Great Britain had taken the first step in inviting the Pacific Powers, the United States, Japan and China, to exchange views with her before there had been any official intimation that the United States, independently of what Britain was doing, was bent on summoning a Conference in Washington. Consequently there was considerable friction during the days following Mr. Lloyd George's speech between England and America, which culminated in the King intervening personally by speaking to the American Ambassador during a reception at Buckingham Palace, and telling the American representatives

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that England was well-satisfied that the initiative in the matter of a general conference should lie with the United States. This story was published and promptly officially denied, but it was perfectly true as the Councillor of the American Embassy informed the writer that he personally heard the King's remarks to the American Ambassador as he was standing just behind them.

A PRELIMINARY CONFERENCE.

During the whole of July, however, the British Foreign Office adhered to the idea of a preliminary conference in London, nominally because it was essential to have the British Dominions represented in Pacific matters-in reality in order to retain some part of theinitiative in the discussion which was about to occur. The steadfast refusal of the United States to accept the idea of a preliminary Conference was an admirable piece of work, as it would have been fatal to the success of the Washington Conference to have had a private preliminary Conference in London, where reactionaries still controlled British foreign policy.

On the 11th July the writer sent telegrams to Peking to show the use the British Foreign Office had made of explanations given by the Waichiaopu concerning the writer's position and activities, and on the 18th, July, Reuter's Agency carried a telegraphic statement issued in Peking by

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Dr. Philip Tyau which did useful work in acquainting the British public with the realities of the situation.

A SYMPTON.

On the 22nd July, the writer addressed the Manchester Chamber of Commerce and advocated the creation of trading zones along all railways in China as a return for an immediate doubling of the Customs tariff. In Parliament there was not a constant stream of questions bearing on China and touching the tariff, the open-door, the post-office, the position in Manchuria, etc., etc., It now became a noteworthy symptom in Parliament that whenever the Prime Minister or Members of the Government spoke on the Pacific question, if they omitted to mention China there were cries throughout the House "And China"; to which the Government speakers always returned "Certainly, China. China is entitled to precisely the same considerations as every other Power."

A BRUSH WITH SUN YAT-SEN.

That every agency was now concentrating attention on London was proved by a perfect avalanche of manifestoes from Conton which arrived by mail and proclaimed the false news that Dr. Sun Yat-Sen had been elected President of China. Every newspapers, every prominent person and every member of Parliament received these manifestoes. Many copies were sent to the writer with the request for an explanation.

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Lord Riddell particularly requested information, evidently for the Prime Minister's office. Here is the written explanation the writer made on the 20th July:-

Dear Lord Riddell:

The documents you sent me are from Canton and have apparently been despatched to everybody of importance in London. They represent the latest effort of Sun Yat-Sen, who is a professional Revolutionist to get a hearing abroad. As a matter of fact, he controls a very small portion of one province and he would have been dealt with some time ago if the Chinese Government had not made it a fixed principle to give up the use of force in internal affairs.

In order to try and increase his authority, Sun Yat-Sen got himself elected President of China by a small number of Members of a Defunct Parliament: he and his friends undoubtedly control the city of Canton but nothing else. So far as Foreign Powers are concerned, last March the United States took the lead in declaring to the diplomatic Body in Peking that America would recognize no Government and no individual other than the Central Government in Peking and its appointees. After some discussion all the Powers adhered to this principle and the net effect is that even in his own territory of Canton Province, the Customs and Salt Collections go th the credit of the Peking Government.

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Sun Yat-Sen has maintained agents in Washington for a number of months; but they have made no progress, and it is now believed that some kind of a compromise will be achieved by the end of the year which while leaving a man like Sun Yat-sen, Governor or Controller of Canton Province if the people wish him, will do away with his constant attempts to create small local Governments, thereby making politics a kind of revolutionary profession.

I do not know whether these details will enlighten you sufficiently, but I have no doubt they will show you that this manifesto is not very serious."

MANCHURIA.

During the last days of July and August the writer concentrated fire on the question of British trade and finance in China, always slipping in the argument that England was still ahead of Japan, and that she must keep ahead at all costs. This allowed the writer to raise the question of Manchuria. He showed by statistics that the trade of Manchuria was 20% of the trade of all China and that Japan was trying to close the open-door. This led to a newspaper controversy with the Japanese Embassy which resulted in a full ventilation of all aspects of the question, particularly the position of Japanese Gold currency.

It now had become a regular habit for almost all Canadian, American, Australian and New Zealand pressmen to call on the writer from day to day to get material for their

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correspondence and telegrams. The writer acted as liaison officer and put many of them in direct touch with Parliament. The case of China was explained to them individually and every man was given documents. The good effects of this became clearer from day to day.

A HIGHLY CONFIDENTIAL INTERVIEW.

In August the writer received confidential visits from Labour Party representatives, who had been active in the great Labour movements in England which had effectively stopped the coercion of Russia. The writer is unable to put in writing what transpired as it was highly confidential but he can only say that had it in his opinion been necessary, almost as formidable a movement as the one which had occurred in regard to Russian could have been developed to arrest all militaristic policy in the Far East and to save China from the exploitation of Japan and others. Had "The National Hands-Off Russia Committee" of the Labour Party, which organised the intervention of Triple Alliance of Workers (miners, Railwaymen, and transport workers) in the proposed Polish campaign against Russia taken up the cause of China as they volunteered to do, a first-class political crisis would have confronted the British Government, and a complete retreat on the subject of Japan would have been made necessary. The writer, knew,however, that the Washington Conference would do the necessary work

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regarding formally burying the Anglo-Japanese Alliance and that it would be only whipping a dead horse further to agitate the public mind in England, as the battle was now over.

(to be continued.)

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REPORT ON A CONFIDENTIAL MISSION TO CANADA, ENGLAND AND THE UNITED STATES IN 1921.

A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

We publish this morning the fourth instalment of a most interesting report on a confidential mission to America and England undertaken during the latter part of last, and the beginning of this, year, by a Foreign Adviser to the Chinese Government. We need scarcely say that the MS. of this Report was not handed to us by the Author thereof. The cross-headings, in most instances are our own. --ED.

PREPARING A NEW BOOK.

The writer occupied his last weeks in England in preparing a new edition of his work "The Truth about China and Japan" so as to influence British opinion during the Washington Conference and also in attempting to re-establish confidence in China's financial bona fides by filling the financial papers with correspondence and articles. The failure to pay up interest on various Treasury Notes had caused considerable trouble in the city of London and had undoubtedly affected China's standing. It was necessary at least to show that China was fundamentally sound and that however unfortunate this financial negligence might be, it was only a passing symptom. In August the writer sent the letter which follows to Foreign Minister Yen and as it well summarises the situation as the writer saw it in

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England and laid down a policy for Washington, it remains a useful commentary.

A LETTER TO DR. YEN.

My dear Minister:

I have delayed writing you for a large number of weeks in the first place because I wished to have things in a more or less definite condition before communicating with you, and in the second place because it was important for me to concentrate all my energies on the task in hand.

The result of two months work in London, apart from what I did in Canada and the United States, has now clarified the situation to this extent -- that the crisis in the Far East which existed owing to the old grouping of the Powers and the friction between China and Japan has been charged into a general problem for the whole Western world to try and solve. The present position of the Anglo-Japanese Alliance will have been made quite clear to you by the telegraphic information which has reached your Office. The failure to make a new Treaty and the device which was resorted to, to pretend that the Old Treaty had not been yet denounced, have plainly left the British Government in a very awkward predicament. Personally I believe that jealousy with the United States is still a big factor and that much will depend upon the handling of affairs in Washington. Whilst it is quite impossible for any Govern-

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ment to hope to make a new Treaty with Japan, it is equally impossible to allow the Old Treaty to drag on year after year as an agreement which has only an absolute validity of 365 days and which may be denounced by either party at the least expected moment. I believe from my conversations here with various members of the Government that they have no policy at all and are trying to see what can be done to form one. Public opinion in this country is strongly directed against military expenditure of any sort and also against military commitments. The British nation has suffered very severely in an industrial sense and the general feeling throughout the country is that everything possible must be done to effect economics. Nevertheless national pride is always a strong force, and particularly in England which has had such a long world history. The men at the head of affairs are not reconciled to the idea that the United States should be allowed to supplant England both in a naval sense and as the leader of international movements. There was considerable friction before President Harding issued his invitation to the Pacific Conference between the British and American Governments, and the story that was published here that the King personally intervened to ease matters was quite true. In other words England is averse to playing second fiddle to anyone, and there is undoubtedly a feeling that going to Washington is what is known in British politics as "going to Canossa."

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I mention this point to you because it seems to me very important to realise the very peculiar atmosphere in which the delegates will meet in Washington. The European delegates will be in more or less the same position as the American delegation found itself in Paris, that is to say, at a disadvantage,and the tendency of this will be curiously enough for Japanese objections to anything radical finding support amongst the Statesmen of the Old World.

There is very great interest here in what China proposes to do, and talking this morning at No.10 Downing Street, I gathered that there was a considerable fear that China would try to get Allies and throw the whole conference into two armed camps over questions such as Shantung. I controverted this view and stated that China would only speak for things which she could with justice claim, but I thought that a very essential element must be to leave the initiative in all such questions affecting Chinese territory to the Chinese Delegates as that at least would secure that each nation would not come forward with a plan as to how China was to be safe. It would seem to me that China should have her proposals cut and dried and every possible estimate stated in black and white and worked out in advance and her whole programme prepared so that there will be no possible misinterpretation.

I put these points down now because I am hoping you

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will go to Washington yourself with a suitable staff and no superfluous men. A great deal of friction exists today owing to the fierce struggle over the Anglo-Japanese Alliance, and having been in the thick of it, I know what bitterness there is. My task has been very unpleasant because it was necessary to use great violence and energy first to attract attention and then by creating alarm, to achieve a result.

They are under no delusions here regarding the part I have played in making Canada and the United States acquainted with the realities of the situation, and consequently they will look upon every Chinese move which may be made during the next few weeks as part of a deliberate policy. The Japanese are particularly furious at the present moment and have evidently been thumping the British Foreign Office and No. 10 Downing Street pretty severely for lack of frankness, as the Japanese do not believe that what has taken place is really a surprizing and unlooked for result. The reports with which the legation here has furnished you will no doubt have told you a great deal. But one point I think no one--excepting Englishmen--realises is how much soreness there is. The attack the Foreign Office made on me is unprecedented everybody says and shows how hard pressed they have been. They would never have made this assault had not public opinion in this country been greatly moved by my arguments and particularly had not the House

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of Commons become so challenging in its attitude.

It is difficult for you at a distance to realise the nature of what has taken place: but it is no exaggeration to say that a great crisis has come in British Foreign Policy which has not yet been solved and that it will require the greatest skill to turn this new development to China's permanent advantage. Nothing, however, will be gained by adopting conciliatory tactics. I find that briskness and directness pay best, and that one must act as in a battle to achieve any decisive result.

My own movements are uncertain as I am waiting to hear from you in Peking, but naturally if you think it will be of value, I shall have pleasure in proceeding to America and lending what assistance I have in my power."

On the 15th September, having completed all possible work, the writer set sail for Canada. Except for five days spent in Paris the writer had devoted his entire time to work. A rough estimate shows that he gave 400 press interviews, caused 200 questions to be asked in Parliament and personally wrote more than 60 articles besides seeing countless people and having 2,000 letters answered.

The Managing Director of Reuter's, Sir Roderick Jones, who was one of the directors of British propaganda during the war, said that in his experience he had never seen such an intensive campaign.

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PART 111. THE WASHINGTON CONFERENCE AND AMERICAN OPINION.

Almost the first thing to greet the writer on landing in Canada was a copy of the New York Times in which various correspondents declared that Dr. Sun Yat-sen and the Conton Government represented 200 million Chinese or half the inhabitants of China and that any Conference that took place without their representatives being present was destined to fail. The writer wrote at once a long refutation which was published on the 28th September but for a number of weeks the Canton party not only waged a vigorous campaign for special representation at Washington but for repudiation of the authority of Peking. Proceeding across Canada to Vancouver the writer met Dr. Philip Tyau and the first part of the Chinese delegation on the 13th October and arranged with Dr. Tyau his own plans. Already the writer was impressed with the fact that confusion and difficulties were ahead for China, because not sufficient study had been given to the factors which had brought about the summoning of the Washington Conference, and because the essential and radical difference between ordinary diplomatic procedure: therefore it stands to reason that methods other than ordinary diplomatic methods have to be employed. A conference indeed is like

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the holding of a discussion in a public place with crowds looking on. Just as essential as the discussion is the crowd itself: therefore the mood of the crowd and what is is prepared to support should be studied as well. It was plain to the writer that not only was this aspect ignored but the essential difference between a domestic conference was not well-established in Chinese minds. Nor was the factor of American public opinion -- a public opinion different from every other in the world -- properly measured. Nor was the tremendous power of the American Senate understood. In fact it seemed obvious from the very start that the conception the Chinese delegation as a whole formed of the Washington Conference was that it was an extension or contiuation of diplomatic conversations which had resulted unfortunately for China in former years. Yet it was nothing of the sort. China really entered the problem through a new doorway. She had become through stress of circumstances an international factor. She would be able to influence events directly as long as the international aspects of her demands was plain. When, however, it was seen that her delegation looked upon the Conference as an adjustment board for her own difficulties and that she was not in the slightest interested in the difficulties of others and did not seem to realise why the Conference had been summoned, her case was lost.

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Furthermore by bringing up questions of no importance to the stabilising of the Republic during the next ten years, such as the abolition of the extra territoriality (for which she is not ready) and by giving the minor post office question more or less the same prominence as the crucial tariff question, she irritated even sympathizers. Moreover, from beginning to end she never made one offer to do something to help other nations. Had she made one gesture along the lines that the writer had repeatedly suggested in England and brought to the personal attention of Dr. Wellington Koo -- i.e. of offering to throw open trading and residential zones along all railways in the return for the placing of all foreigners resident there under her police control -- she would have had men say that in any case she was trying to do something to assist world rehabilitation and the liberal movement. But there was no trace of imagination or bigness in her attitude: it was purely bureaucratic and conventional.

PROPAGANDA IN AMERICA.

No doubt her men ware confused by the disastrous combination of circumstances which faced them in a friendly country. A heavy preliminary offensive against China and Chinese interests during the last fortnight in October and the first days of November due to propaganda services working at maximum capacity prior to the actual opening

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of the Conference was a very noticeable feature. Chinese unrest, Chinese financial embarrassments and Chinese division greeted one's eyes in almost every newspaper. Writers were obviously trying to create a public sentiment so as to influence the course of events. Canton propaganda, Japanese propaganda and a certain part of British propaganda made a drift in the same direction -- that the condition of China was hopeless and that no attention should be paid to Peking.

A COUNTER ATTACK.

On the 31st October the writer delivered a counter-attack to all this in the form of a speech at a luncheon of the China society in New York. He made the point that there were only two matters vital to the new China -- the tariff and railways, and that fire should be concentrated on these two. The papers gave good prominence to his remarks and several thousand copies were circulated. The arrival of Dr. Wang Chung-hui and Dr. Wellington Koo from England gave the writer the opportunity of summarising to these two delegates his impressions. There seemed to be no hope of a bold or definite programme, inasmuch as the preoccupation of Secretary Hughes with the major issue of the Conference -- naval disarmament and the burial of the Anglo-Japanese Alliance -- threw Chinese matters into the hands of the Far Eastern Division of the State Department.

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The chief of this Department, the son-in-law of Professor Goodnow, whose advice to President Yuan Shih-kai to make himself Emperor is the greatest sin committed against China by any foreigner, was without grasp of international affairs, and moreover devoted to the Consortium view of China. That almost at once a sharp and disagreeable discussion should arise in the American Press consequent upon China's refusal to accept the terms proposed to her in Peking in American loan renewal matters, was another serious matter. American press representatives besieged the first-assembling Chinese Delegation in Washington in quest of information and an adequate defence of China's action immediately prior to the opening of the Conference, but not finding sufficient material turned to others. Dr. J.C.Ferguson did good work in the matter but presently when the discussion became violent, withdrew from the controversy. Seeing that it was one of these occasions in which severe measures were needed in order to prevent a consortium control plan being brought up at the Conference, the writer directly attacked Mr. Thomas Lamont and the financial house of Morgan and in a series of interviews declared that Mr. Lamont's liking for German Hukuan Bonds and his desire to secure financial control in it were the true reasons for the disastrous financial impasse reached in Peking.

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MR. LAMONT ENRAGED.

This considerably eased matters and protected the Chinese Delegation from flank attacks. But Mr. Lamont was so enraged by public criticism to which he had now to submit that he sent a partner to Washington to bring pressure to bear through the State Department on the Chinese Delegation so as to restrain the writer. It was London over again. It is necessary to point out that the State Department is greatly under the influence of the New York financial district, particularly in the matter of Chinese finance. This is by no means strange as the New Consortium was formed by invitation of the State Department in 1918, after the failure of the American Government to take advantage of China's declaration of war against Germany in 1917 and finance China directly in the same way as the Allied Governments had been financed by the Washington Administration. In consequence of the questions concerning the writer sent to the Chinese Delegation which he wasprivately informed about by Minister Sze, the writer sent the following letter to Secretary Hughes on the 11th November, purposely placing a definite charge against the State Department:

Dear Mr. Secretary:

In the midst of your heavy work and responsibilities I venture to address you on a purely personal matter because

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I believe it will have a certain influence in the future.

It has come to my knowledge that your department has secretly handed to the Chinese Delegation something in the nature of a questionnaire regarding my position and work with the Chinese Government, this action being presumably taken because of an altercation in the newspapers on the subject of Hukuang Bonds, German issue, in which J.F.Morgan & Co., traded both during and after the war. It is because I am convinced that this action has been taken entirely without your knowledge that I bring it to your attention with a request for redress. As you well know I have contributed materially during the past half year to bringing the whole Far Eastern problem to a favourable climax by work in China, in Canada and in England: and in May I took the trouble to come down to Washington from Canada to furnish you with what information I have so as to facilitate the American programme. A couple of weeks ago I interrupted my journey back to my post in Peking at Vancouver and at considerable personal inconvenience bacause I believed that if conditions unfavourable to the fruition of American policy arose I could indirectly be of considerable assistance owing to my knowledge of what actually took place at the Imperial Conference at London. Consequently you will readily see that I feel insulted and incensed at what I consider an affront, and I have the honour to request

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that any questions regarding myself be asked of me direct, and that the Chinese Delegation be informed that the questionnaire was sent in error"--

On the 14th November he received the following reply:

Sir,-- In reply to your letter of the 11th inst., addressed to the Secretary of State, I have to advise you that you would appear not to be correctly informed with regard to the inquiries made by the Department of State concerning your status in relation to the Chinese Delegation. Nothing "in the nature of a questionnaire" on this matter had been handed to the Chinese Delegation. In view, however, of the ambiguity of certain references to your being with that Delegation appearing in the press reports of purported interviews given by you, the Department has had occasion to make of the Delegation oral inquiry whether you are in fact connected with the Chinese Government or the Chinese Delegation in any such way as to engage the responsibility of the Government or of the Delegation for any statements made by you. You will of course appreciate that any question raised as to the official status of an individual mu be resolved by reference not to that individual but to the Government from which any such status may be derived.

In the circumstances, the Department has no occasion to discuss with you the particular statements to which your letter refers.

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I am, Sir,

Your obedient Servant,
(sgd) F.M.DEARING Asst. Secretary
for the Secretary of State

The result of the writer's protest was, however, shown in the changed tone in Washington, particularly after the writer had communicated all the facts to his friends in the Senate who advised him how to act.

THE OPENING OF THE CONFERENCE.

The opening of the Conference on the 12th November with the famous Hughes speech on the scrapping of battleships produced a stunning effect on the world consciousness, and won such universal support from the populations of the countries affected that had there been a quick followup by Secretary Hughes on the Far Eastern question there is no saying what would not have been accomplished. But the agent who should have supplied the material, the Chief of the Far Eastern Department, was a small man with no ideas. Nothing was done except a half-hearted attempt to get Japan to take the lead in raising various issues which she declined to do. The only thing left was to ask China to take the initiative. This was done on the night of the 15th November. To say that China had no programme or that she was not ready to state her case is quite incorrect, since there had been full discussions in the Cninese Delegation for many days. But

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what had not been settled was the tactics -- which are the very essence of modern conferences. What were China's tactics to be: that was a supremely important matter that was certainly not adequately appreciated. The fact that the delegation was top-heavy was also a bad point: there were too many superior advisers and councillors who were quite useless since the more men present, the more divided opinion must be. That two of the delegates were active ministers was also against success, as it was not fair to expect from them rough language which might have compromised their permanent positions. None of the usual methods were suitable for a world conference in which public opinion played a supreme role. This is clearly proved by the initial mistake now made, China should have sent back a reply to the invitation to state her case in committee, to the effect that the absolute instructions of the Chinese Government to the Delegation were that her statement must be made in open session. Secretary Hughes' hand should have been forced at the start so as to have placed Chinese questions in the position which they were finally made to occupy owing to the pressure of the Senate and of the American people. The Chinese Delegation should have been impressed from the very start with the fact that the support they

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required was public support. The manner in which the galleries filled up with Senators and Congressmen took charge of proceedings during the opening meeting when Hughes made his great speech should have made China determined to have the same consideration.

CHINA'S"TEN POINTS."

Regarding the actual Memorandum of ten points filed by the Chinese Delegation on the 16th November there has been much obscurity, but undoubtedly the Memorandum of 12 points prepared by Mr. Millard on the 8th November and circulated to the Chinese Delegation and its associates had a good deal of influence, not to speak of the fact that the official agenda of the Conference stated in regard to China that the first matter was the "principles to be applied." Mr. Millard's Memorandum was the work of a man loyal to China but with little knowledge of international tactics or of the methods which win success. Like the ten points it might have been useful as a conclusion to a statement of China's irreducible minimum, but as a preface it was hopeless.

MILLARD MEMORANDUM.

OUTLINE OF POSITION OF CHINA AT THE CONFERENCE.

China's position in respect to this conference should be based on the following general propositions:

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1. An open reaffirmation by all the Powers, in a less ambiguous and more definite form, of their adherence to the policy of respect for the territorial integrity and autonomy of China.
2. A similar re-affirmation by all the Powers of their adherence to the commercial principle of the open-door and equal opportunity for all foreign nations in China.
3. A disclosure by all the Powers of all agreements, private and otherwise, that exist among themselves or between any of them and other nations, relating to China, and a readjustment of all such agreements to conform with the interests of China.
4. A complete revelation of all such agreements must be a sine qua non of China's assent to participation in any plan for the assistance of the Powers in the readjustment of China's position and finances.
5. The assent of China is essential to any agreements of the Powers relating to China's territorial integrity and political autonomy.
6. The assent of China must be a prerequisite of any plan for the "cooperation" of the Powers with respect ~~xx~~ to questions relating to China's territorial integrity and political autonomy.
7. China will decline to recognise as valid any agreements of the Powers to which she does not assent, or which

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are kept secret from China or from Powers that may not be included in such agreements.

8. The abrogation publicly of all agreements that exist among foreign nations that are based on the "sphere of influence" hypothesis as relating to China.

9. The restoration to China and to the full control of the Chinese of all natural resources of the national domain and all public utilities that are essential to the preservation and security of the nation, in due course, and on a basis equitable to legitimate foreign interests.

10. The recession to China or the readjustment of all concessions now claimed under old agreements by foreign interests in China, which rightfully have lapsed by non-fulfillment, or which have become inequitable by changes of conditions; and the revision of existing agreements in order to facilitate the protection and recovery of China's national rights.

11. In case there is hereafter an international conference, or an international commission, for the purpose of a readjustment of the so-called "inter-Allies" indebtedness, and to provide a means for the equitable liquidation of these debts China's foreign financial obligations will be included in any international or inter-Allied equalization; and the so-called "concessions" obtained or claimed by foreign powers and by foreigners in China also will be

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included in any such readjustment.

12. The withdrawal of the troops of foreigh Powers that stationed in China without the assent of the Chinese Government.

SOME SPECIFIC INSTANCES.

The present status of the so-called secret Shantung Agreements. Do the British and French Governments still regard those agreements as binding upon them in respect to Shantung? Does the Government of the United States regard those agreements as valid instruments?

France admittedly cannot pay her debts to America and Great Britain. Great Britain admittedly cannot pay her debt to America unless she in turn can collect from France and other States in Europe. All the European Powers are in fact insolvent in the sense that they are unable now to pay their debts except by a composition by which America will be asked to wipe off a goodly part of what is due to her. Yet those same powers that cannot find the means to pay their own debts assume openly the ability to take charge of China's finances. Those Powers that ask to be freed of their own obligations, or if not that, an unexampled leniency and accommodation or leniency to China in a parallel case. China is one of the "Allies" group. If there is to be an inter-Allies economic readjustment, why should China be excluded?

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The presentation of China's ten points in the full Committee of the Conference was badly received by the public and the press and looked upon as an unfortunate beginning.

(to be continued.)

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REPORT ON A CONFIDENTIAL MISSION TO CANADA, ENGLAND AND THE UNITED STATES IN 1921.

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A CAMPAIGN AGAINST THE ANGLO-JAPANESE ALLIANCE.

We publish this morning the fifth and final instalment of a most interesting report on a confidential mission to America and Enbland undertaken during the latter part of last, and the beginning of this, year, by a Foreign Adviser to the Chinese Government. We need scarcely say that the MS of this Report was not handed to us by the Author thereof. The cross-headings, in most instances are own own. ED.

WHAT CHINA SHOULD HAVE DONE.

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If we are to seek what China should really have done, the answer is very simple. She should have taken in their order of utility to the actual governing of China all matters and numbered them accordingly. The first matter in China today is money or rather the absence of it. It is the financial position of China, and not militarism or the enforced rights of foreign nations which has importance. Everything with a financial significance should have been given the first place.

T IMPORTANCE OF THE TARIFF.

The first of these questions is the Tariff. China should have commenced by denouncing her commercial Treaties and giving formal notice that she would hold them

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abrogated three months after date. She should have announced that from 1st of March she was going to impose double the existing tariff, and abolish coast trade duties as a first step towards simplification; and should have announced that from 1st of March all outstanding foreign loans and Treasury Bills, the service of which was unprovided for, would be inscribed in the Customs series. This would have included all the Japanese loans. A double import tariff would have brought in $50 millions more a year at once: and there is not the slightest doubt that if China had prefaced such a dramatic act with a statement of the Tariff rates of all the eight Powers gathered in Washington, and the net value of their Customs Collections compared with her own, world opinion would have been so powerfully stirred that no nation, not even Japan could have resisted it. So far from placing herself in opposition to Japan in the matter, she should have recited all the trials and tribulations Japan had gone through herself to secure her own tariff autonomy, and she should have ended by pledging that she would not indulge in a protective tariff and would in no case levy a higher duty than 20% even on luxuries. She would have axribed all her troubles to the tariff being controlled by foreign nations which would have won universal

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sympathy and support. The proof of this statement can be found in the reaction caused when the American public learnt for the first time that foreign nations maintained their own Post Offices in China. There was such an outburst of indignation that the post office question was automatically settled in China's favour. In addition to declaring a double tariff at once, China should have established a permanent Customs valuation Commission in Shanghai, on the Italian model (full details concerning which the writer furnished the Waichiapu from London) in which representatives of the Chamber of Commerce, foreign as well as Chinese were given a permanent place, so that tariffs and values could be changed without diplomatic negotiations. She should have further announced that she intended to apply the Mackay Treaty tariff terms with the resumption of payment of the Boxer indemnities at the end of the present year and she should have offered favourable terms to any Power willing to convert the monthly indemnity into perpetual bonds (in France, rentes, in England, consols) which would have considerably diminished the annual drain by limiting it to interest payments. (Capital stock on this system is retired from time to time by government purchases in the open market, a system which every government that practises sound finance has long enforced.)

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The one matter of the tariff, with all its ramifications and implications, was sufficiently vast to have engaged all the energies of the Chinese Delegation for weeks and been made the central issue.

The abolition of likin, raising as it does the whole matter of authority in China should have been provided for, and Tariff autonomy should have been declared (not asked for) two years after the effective abolition of likin.

CHINESE ATTITUDE "WHOLLY WRONG."

The writer believes - basing his belief on conversations with many statesmen - that the attitude of the Chinese Delegation was wholly wrong in that they asked for things instead of resuming control where they could resume control as in the matter of Tariff in order to restore government in China by restoring its financial power. The whole aim and object of the Chinese Delegation should have been to force matters to an immediate crisis at the very beginning of the Conference under the plea of urgent necessity at home since the Senate and the American people would have never consented to discussion of a reduction of American naval armament and the principle of the four-power Treaty had China made it clear at the outset that she was being treated with no consideration and the real problem of the Pacific - a strong and

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contented China - not only evaded, but general anarchy invited.

The poor results achieved in the Tariff question will be evident to the government, in the opinion of the writer before the end of the year and lead to complications which should have been anticipated before the Washington Conference assembled.

RAILWAYS - SECOND ON THE LIST.

Similarly, instead of adopting a policy of evasion in the matter of the Consortium and the unbuilt railways, railways should have been placed second in the list after the Tariff. The building of railways in China will do more to banish old conditions and strengthen the government than ten thousand foreign Treaties of guarantee. They will indeed change the face of things as much as the buildings of railways did in the United States fifty years ago. China should have offered a definite system whereby the Consortium by being restricted to the activities of a market syndicate, and being guaranteed a definite standard of working-control on each line under a Chinese Director-General, say on the model of the Peking Mukden Line during the currency of each loan floated by it, would have been kept out of the Ministry of Communication. In the same way had China in her initial statement analyzed the Twenty-one Demands (including Shantung) and offered

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a concrete solution for each matter, the Conference could not have failed to take action since to lend its weight to an equitable solution was very different from being asked to annul documents over which it had no jurisdiction. The writer is absolutely convinced that if China had done this not only would there be a Shantung solution to the credit of the Conference, but a Manchurian solution as well not to speak of a secondary matter such as Hanyehping.

YIELDING MOOD OF THE JAPANESE.

The Japanese Delegation was secretly in a far more yielding mood than the Chinese Delegation ever knew. For Japan there was one question and only one - the attitude of England. Everything depended with Japan on the attitude of England, and what method she favoured to secure the burial of the Anglo-Japanese Alliance. For that the Anglo-Japanese Alliance had to be buried at Washington was known to the Japanese. With open British support removed, Japan was at the mercy of America, if not at Washington at least on the Pacific where the rival fleets were face to face. A stiff Chinese attitude would have made a war prospect loom very near.

That would have been good: for if there was one type of pressure which would have brought the British Empire Delegation closer to the American Delegation it was an imminent war prospect. It must never be forgotten that the Canadian

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Australian and New Zealand Delegates in the British Delegation could not be quieted or pushed aside by idle talk: any real attempt to assist Japan would in the light of the writer's narrative of what happened in London at the Imperial Conference have brought a split in the British Delegation and therefore a split in the British Empire, which Mr. Lloyd George would not have tolerated and which would have brought him over from England.

WHAT WOULD HAVE APPEALED TO JAPAN.

No attempt was made by the Chinese Delegation to utilise these factors or exploit the position which these factors had created. The Chinese Delegates limited themselves to a programme completely isolated from world-politics or the interplay of rival forces. They brought up points on the same plan as if the Conference had been a Chinese Provincial gathering. No attempt was made to prepare a line of retreat for Japan in Manchuria by offering to consider the Port Arthur territorial lease as intimately linked with the South Manchuria Railway System, and making a formal extension until 1939 (when the Railway under the original concession becomes repurchasable) if Japan agreed to consider the 1915 Treaties as null and void and would undertake to negotiate anew in 1939. Such a method would have appealed to Japan and been good for China; for by the year 1939 China will either be a very

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great Power, able to work her will on the world, or she will have ceased to exist as an independent nation. Besides this would have linked up the Chinese Programme with the naval disarmament and the four power Treaty and put China in a position to reopen such matters in ten years. Had the policy indicated above been adopted we would have had a complete outline of the New China. For taking 100 as the total of all China's required reform measures in relation to the western world, the Tariff must count as 40, railways as 30, the Twenty-one Demands as 20, and all the rest such as post-office, foreign troops, foreign police, leased territories, foreign concessions, wireless stations, extraterritoriality, etc.,- not more than 10.

FACTORS FOR UNITY.

For, given fiscal unity through the tariff, and social unity through railway development and international unity by fixing ahead settlement dates for unsettled questions, the natural energy and ability of the Chinese people, working through their brains and hands, will make mincemeat of all small impediments and restrictions which have come down from early days. They will disappear so rapidly that their memory will perish since they belong to vanished days.

FUTILITY OF "TEN PRINCIPLES."

The actual course of the Washington Conference

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proved the futility of China's ten principles and the method she had worked on owing to American advice. The reply of the Conference was the four Root resolutions which if they did not completely ignore what China had declared at least pushed it aside by implications. The course of the Conference during one whole month showed indeed that China, because of the tameness of her opening attitude, was being treated as a side-issue and the situation exploited by England, America, Japan and France, each striving to subordinate distasteful questions to its particular national policy. China, so far from retaining the initiative in the Far Eastern questions by her demarche, actually lost it.

FAULTY PRESENTATIVE OF TARIFF ISSUE.

When we come to consider in detail the various matters raised in Committee we find that the Tariff question was quite correctly raised by Dr. Wellington Koo as the first issue; but the presentation was at fault in that what was proposed was not practicable, quite apart from the inexpediency, which the writer has already dealt with, of not declaring policy in absolute terms and laying down the urgent necessity which required the double emergency tariff to meet government expenses and foreign loans. To propose as De. Koo did the 12½% Tariff from the 1st January, 1922 was plainly merely a manoeuvre and not a business proposal.

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Moreover the whole question of the internal customs procedure and the banking of receipts should have been raised as well; for it is plainly absolutely contrary to the dignity of Government to allow the present procedure to continue indefinitely in China with the diplomatic body and the foreign Inspector General virtually in possession of China's revenues and only releasing surpluses when they feel inclined. This whole question should have been gone into in great detail and a system inaugurated whereby the Bank of China was made the true fiscal agent and the service of foreign loans not allowed to encroach on the prerogatives of the State. None of these points were touched on, nor did the Chinese Delegation attempt to acquire the necessary information before going into the Conference. It is interesting to point out that when the writer said to Dr. Koo that some bait should be held out to foreign Powers-such as the abolition of Coast trade duties which had been asked for by the British Chambers of Commerce in China-he replied that it was easy to abolish duties but not to increase them. This shows that economic improvement is not understood in circles where it should be.

A SERIOUS BLUNDER.

The second matter raised i.e. the abolition of extra-territoriality with the result of the appointment of an

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international commission to investigate the matter was in the opinion of the writer, a serious blunder. The Commission will certainly investigate the administration of justice and the treatment of Russians in Manchuria which may do China serious harm if the Commission's Report is published as the present position leaves much to be desired and a large number of people are waiting to give damaging evidence. Meanwhile not a word was said on the urgent matter of taxation in foreign settlements where most of the wealth of China now is. China might well have raised the question of impesing a Sales Tax in foreign settlements in lieu of the Excise Levy which is provided for when likin is abolished to be applied solely for national road-building. Nor was the issue of foreign banknotes by foreign banks taken up as it should have been, since this is a more extraterritorial matter than jurisdiction over the persons and properties of foreigners, and is a means of curbing foreign financial predominance. The same regulations might have been proposed as are enforced in Hong-kong, a regular specie and metallic currency reserve against note issue demanded. In view of the failure of the Banque Industrielle no one could have resisted it and it would have materially strengthened the whole Chinese position by stopping once and for all the Japanese bank note scandal in Manchuria and forcing a solution of the

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Bank of Chosen inconvertible note issues regarding which the Chinese Government has so often protested. Serious blame must attach for this omission.

LEGATION GUARDS, ETC.

The third matter raised i.e. the post office was correctly done, but was a very minor point which might have been left to the end. The fourth question wireless stations, was a subordinate one. The fifth matter was a question of foreign troops in North China including the Legation Guards. The raising of this issue was, in the opinion of the writer, highly inexpedient, since the first who would suffer if these troops were removed would be the Chinese people. Until the Constitutional issue is settled and military rivalries it is far better to retain this guarantee of law and order. The question of Japanese police-boxes on Chinese soil and of Japanese railway guards on the South Manchurian railway was confused by this policy and China's changes of having essential questions properly considered weakened,- for instance, the application of Article 11 in the Supplementary Treaty of 1905 which undertakes to remove Japanese railway guards on the South Manchurian railway when Russia had removed there. The sixth matter raised was the leased territories which was of secondary importance compared with other matters and linked with this was the question of foreign

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concessions. Before this stage had been reached, however, the orderly presentation of the Chinese case had been broken up by the insistent demand of the people's representatives and others to bring up the Shantung question and the Twenty-one Demands. The Shantung discussions outside the Conference gave a new note to proceedings from the 1st December. The Chinese Delegation were quite right in consenting to this procedure at this stage,-but it was a procedure which would have been unnecessary had the right policy been adopted at the outset. Even in this matter the Chinese Delegation would have bungled things, had it not been for the People's Representatives who now actively intervened and telegraphed to China to the Chinese banking group and thus originated the whole idea of a national redemption fund for the Shantung railway. Until the people's Representatives did this they were looked upon by the Delegation as similar to a students' group that might become a nuisance by interfering with orderly diplomatic negotiations. In the Far Eastern committee matters now became a farce, everything being shelved after "agreement in principle." Accordingly on the 5th December the Chinese resignation began, led by Dr. Philip Tyau, Secretary General who issued a remarkable statement. This summarises the position so well that it should be quoted.

DR. TYAU'S PROTEST.

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DR. TYAU'S PROTEST.

"The Washington Conference enters today its fourth week. So far as China is concerned the results are so completely negative as to suggest that China was only summoned to provide the necessary background for the naval disarmament proposals and not for the purpose of rehabilitating her as a sovereign nation. In no single proposal laid before the Conference by her has anything but a stalemate been produced. In the questions affecting tariff, the post office, extraterritorialty, wireless installations, foreign troops, foreign police and leased territories the delegates of the Powers assembled in Washington have displayed no disposition as a body to accede to reasonable demands, or to distinguish between what are violating of Chinese sovereignty without a vestige of sanction in the treatiss made between China and foreign nations, which should be immediately redressed, and what are matters sanctioned by treaty which China requires amended or modified.

In the first category fall post offices, wireless installations, foreign garrisons other than those covered by the protocol of 1901 and all foreign police. Had there been any desire to do China justice all these flagrant violations would have been dealt with particularly such a matter as the foreign post offices , for which she has asked no compensation . In the crucial matter on the

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Customs Tariff, China has suffered since the year 1902, when all the Powers solemnly agreed to secure for her an effective 5 per cent, by constant revision, a gross loss estimated to amount to no less than $300,000,000 in the aggregate, which alone accounts for the present disordered state of her national finances. China has filed no demand for an indemnity amounting to the difference of the tariff levy between what has been stipulated for by the treaties and what has been actually collected. She has limited herself to asking for the 12½ per cent rate provided for under certain stipulations by treaties nearly twenty years old.

The indications are at present that there is no likelihood at all of even a substantial increase being agreed to although every country in the world has made enormous tariff increase since the war even India having raised an 11 per cent tariff against British goods. The course consistently followed by the Conference has been, after perfunctory discussion and agreement in principle, to relegate each matter to a Committee which has buried it by adopting a meaningless gormula apparently conceived in a cynical disbelief in China's bona fides.

The very latest discussions have disclosed the fact that although the new consortium of foreign banks has ever since its formation declared in categorical terms that the

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inclusion of Japan within the banking group had been accompanied by an abandonment by her of her claims to special privileges in South Manchuria and Eastern Inner Mongolia, the very opposite is the case, Japan insisting on certain rights in these regions which proves that the statements of the Consortium to China are meaningless and untrue.

"Meanwhile, the newspapers, supplied with official communiques and statements from day to day, have contributed largely to building up in the mind of the public, particularly of the American public the idea that not only was substantial progress being registered, but that China was being delivered from the bondage and restraint in which she has languished for so many years and that her dearest hopes were being realised. Thus the valuable support of American public opinion on which China has counted so much in the past and on which she relies so much in the future has not been available to aid in the great work of liberation and generation which is so stubbornly opposed by Governments and vested interests because a bound and captive China is easier to exploit."

MORE ENERGETIC MEASURES REQUIRED.

These Chinese resignations and the large amount of attention they attracted did a great deal, but even in this matter of utilising the support of American public

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opinion there was serious bungling. Thus the Chinese Press Bureau was agraid to distribute Dr. Tyau's declaration wholesale as it should have done and the newspapers that published it obtained it independently of the organization which has been specially created to make public Chinese views.

It became plainer every day that energetic measures outside the Conference were the only means of forcing Chinese issues into their proper position. The American press had done as much as possible; it was pressure from another quarter that would alone make Secretary Hughes and the American Delegation more possible. From his knowledge of the manner in which Senators constantly saw the President and brought pressure on her personally, the writer decided that it would be a good thing to stir things up. Consequently on the 9th December the Memorandum below by the writer was handed to the eleven Senators whose names follow as they were known for their independence and resistance to dictation. (The writer had previously published in the columns of the New York Times (28 Nov.) a long Memorandum covering the same set of ideas and insisting on the financial inadequacy of everything done.)

Senator Borah Senator Brandegee Senator France
Senator Johnson Senator La Follette Senator McCormick

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Senator Moses Senator Norris Senator Reed

Senator Shields Senator Walsh.

And to the greatest speaker in the House of Representatives Congressman Bourke Cochran.

MEMORANDUM PREPARED BY ADVISER TO THE CHINESE GOVERNMENT.

The following is the list of China's irreducible minimum, without which she cannot sign any agreement or do otherwise than leave the Washington Conference to the opposition of the Chinese nation:

1. Tariff. China has asked for the 12½% Tariff, already agreed to by the United States, Great Britain and Japan by treaties made in 1902 and 1903, provided likin or internal trade taxation was abolished.

Discussion in Committee has led to the majority accepting a 7½% Tariff, but Japan opposes this increase and is holding out for an effective 5% or the same tariff China has nominally enjoyed for 80 years. China has lost a sum not far short of $300,000,000 in the twenty years since 1902, her tariff having fluctuated between 3% and 4%.

What will satisfy her is:

(a) Double present tariff which will mean 7½% effective to be imposed forthwith in return for which she will take the first step in internal taxation reform and immediately abolish coast trade duties or duties levied between treaty ports on steamer traffic.

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(b) A tariff commission to meet this spring at Shanghai and work an effective 10% tariff to be applied on 1, January, 1923, with abolition of all likin on railways. This will make free trade between ports by steamer and rail effective.

(c) On 1st January 1924, all likin to be abolished on the roads and canals and the 12½% tariff applied by adding 2½% to the 10% tariff.

(d) Full tariff autonomy to be conceded after two years clear working of the 12½% tariff has proved that free trade within the limits of Chinese territory is effective.

2. Post Offices; Closing of all foreign post offices on the 1st January 1923.

3. Railways; Acceptance and application of the principle that China must own and control all her communications, specific cases being dealt with as follows:

(a) Shantung railway redeemed by bond issue after valuation by neutral experts.

(b) Yunnan railway owned by French company same treatment.

(c) Chinese Eastern railway in North Manchuria all claims settled by bond issues.

(d) South Manchuria system operated by Japan to be granted special license to end of original concession 1939,

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provided Japan separates railway account from other enterprises and reports all traffic returns and receipts to the Chinese Ministry of Communications for inclusion in Chinese Government railway abstracts and statistics, Japan also accepting principle that extension of concession after 1939 must be subject of fresh negotiations with China.

4. Troops. Evacuation of all troops except those covered by the Protocol of 1901 which shall be the subject of later negotiations, viz: evacuation from Hankow and Shantung of Japanese garrisons and putting into force of Article 11 of Supplementary Treaty of 1905 covering South Manchuria railway guards, which Japan pledged to remove as soon as Russian troops had gone from North Manchuria (which occurred three years ago.)

5. Police. Removal of all police boxes except those in foreign concessions.

6. Leased Territories: Return of Kwangchowan by France; Weihaiwei by Britain, with a portion of Kowloon called New Territory in excess of the actual hinterland necessary for commercial and industrial purposes; Kiaochao by Japan; with a pledge that within ten years the Port Arthur lease will be converted into commercial port concession.

7. Wireless installation: China to become party to international conventions, any contraventions of same being covered by special licenses issued by her for limited number of years.

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8. International Banking Consortium: Withdrawal of the support of the four governments concerned, pending negotiations to be conducted in Shanghai by the Chinese banking group with all foreign banks for a Chinese-foreign group to undertake productive loans on domestic market.

9. Alliance and Agreement: A pledge that no Alliances or Agreements be entered into regarding the Far East but that equal opportunity be held to mean free field with no political entanglements.

CHINA'S GREATEST ENEMY.

The writer now proceeded repeatedly the the Senate and personally discussed with leading Senators the Chinese position. They one and all said that China had been too tame in everything she had done; that what the American people liked and would support was a display of courage. Consequently the writer assembled all the Chinese unofficial representatives he could and handed them the same Memorandum and exposed to them the views that had been communicated to him. The gist of this Memorandum was contained in another Memorandum which he kept on having multigraphed and distributed to pressmen . Much stronger action thus gradually became popular and the final improvement in handling Chinese issues which came in January and marked the close of the Conference was due solely to the fear of the American delegation that the Senate would throw out every Treaty if China

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left unsatisfied. One of the most significant things in the whole Conference in the writer's opinion, was the fact that not once was China's greatest enemy - the low standard of living - mentioned even indirectly. The low standard of living, the fact that half the population of China lives on the verge of starvation and that the first duty of every Government should be to change this condition of affairs, was never properly handled. Nor was there any attempt to take the history of the Republic and fix part of the clame for the present state of affairs in China on foreign powers. Chinese arguments all the way through were either academic or ofa purely conventional kind; there was no attempt to use arguments that foreigners appreciated although this was a f foreign conference.

ADVISER'S MISSION CONCLUDED.

With the reading of the Four-Power Treaty in public session on the 10th December, in which the last clause cancels the Anglo-Japanese Alliance, the writer held that the purpose for which he had been sent abroad by the Government had been accomplished and that this further presence in Washington was unnecessary. During the reading of the actual text of the new Treaty it was a significant fact that when the American delegate reached the last clause dealing

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with the abrogation of the Anglo-Japanese Pact, the head of the principal British representative, Mr. Balfour, dropped forward on his shoulders exactly as if he had been shot showing how keenly and bitterly British Foreign Office opinion viewed this great change.

THE FINAL PHASE.

During the month of January and to the actual termination of the Conference on the 6th February, discussion simply went over the old ground. The manoeuvres of the American Delegation were in the direction towards getting the Shantung case settled. Whilst pressure succeeded in getting the Japanese Delegation not only to withdraw Group V from the Twenty-one to waive the special rights in the matter of new railways in South Manchuria which they had induced the Consortium to consent to, and also to give up their claims to advisers, etc., there was no real modification of the Japanese position in Manchuria. Neither was there any modification in the position of the Chinese Eastern railway or in the Japanese occupation of Maritime Siberia - neither was there any final or satisfactory settlement of the leased territories question. The open-door declarations and the Board of Reference are unimportant points: They may even lead to new complications. In January the discussion showed that the newspapers were becoming tired of the situation and were beginning to ask why China in 1915 did not do

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one of two things over the Twenty-one Demands - either publish them to the world and decline negotiations, or declare war against Germany - either of which manoeuvres would have saved her from signing documents, the annulling of which she threw on the other Powers.

RESULTS.

The actual list of what was accomplished may be set down as follows:

Satisfaction in the matter of foreign post offices, foreign wireless installations and Shantung.

Partial success in the matter of the Tariff.

Doubtful success in leased territories as although both England and France are pledged to give up Weihaiwei and Kwangchowan apparently negotiations are required.

Little or no success in the matter of the Twenty-one Demands as Japan's main position in Manchuria is untouched.

China's rights as a neutral: the agreements of the Powers regarding past and future treaties and undertakings with China, and the complication of the full list of such; the Root principles affirming the open door and aqual opportunity in China: the withdrawal of the British claim to the Yangtze Valley as her sphere of influence ; the establishment of a Board of Reference: The creation of a Commission to deal with extraterritoriality are in the opinion of the

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writer ineffective measures. China gained 40% of what she required. She might have gained 80% with different tactics.

THE WRITER'S CONCLUSIONS.

The conclusions the writer reaches regarding future Conferences are as follows:-

1. The Chinese Delegation should have an undisputed chief who must come direct from China. There is no necessity for him to know a foreign language so long as he is politically expert and knows the requirements of his own country. The Chief Delegate alone should communicate officially with the Government in Peking by telegraph as the present system of everyone telegraphing independently is destructive to sound action.

2. The Chinese Delegation must for reasons of courtesy always include the Chinese Minister resident in the Capital of the Country where the Conference is held, but the other Delegates should not be diplomatic Ministers detached from their posts as Conference work should be conducted by those who have no experience of diplomacy.

3. No superior advisers or advisers of any sort except technical men should be attached to the Delegation, since the particular tactics to be used should be settled prior to the Conference and there is no call for such advisers who simply become encumbrances.

4. The Delegation should be as compact and as small as

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possible, since the more idle men there are the more jealousies arise.

5. There should be one official spokesman for the Delegation whose sole duty should be to act as liaison officer with the press. He should be in constant touch w with the Delegation chiefs and his duty would be to make press opinion favourable. The Chinese Press Bureau at the Washington Conference was a complete failure and did nothing to influence opinion. The outstanding success at Washington as at Paris in 1919 was Lord Riddell, the English official spokesman, who is a newspaper proprietor and understands newspapers. His system is the only system i.e. of seeing everyone three times daily and importing information verbally with complete frankness. The Chinese Press Bureau in Washington was looked upon as an official appointment for officials who knew nothing about public opinion or the way to influence it. What foreign newspaper men want is speedy and reliable information, frankly given and complete, by someone who knows what is going on from hour to hour, and is not afraid to say it.

6. Accompanying the Chinese Delegation should be many Chinese writers of good English as possible. These men will act in concert with the official spokesman and individually (apparently independently of one another) they will fill the press with special articles all tending

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to create the same impression. There should be no Press Bureau of any sort or description.

7. In every future Conference China should list Her demands in order of importance to the actual work of governing and to the reform of the condition of the people, and not take everything as being of equal value. The importance should be decided solely by the amount of influence each matter will have on the progress of the nation. Some of the things asked for in Washington were positively harmful and would have brought ruin on the Republic if they had been acceded to, i.e. the abolition of foreign concessions, and the removal of the foreign troops in Tientsin and Peking before the Constitution is made and national jealouies permanently healed. Besides no common sense is shown in asking for thr removal of things which are the incentives to progress. A complete foreign evacuation would throw the country into barbarism.

8. There should be an appreciation of the fact that economics and financial reform are the crucial matters- not diplomatic adjustments. If China becomes economically strong and financially reformed, foreign interests in the country will automatically shrink to nothing in comparison with Chinese interests, so much so that the foreigners will be the first to wish to do away with their

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so-called "privileges" which will become disabilities in competition with the Chinese people.

9. If any foreign advisers are used they should be men who know the world from the market-place point of view; they should not be professors or lawyers who are entirely ignorant of practical problems. Above all they should not be casually picked up on initiative of one delegate or another - they should either be carefully chosen and properly used or dispensed with entirely.

8th March, 1922.

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JAPAN. [June 22.]

CONFIDENTIAL. SECTION 1.

[F 2129/80/23] No. 1.

Sir C. Eliot to the Earl of Balfour.—(Received June 22.)

(No. 296.)

My Lord, *Tokyo, May 25, 1922.*

IN continuation of my despatch No. 225 of the 27th ultimo, I have the honour to transmit to your Lordship herewith a diary kept by Mr. Davidson of the events in the tour of the Prince of Wales from the 22nd April to the 9th May last.

As your Lordship is aware, Mr. Davidson was attached to the suite of His Royal Highness by special request, and I am happy to report that the appointment proved a complete success. Both His Royal Highness and the members of the suite spoke to me several times about Mr. Davidson in the highest terms and said how much they owed to his knowledge of the country and its language, as well as to his unfailing tact and good temper. The Prince of Wales even wished him to remain on the suite until the conclusion of his visit to Manila, but Mr. Davidson did not feel able to be absent from Japan for so long.

In recognition of his services His Royal Highness bestowed on him a C.V.O.

I have, &c.

C. ELIOT.

Enclosure in No. 1.

Diary of Events in the Tour through Japan of His Royal Highness the Prince of Wales from April 22 to May 9, 1922.

Saturday, April 22.

Leaving Tokyo at 8·55 A.M., His Royal Highness, accompanied by his whole suite, arrived at Yokohama about 9.30 and was met at the station by the Governor of Kanagawa Prefecture, the Mayor of Yokohama and numerous local officials. From the station His Royal Highness, wearing the uniform of a captain in the British navy, proceeded with his staff in the Imperial cars direct to the foreign cemetery on the Bluff in order to unveil the Allied war memorial, erected there in memory of nearly 100 Yokohama foreigners of the Allied and Associated nations who fell in the great war. The route from the station to the Bluff was gaily decorated with flags and crowds of people had assembled in order to welcome His Royal Highness to the town. At the entrance to the cemetery, where the memorial gates are erected, practically the whole of the foreign community of Yokohama had assembled to witness the unveiling ceremony, and a guard of honour from H.M.S. "Renown" was also drawn up on one side of the road.

The ceremony commenced with a religious service, in which selections from the scriptures were read by American, French and English clergymen, followed by an address, in French, delivered by the Roman Catholic Archbishop of Tokyo. At the conclusion of the service, Mr. Mollison, the chairman of the Allied War Memorial Committee, read an address to the Prince, who replied in a few but very touching words. His Royal Highness then proceeded to pull aside the flags covering the bronze tablets bearing the names of those who had fallen in the war. A period of one minute's silence was then observed and afterwards the buglers sounded the reveille, thereby concluding the ceremony.

Before leaving, His Royal Highness shook hands with the clergy, the relatives of those who had fallen and the ex-service men who were drawn up in the vicinity of the gates. He then entered his car and proceeded to the Prefectural Office, which had been placed at his disposal as a residence, followed by prolonged and ringing cheers from all present.

Owing to the limited accommodation available at the Prefectural Office, only five members of the staff could be accommodated there, the remainder being lodged at the Oriental Hotel.

In the afternoon some members of the suite were conducted by car to Enoshima and Kamakura, famous seaside resorts in the vicinity of Yokohama. His Royal

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Highness, however, who was feeling somewhat tired after the very strenuous week spent in Tokyo, remained in Yokohama and spent the afternoon in visiting the shops in the town.

A 5 o'clock in the afternoon the Prince visited the Yokohama United Club, and, after spending a few minutes there, proceeded on board H.I.J.M.S. "Mutsu," the latest addition to the Japanese navy, where he was met by His Imperial Highness Prince Higashi-Fushimi. After inspecting the "Mutsu," His Royal Highness, accompanied by Prince Higashi-Fushimi, went on board H.I.J.M.S. "Nagato" and dined there as the guest of the Minister of Marine. After the dinner the Prince and those of his suite who had dined on the "Nagato" left early in order to attend the ball given by the British community at the Gaiety Theatre, where His Royal Highness remained until shortly before 12 o'clock.

After dark, all the warships in the harbour and most of the houses on shore were brilliantly illuminated with electric lights, and a lantern procession, consisting of 5,000 students from the Yokohama Higher Schools, was organised at 9 P.M. and witnessed by the Prince on his way from the "Nagato" to the Gaiety Theatre.

Sunday, April 23.

At 9·45 in the morning His Royal Highness and the members of his staff left the Prefectural Office and proceeded to the Anglican Church on the Bluff and attended Divine Service there. After the service, His Royal Highness drove direct to the railway station in order to catch the special train which was to convey him and his staff to Odawara. At the station the Prince was met by His Imperial Highness Prince Higashi-Fushimi, who accompanied him to Odawara. His Excellency the British Ambassador, Mr. Crowe, the commercial counsellor to His Majesty's Embassy, Mr. Holmes, His Majesty's consul-general at Yokohama, and a number of prominent British residents in Yokohama and their wives and daughters, as well as numerous Japanese officials, were also present on the platform in order to bid His Royal Highness farewell.

Between Yokohama and Odawara all the stations on the route had been repainted and were decorated with flags, and groups of officials, school-children and others, assembled on the different platforms, greeted His Royal Highness with loud cheers as the Royal train passed through. The villages and even the fields along the railway line were also decorated with British and Japanese flags, and small bodies of villagers and children stood in respectful groups to see the Prince's train pass by.

On arrival at Odawara, His Royal Highness was met by the Mayor and other leading personages of the town, who accompanied him to the entrance of the station where the Imperial motor-cars were waiting to convey him and his suite to the villa of His Imperial Highness Prince Kanin, with whom His Royal Highness was to lunch. The route to the villa was as usual lined with school-children and townspeople, who waved the inevitable flags and cheered vociferously as the Prince passed by.

At the villa, which is situated on rising ground and commands a beautiful view of the Pacific Ocean and the Hakone Mountains, His Royal Highness was met by the Prince Regent and Prince Kanin, who conducted him to a summer-house in the grounds, in which lunch was served. After lunch, Prince Kanin's son, who is a cadet in the military school, and two of the Prince's daughters were presented to the Prince, after which His Royal Highness was shown over the grounds by Prince Kanin, His Imperial Highness the Prince Regent accompanying him.

At about 3 P.M. His Royal Highness took farewell of Prince Kanin and the Prince Regent and proceeded by car to Yumoto, situated at the foot of the Hakone Mountains, where the Prince and some members of his staff were accommodated in the villa of Baron Iwasaki, one of the great millionaires of Japan and joint owner with his brother of the famous Mitsubishi Company. The remainder of the staff were lodged in the Fujiya Hotel at Miyanoshita, the adjoining village situated higher up in the mountains and distant about half-an-hour's drive by car from Yumoto.

Later in the afternoon His Royal Highness had tea with Mr. Imamura, a wealthy banker educated in England, who has a villa situated in beautiful grounds adjoining that of Baron Iwasaki. In the evening His Royal Highness dined alone with his staff for the first time since his arrival in Japan.

Monday, April 24.

His Royal Highness, accompanied by His Imperial Highness Prince Higashi-Fushimi and the whole staff, proceeded by car to Lake Hakone, where he lunched with

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His Imperial Highness the Prince Regent at the Imperial Villa on the lake. Unfortunately, the weather, which up till now had been consistently fine, turned to rain and nothing could be seen of the beautiful scenery either on the way up or on the lake itself. In spite of the inclement weather, practically the whole of the village had turned out to greet the Prince and gave him a hearty welcome.

In the evening His Royal Highness entertained Baron Iwasaki, the Governor of Kanagawa Prefecture, and Mr. Imamura to dinner at his residence.

On account of the heavy rain, which showed no signs of abating, it was decided to abandon the trip to Lake Shoji, which had been planned to commence on the following day and would have occupied the two following days. The reports regarding the condition of the roads were very unfavourable, and as the greater part of the journey would have to be performed in cars, it was considered inadvisable to attempt it, and arrangements were made for His Royal Highness to spend the two days thus left vacant in Myanoshita.

The cancellation of the trip to Lake Shoji came as a great disappointment to the inhabitants of the districts through which the Prince was to have passed, as they were eager to welcome him and had spent large sums of money in preparing for his reception. The state of the weather, however, rendered it too risky to undertake the journey.

Tuesday, April 25.

Contrary to expectation, the weather cleared in the morning and His Royal Highness was able to drive to the Nago Pass, from which one of the finest views of Mount Fuji can be obtained. Fortunately, the atmosphere proved to be exceptionally clear after the heavy rain of the preceding day and night and an almost perfect view could be obtained of this wonderful mountain.

At about 9 o'clock in the morning a very severe earthquake shock was experienced, but the Prince missed this interesting occurrence as he was in a motor-car at the time on his way from Yumoto to Miyanoshita, and was not aware of the tremors. As was learnt later, the earthquake did a considerable amount of damage in Tokyo, Yokohama and in some of the towns on the coast, though the loss of life was only small. His Royal Highness, however, sent a telegram of enquiry to His Majesty the Emperor, who was residing at Hayama, where a severe shock was experienced.

On his return from the Nagao Pass, His Royal Highness lunched at the Fujiya Hotel, and at 4 P.M. he called upon the Prince Regent, who was living in the Imperial Villa adjacent to the Fujiya Hotel, with his whole staff in order to say farewell, as he was leaving for Kyoto on the following day. The leave-taking had originally been planned to take place on the summit of the Nagao Pass, over which His Royal Highness would have to pass on his way to Lake Shoji. Owing to the cancellation of the trip, however, it was decided that the two princes should take farewell of one another at the Imperial Villa.

On his arrival at the villa, to which the Prince and his suite proceeded on foot, His Royal Highness was met by His Imperial Highness the Prince Regent and Prince Higashi-Fushimi, and was conducted to a reception room, where His Imperial Highness shook hands with all the members of the staff. After conversing for some time with the Prince Regent, in the course of which His Royal Highness thanked the Prince Regent very warmly for the kindness and hospitality shown to him during his stay by His Imperial Highness, and expressed the hope that he might one day see him again, the Prince said good-bye and shook His Royal Highness warmly by the hand.

His Royal Highness then returned to Yumoto by the electric tram and dined privately at his residence.

Wednesday, April 26.

His Royal Highness lunched with his suite at the Fujiya Hotel. In the afternoon Baron Iwasaki gave a garden party at his villa, to which all the members of the Prince's suite were invited, and at which Baron Iwasaki's family, Mr. Imamura and his family and some members of the Mitsubishi firm were also present. In one part of the garden kilns had been constructed, at which pottery decorated with designs executed on the spot by special artists was glazed and baked. Anyone who desired to do so could paint his own design and the finished article was handed to him in a few minutes duly glazed and baked. Needless to say, the designs executed by His Royal Highness came in for much praise and were eagerly sought after, but the proverbial courtesy of the Japanese could only describe the results attained by some members of the suite as unusual.

In the evening the Prince dined with the whole of his staff at his residence, and

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proceeded later on to Kodzu station to catch the special train which was due to leave for Kyoto shortly before 11 o'clock.

In spite of the lateness of the hour the whole route from Yumoto to Kodzu was lined with villagers and school-children holding lanterns, who seemed to enjoy thoroughly their night out, and cheered the Prince at the top of their voices as he passed through their lines. At the station His Royal Highness was met by the Governor of Kanagawa Prefecture, some military officers and a large number of local notables, and, last but not least, by Mr. Yamaguchi, the proprietor of the Fujiya Hotel, to whom the Prince had presented a tie-pin earlier in the evening, and who had made himself exceedingly useful during His Royal Highness's stay in Hakone.

The royal train left the station at 10·45 amidst ringing cheers. Excellent sleeping accommodation was provided on the train which had been specially built for the use of His Royal Highness and suite, and was used throughout the Prince's visit whenever he travelled by train.

Thursday, April 27.

Kyoto, the ancient capital of Japan, was reached at 9·30 A.M. Although the greater part of the journey from Kodzu to Kyoto was performed at night, large numbers of officials and other persons had nevertheless assembled on the platforms of the different stations and stood gravely in attitudes of deep respect as the royal train passed through. At Kyoto station His Royal Highness was welcomed by the Governor of Kyoto Prefecture, the mayor of Kyoto, Lieutenant-General Shiki, commanding the 16th division station at Kyoto, the president of the Kyoto Imperial University, and a large number of officials and other persons. A triumphal arch was erected outside the station and immense crowds had gathered in the vicinity and along the route from the station to the Omiya Palace, where the Prince was to stay, in order to witness his arrival. School-children in astonishing numbers and ranging in age from 7 or 8 years to grown up boys and girls and students, all armed with Union Jacks, were formed up in lines four deep on each side of the road, and worked themselves up into a perfect frenzy of enthusiasm as His Royal Highness passed by. A large number of troops from the 16th division, ex-service men, firemen and representatives of different guilds were also drawn up along certain parts of the route.

Owing to the limited accommodation available at the Omiya Palace, Admiral Halsey, General Woodroffe, Sir Godfrey Thomas, and Lord Louis Mountbatten only were quartered there. Captain Dudley North and Captain Legh were lodged at Mr. Murai's villa, known as the Chorakukan, in Gion Park, at which His Royal Highness Prince Arthur of Connaught stayed on the occasion of his last visit to Japan, whilst the remainder of the Staff were accommodated at the Kyoto Hotel. The Omiya Palace is a Japanese building standing in a beautiful garden, and was built about sixty years ago, the original building, which was erected many years ago, having been destroyed by fire in 1854. All the rooms had been fitted up in European style, and were made as comfortable as the structure of the building and the limited space available allowed.

After taking lunch at the Palace, the Prince, accompanied by his suite, drove by car to the Imperial Mausolea at Momoyama on the outskirts of Kyoto, and laid a wreath upon the tomb of the late Emperor Meiji and another upon that of the late Empress. His Royal Highness and the naval and military officers of his suite wore uniform, the others morning coats and silk hats, as the Japanese attach great importance to this function. The ceremony of placing the wreaths upon the tombs, which are situated close to one another, though a very simple one, was most impressive owing to the solemnity with which it was carried out, the stillness of the surroundings and the simple grandeur of the tombs partly hidden in thick groves of pine trees.

Both on the way to Momoyama and on the return journey the narrow roads were crowded on both sides with school-children and townspeople all armed with British flags, who kept up such an uproar of cheering that it was impossible to hear oneself speak.

On his return to Kyoto, His Royal Highness played tennis in the garden of the Nishi Hongwanji temple, where a court had been specially prepared for his use by the Lord Abbot. In the evening a lantern procession, in which some 30,000 persons participated, was organised in front of the Omiya Palace.

Friday, April 28.

At 10·30 A.M. His Royal Highness and the whole staff proceeded by car to Otsu, on the shores of Lake Biwa. As on the previous day, the Prince received an

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enthusiastic welcome along the route and in the town of Otsu itself, which was gaily decorated for the occasion. At the landing stage, where the royal cars pulled up, His Royal Highness was met by the Governor of Shiga Prefecture, the mayor of Otsu, the chief of the police and various other prominent personages, who conducted him and his suite on board the "Midori Maru," a ship which had been specially built to take His Royal Highness round the lake, and had been fitted up most comfortably. As the "Midori Maru" cast off, deafening cheers arose from the crowds on the shore and daylight fireworks were let off from boats moored on the lake. For some way the "Midori Maru" was accompanied by an immense concourse of small boats, all gaily decorated with flags and bunting, but these were soon left behind as the ship gathered speed. On deck, specimens of fish, turtles and molluscs found in the lake were exhibited in wooden pans filled with water. Most of these were subsequently thrown overboard by the Prince and his suite. This is believed to propitiate the spirit of the lake and to ensure large catches to the fishermen. Considerable amusement was caused by the eels, which cleverly eluded all efforts to catch them for a long time, and by one particularly ill-tempered, snapping turtle which resented any interference with its person and could only with difficulty be conveyed to the side and consigned to its natural element.

In the middle of the lake an exhibition was given of fishing with cast nets, but in spite of the finished manner in which the nets were cast, the number of fish caught did not appear to be very large.

Lunch was served on board, the Governor and the chief of the police sitting on either side of the Prince during the meal. No stop was made until the boat reached the old castle town of Hikone, formerly the residence of the Daimyo, Ii Kamon no Kami, a famous Minister of the Shogun's Government prior to the Restoration, who was assassinated in Tokyo owing to his supposedly pro-foreign sympathies.

Having arrived at Hikone, His Royal Highness, accompanied by his staff, went ashore about 4 P.M. and received an enthusiastic ovation from the inhabitants of the town. The journey from the landing-stage to the foot of the hill on which the castle is situated was made in motor cars, the actual ascent of the hill itself being necessarily performed on foot. Tea and light refreshments were provided on the top, in the grounds of the castle, from which a wonderful panoramic view was obtained of Lake Biwa and the mountains which encircle it. After spending about half an hour at the castle, the Prince returned to the foot of the hill and drove to Hikone station, where he boarded the royal train, which was to convey him to Gifu.

At Gifu, which was reached at about 6 P.M., His Royal Highness was met by the mayor of Gifu and other local officials and by Marquis Inouye, Grand Master of Ceremonies at the Imperial Court, who had come down from Tokyo in order to accompany the Prince on the Nagara River, where fishing with cormorants was arranged to take place that evening. After a short drive through the streets of Gifu, where His Royal Highness was accorded a tremendous welcome by the townspeople and the inevitable school-children, the landing-stage on the Nagara River was reached, and the Prince and his suite embarked on three barges brightly decorated with flags and Gifu lanterns for which the locality is noted, which were then towed up-stream to the place where the fishing was to commence. About one hour and a half were required to reach the destination, and during this time a most excellent dinner was served on board. Night had already fallen when the boats arrived at their destination, and a large number of fishing-boats were waiting there in readiness to commence operations. The fishing itself certainly presented a most unique and extraordinary spectacle. Each boat, which was manned by two men, one to steer it and the other to manipulate the lines to which the cormorants were attached, was provided with a large brazier filled with burning wood slung over the bows in order to attract the "ayu," a species of grayling with which the river abounds. The fishing-boats then came down stream in a large semicircle, the fishermen uttering strange and unearthly cries and beating the water with poles in order to arouse the fish. As the boats neared the spot where the royal barges were moored, they closed in, and the cormorants, fourteen to each boat and all manipulated by one man, which until then had been sitting in solemn rows on the gunwales of the boats quite undisturbed by the flare of the braziers and the din and clamour going on around them, were thrown into the water and darted hither and thither in pursuit of the fish which they caught by diving under the water after them. Whenever a cormorant was seen to have a fish in its crop, it was hauled on board by the fisherman, made to disgorge its catch and thrown back into the river, where it immediately resumed its business with undiminished energy.

One of the most interesting features of the fishing is the marvellous dexterity of

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the fishermen who manage the lines in such a way that they never get entangled although all fourteen are held in one hand and the birds dart about in all directions in a perfect frenzy of excitement. Whenever a bird caught a fish in such a way that it was difficult to swallow, it would come to the surface, throw the fish into the air and dexterously catch it by the head and swallow it.

The still river surrounded by mountains dimly visible in the darkness, the glare of the flaming braziers lighting up the occupants of the fishing-boats with a lurid glow, the strange looking birds darting in all directions in pursuit of the fish, and the unearthly hooting cries emitted by the fishermen lent a weird and uncanny aspect to this strange scene.

Fishing was continued all the way down the stream until nearly abreast of the landing-stage, and the catch must have been considerable.

As the town of Gifu was neared both banks of the river were seen to be illuminated with rows of lanterns which lit up the faces of the thousands of people who had gathered along them to see the Prince return. Large numbers of fireworks were also let off, and some of the set pieces were exceptionally fine.

After landing, His Royal Highness proceeded to the station, where he said farewell to the Governor and the mayor, and thanked them warmly for the very interesting entertainment they had provided. The special train left Gifu at 10·20 P.M., arriving at Kyoto at 1 A.M.

Saturday, April 29.

The morning was left free. In the afternoon His Royal Highness, accompanied by some members of his staff, visited the Kyoto Imperial University. The entrance to the university was filled with students, who crowded round the Imperial cars, and gave the Prince a most rousing reception. At the main porch His Royal Highness was received by the dean, who conducted him upstairs to a reception room, where the heads of the different colleges were presented. His Royal Highness then proceeded to a temporary building erected in the grounds, where all the students were assembled together to listen to the address of welcome which the dean made in English. His Royal Highness replied in a few words, thanking the dean and the students for the reception they had accorded him, the written reply being handed to the dean unread. The proceedings then closed with three cheers for His Royal Highness.

Before leaving the university His Royal Highness inspected some of the university records, and then attended for about twenty minutes a football match which had been organised between the university and a foreign team from Kobe.

On his return from the university, His Royal Highness visited the Imperial Palace, the former residence of the Emperors, and the Nijo detached Palace, once the Kyoto residence of the Shoguns or Military Governors of Japan, but now the property of the Imperial family. At the Imperial Palace His Royal Highness witnessed a game of football as played in ancient days, the contestants, of whom the youngest appeared to be about 50 years of age, being clothed in the old ceremonial dress in which the game was played in olden days. These clothes, with their long and baggy trousers and flowing sleeves, seemed singularly ill-adapted for a game of football, but the game itself proved to be a very dignified form of amusement, quite unlike that played in England, and the players were not nearly so much hampered by their accoutrements as might have been expected.

At 6 o'clock in the evening His Royal Highness attended a reception by the mayor of Kyoto, at which the mayor read an address of welcome, for which the Prince expressed his thanks in a few words, the actual reply being handed to the mayor unread, as was done at the Imperial University. Before leaving the Prince inspected an exhibition of Kyoto products and works of art, some of which were exceedingly beautiful.

At 7 P.M. His Royal Highness and some of his suite were entertained by the Governor of Kyoto at a Japanese dinner given at the house of Baron Fujita, a wealthy merchant, who had lent his house for the purpose.

Sunday, April 30.

In the morning His Royal Highness received the British residents at the Omiya Palace, and then proceeded with his staff to the Nippon Seiko-kai, an Anglo-American church, where he attended Divine Service, the service being conducted by English and American clergymen, headed by Bishop Foss (Anglican) and Bishop Tucker (American).

From the church the royal party drove to the Kamo River Botanical Gardens, where

His Royal Highness witnessed physical exercises performed by over 2,000 students and about 1,500 girls, all of whom acquitted themselves very well. The students then sang the British National Anthem, in singing which, however, they seemed to be far less at home than at physical drill.

Lunch was served at the Shugaku-in, an Imperial villa, built many years ago as a residence for a retired emperor at the foot of Mount Kiei to the north-east of Kyoto, from which a very fine view can be obtained of the city of Kyoto and the surrounding country.

In the evening His Royal Highness gave a dinner at the Omiya Palace, to which the Governor of Kyoto, the mayor, the Governor of Shiga Prefecture, Lieutenant-General Shiki, the chief of the police, Baron Fugita, and numerous other Japanese officials and others were invited.

Monday, May 1.

His Royal Highness, accompanied by the whole suite, visited the Higashi Hongwanji, Nishi Hongwanji and Kinkakuji temples in the morning.

At 2 P.M. the Prince and his suite left the Omiya Palace by car for the Hozu River and descended the rapids—a very interesting trip amidst beautiful surroundings. At Saga, where the river issues from the mountains and enters the plain, immense crowds had gathered to witness the Prince's arrival. Here the royal party disembarked and had tea at the villa of Count Otani, the retired abbot of the Nishi Hongwanji Temple, a very aged man, whose dignified appearance in priestly vestments was somewhat marred by the addition of an ancient bowler hat and elastic-sided boots. From Saga the Prince returned to Kyoto by car.

In the evening His Royal Highness dined with the mayor of Kyoto in foreign style, afterwards attending a performance of the Miyako Odori, the famous dance performed by geisha in Kyoto every spring. The actual season for the dance had already passed, but a special performance was arranged in the Prince's honour at the Miyako Odori Club House. Both the dances and the scenery on the stage were exceptionally pretty and effective, and, judging from the applause, were much appreciated by the audience, including His Royal Highness.

Tuesday, May 2.

In the afternoon His Royal Highness, accompanied by a few of his staff, proceeded by car to Uji, a famous centre of the tea-growing industry, where he visited some of the tea gardens and the Byodo-in, a Buddhist temple dating back to the eleventh century. Later on the Prince had tea at Mr. Fukuda's house, and returned early in the afternoon to Kyoto.

In the evening the Prince and some of his staff dined privately with Mr. Saionji, Vice-Grand Chamberlain, at the house of his father, Prince Saionji, one of the Elder Statesmen.

Wednesday, May 3.

No arrangements had been made for this day, and His Royal Highness spent the greater part of it in shopping and driving about the town.

In the evening His Royal Highness and some of his staff dined privately in Japanese style with Baron Fujita at his villa.

Thursday, May 4.

His Royal Highness and his whole suite left Kyoto for Nara by the 9 A.M. train. As this was the Prince's final departure from Kyoto, the streets along which he was to pass were filled from early morning with crowds of people anxious to give His Royal Highness an enthusiastic send off. Troops of the 16th division were also drawn up in the vicinity of the station. His Royal Highness's appearance on the route was the signal for a deafening outburst of cheers, accompanied by the waving of innumerable paper flags, and left little doubt as to the extent of the Prince's popularity with the citizens of Kyoto. As usual, His Royal Highness carried a Japanese flag, which he waved to the people, thereby rousing them to transports of enthusiasm.

At the station His Royal Highness was met by the Governor, the mayor, the commander-in-chief and many other prominent persons, who accompanied him to the platform to see the royal train depart.

The ancient town of Nara, many years ago the residence of the emperors and the seat of the Government, was reached at 10·20 A.M. At the station the Governor of

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Nara Prefecture, the mayor of Nara, the colonel commanding the 53rd regiment and numerous other personages were waiting to welcome the Prince. Outside the station a triumphal arch had been erected in the Prince's honour, and the street leading from the station to the Nara Hotel, which had been reserved entirely for the use of His Royal Highness and his suite, was lined with school-children, soldiers of the 53rd regiment and townspeople. The usual cheering and waving of flags greeted the royal party, who were conveyed from the station to the hotel in the Imperial cars which had been sent ahead the previous day.

In the afternoon His Royal Highness and his suite visited the Horyuji Temple, situated about 9 miles out of Nara, and probably the oldest temple in Japan, having been built in the years 586–587 A.D. It ranks amongst the oldest wooden structures in the world, and contains some extraordinarily interesting figures, carvings and utensils of great antiquity.

After spending some time in inspecting the temple and its treasures, the Prince returned to Nara and visited the Nara Public Hall, where a number of local products were on exhibition, some of which His Royal Highness purchased. Tea was served in the exhibition hall, and, later on, the sacred deer which are allowed to roam about at large in the temple grounds and public garden were summoned by one of the keepers blowing a horn, and, when assembled, were fed with biscuits, which they readily took from the hand.

Before returning to the hotel His Royal Highness visited the Todaiji Temple, which contains the largest Buddha in Japan, cast in bronze in the year 748

In the evening a large number of the inhabitants carrying paper lanterns assembled on a famous hill in the locality known as Mikasa Yama, and arranged themselves in such a way that their formation represented the word "Welcome," which was clearly visible several miles away. Later on they descended from the hill, and, forming into a procession, marched past the hotel cheering the Prince, who stood on the veranda.

Friday, May 5.

In the morning His Royal Highness visited the Kasuga Jinja, one of the most famous Shinto shrines in Japan, where he witnessed an ancient sacred dance performed by young girls attached to the shrine. Leaving the Kasuga shrine, he proceeded to the Shoso-in, an ancient storehouse built more than 1,100 years ago, in which are preserved the favourite treasures of the Emperor Shomu Tenno, who died in the year 756. The articles stored in the Shoso-in have never been removed since the day on which they were placed there, and even to-day the building is very rarely opened and then only by special command of the Emperor. The treasures consist chiefly of swords, bows and arrows, mirrors, musical instruments, documents, &c., and number in all 579 pieces. Some of them are very beautiful, others are simple and primitive, whilst some are mere fragments and rags, but they form a most insteresting collection and give some idea of the civilisation and culture attained by Japan in the 8th century.

At 2·30 P.M. the Prince and his whole suite left Nara for Osaka by the electric tram in cars specially provided by the company. Before leaving, His Royal Highness said farewell to the Governor, the mayor and other officials who had assembled at the station to see him off. At the Osaka terminus of the electric railway, which was reached a little after 3 o'clock, His Royal Highness was met by the Governor of Osaka Prefecture, the mayor of Osaka, Lieutenant-General Suzuki, commanding the 4th division, the director of the Osaka arsenal, the acting British consul and many other officials and prominent persons of the town.

From the station the Prince and his party proceeded by car to Osaka Castle, built in the year 1584, and probably the finest example of a mediæval fortress in Japan. The super-structure was destroyed by fire in 1868, but the walls built of granite blocks, some of which are of immense size, are still intact. At the present time the castle is used as the headquarters of the 4th division.

Enormous crowds had assembled outside the station and along the route to the castle to witness His Royal Highness's arrival. As the Prince and his suite passed by he was greeted with deafening cheers, and the enthusiastic populace, consisting largely of working people from the numerous factories and shipyards in Osaka, overcoming the efforts of the police to restrain them, surged up to the Imperial cars waving flags and shouting "Banzai." In one place the crowd became so dense that the procession had to be stopped for a few moments until a way could be cleared for the cars. The reception accorded His Royal Highness at Osaka certainly surpassed in enthusiasm anything witnessed previously and was the more remarkable in that it appearedto be largely spontaneous and less carefully organised than in other towns visited by the

Prince. Troops from the 4th division and school-children were drawn up, as usual, in orderly lines, but the mass of the people seemed to have assembled together of their own initiative and to be genuinely eager to see His Royal Highness and give him a hearty welcome.

After inspecting the divisional headquarters at the castle and spending some time in admiring the wide view of the surrounding country obtainable from the battlements, His Royal Highness was conducted to a reception room, where tea was served and a number of officers presented to the Prince. After tea a sham battle was carried out by soldiers of the garrison.

From the castle the Prince drove to the Prefectural Office, a fine building situated in the centre of the town, where he received addresses of welcome from the Governor and mayor. His Royal Highness also inspected some exhibits of local products which were displayed in one of the rooms, and was presented with a number of gifts, some of them of a very costly nature.

After conversing a while with some of the local officials, the Prince and his suite left the Prefectural Office and returned to the station in order to catch the special train which was timed to leave for Kobe at 4·45 P.M.

Kobe was reached at 5·45, and His Royal Highness, on alighting from the train, was met by the Governor of Hiogo Prefecture, the mayor of Kobe, the acting British consul-general and Mrs. Paske-Smith and the staff of His Majesty's consulate-general, leading British residents, representatives of the Parsee community and numerous Japanese officials, as well as a number of Americans. The Hindoo and Mahommedan communities were not represented, as they had refused to take part in any of the celebrations out of sympathy, so they said, with their fellow-countrymen in India. Miss Paske-Smith, the daughter of His Majesty's consul-general and Miss Ariyoshi, the daughter of the Governor, each presented the Prince with a bouquet of flowers.

From the station His Royal Highness proceeded to the Prefectural Office through streets so densely crowded with people who had come out to welcome the Prince that in places the drivers of the cars had to exercise the greatest caution in threading their way through the serried ranks of children, students, workmen and townspeople, all waving flags and shouting "Banzai" at the top of their voices. At Tokyo and Kioto it seemed difficult to imagine a more hearty and enthusiastic welcome than that extended to His Royal Highness in those towns, but the wave of enthusiasm seemed to grow as the royal tour progressed, and at Osaka and Kobe it quite surpassed anything previously experienced, at least in so far as numbers and volume of sound were concerned.

At the Prefectural Office His Royal Highness received addresses of welcome from the Governor and mayor, to each of whom the Prince handed a written reply. A number of valuable gifts were also presented to the Prince.

Leaving the Prefectural Office, His Royal Highness and suite drove to the docks and went on board the "Keifuku Maru," a fine boat of some 5,000 tons belonging to the Railway Department, which had been specially built in order to convey the Prince to Takamatsu and Miyajima in the Inland Sea. The vessel is, however, to be employed subsequently in the ferry service between Shimonoseki and Fusan in Korea.

Having changed on board, the Prince and his suite proceeded to the Yuasa mansion to attend a Japanese dinner given in the Prince's honour by the Governor of Hiogo Prefecture.

Shortly after 9 o'clock the Prince, accompanied by his staff, left the dinner-party and drove to the Oriental Hotel to attend the ball given by the British community. His Royal Highness's departure from the Yuasa mansion took place somewhat earlier than had been arranged, as the police authorities expressed the fear that the immense crowds which had gathered in the streets and in the vicinity of the hotel might get beyond control and render it difficult for the royal party to reach the hotel. Actually nothing of the kind occurred, although the royal cars did experience some difficulty in moving away from the hotel entrance owing to the dense mass of people who surrounded them and swarmed up the steps of the hotel in order to catch a glimpse of the Prince.

His Royal Highness was received at the entrance to the hotel by Mr. Paske Smith and the ball committee, who lead the way to the main hall, where the ex-service men, several British ladies who had seen service with the Red Cross and the members of the committee and their wives were presented. The Parsee ladies presented the Prince with a bouquet of flowers and a wreath.

Dancing commenced at about 10 o'clock and continued, with an interval for supper, until shortly before 1 o'clock, when His Royal Highness left and returned to the

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"Keifuku Maru." The whole programme was admirably carried out and reflected great credit on its organisers.

As soon as everyone was on board, the "Keifuku Maru" left the pier and anchored outside the harbour at a point where an excellent view could be obtained of the brilliantly illuminated town.

Saturday, May 6.

At 8·30 in the morning the "Keifuku Maru" weighed anchor and left Kobe, escorted by the cruisers "Kiso" and "Oi," for Takamatsu, in the island of Shikoku, which was reached at 1·30 P.M. On arrival, the Governor of Kagawa Prefecture, the mayor of Takamatsu and Count Matsudaira, whose family were the former Daimyos of the place, came on board and were presented to the Prince.

At 2 P.M. His Royal Highness and his staff went ashore and were received on the pier by the Governor, mayor, Count Matsudaira and Prince Tokugawa, who is related to the Matsudaira family, and had come from Tokyo to assist in entertaining the Prince.

Accompanied by these gentlemen His Royal Highness visited the Ritsurin Park, a famous park in Japan and once the property of the Matsudaira family, by whom it was laid out. After spending some time in the park, the Prince proceeded to the municipal hall, where an address of welcome was presented by the civic authorities.

Leaving the municipal hall, His Royal Highness drove through Takamatsu, the streets of the town being decorated with flags and filled with crowds of people who had come out to see and welcome the Prince, to Yashima, lying about 3½ miles east of the city.

Yashima is a place of great natural beauty, from which a wonderful view can be obtained of the Inland Sea, and is famed throughout Japan as the site of a decisive battle fought in the twelfth century between the two rival clans of Taira and Minamoto. To reach the summit of the mountain a fairly stiff climb is necessary, and His Royal Highness preferred not to attempt it, but returned to the "Keifuku Maru." Some members of the British and Japanese suites, however, undertook the ascent and were rewarded for their pains with a glorious view from the summit. Extensive preparations had been made both by the priests of the Yashima-dera, an ancient Buddhist temple of the Shingon sect, situated on the top of the mountain, and by the local authorities to welcome the Prince should he make the ascent, and some disappointment was evinced when it was learnt that he had decided not to do so.

At 7·15 P.M. His Royal Highness and the whole suite went ashore to dine in Japanese style with Count and Countess Matsudaira at their residence. Prince Tokugawa, Rear-Admiral Hyakutake, commanding the escorting squadron, the general commanding the cadre of the 15th division, which is away in Siberia, and some officers of H.I.J.M.S. "Kiso" and "Oi" were also present, and a very pleasant evening was spent.

Before leaving, Count Matsudaira presented His Royal Highness with a very fine Japanese sword, an ancient heirloom of the Matsudaira family.

Sunday, May 7.

At 7 A.M. the "Keifuku Maru" left Takamatsu and steamed down the Inland Sea to Miyajima, arriving there about 4 P.M. The sacred island of Miyajima is famous for the natural beauty of its surroundings, and is visited by thousands of people every year who make pilgrimages to the temple there.

As soon as the "Keifuku Maru" had anchored, the Governor of Hiroshima Prefecture came on board to welcome the Prince, and His Royal Highness with his suite landed shortly afterwards. From the pier the Prince proceeded to an ancient edifice known as the Senjokaku, or "Hall of a Thousand Mats," where an address of welcome was presented by the Governor. After inspecting the building the Prince visited the temple and then walked a short way along the shore, returning through the village to a very picturesque spot known as the Valley of Maples, where tea was served in a Japanese house situated in the most exquisite surroundings. Having rested here a while, His Royal Highness made a few purchases of local products in the village and returned on board. Count Chinda and all the members of the Japanese suite, with the exception of Admiral Yamanashi, Captain Yamamoto, Commander Kurokawa and Viscount Matsudaira, did not return to the "Keifuku Maru," but proceeded by train to Kagoshima.

After night had fallen thousands of coloured lights on floats were set free at one

end of the straits which, drifting down with the tide, converted the straits into a sea of dancing lights and formed a most entrancing and fairylike spectacle never to be forgotten by those who witnessed it.

Monday, May 8.

His Royal Highness, accompanied by Admiral Halsey, General Woodroffe, Sir Godfrey Thomas, Captain North, Admiral Yamanashi and Captain Yamamoto, left Miyajima on board H.I.J.M.S. "Kiso" for Etajima at 8·30 A.M., the remainder of the staff following in H.I.J.M.S. "Oi." At Etajima His Royal Highness was welcomed by Vice-Admiral Chisaka, director of the Naval Cadet School, and other naval officers, who conducted him to the college where he inspected the cadets and met His Imperial Highness Prince Takamatsu, a younger brother of the Prince Regent, who is also a cadet at the school. After inspecting the school building, His Royal Highness proceeded to the main hall where all the cadets were assembled in order to sing "God Save the King," and to listen to an address of welcome in English delivered by the senior cadet.

On the playground an exhibition was given of a game peculiar to the Naval School at Etajima, known as "Sao-taoshi," or "Downing the Pole," and a rougher game it is difficult to imagine. About 250 cadets, divided into 125 a side, took part in the game, which is played as follows: Each side is provided with a pole around which are grouped some fifty or sixty cadets, whose duty it is to keep the pole upright whilst the opposing side endeavour to pull it down. The remainder attack the pole, which is similarly defended by the opposite side at the other end of the playground. Whichever side pulls the opponents' pole down first is declared the winner. In attacking the defenders of the pole, it is permissible to climb over their heads in order to seize the pole, and the opponents may strike one another anywhere but in the face with their fists, but not with the knuckles—a rule which did not appear to be very rigidly observed, as several of the cadets were seen to be bleeding in the face after the affray was over. On the whole, serious injury seldom occurs, as the players are barefooted and never seem to lose their tempers however severely they may be struck or mauled.

After watching this game for some time His Royal Highness and staff returned to the "Kiso" and "Oi," which conveyed them to Kure, the naval base, which was reached after about one hour's run.

At Kure, His Royal Highness was met by Admiral Murakami, the commander-in-chief, Vice-Admiral Moriyama, the admiral superintendent of the dockyard, Admiral Takarabe, the commander-in-chief at Sasebo, his Excellency the British Ambassador and Captain Colvin, naval attaché to His Majesty's Embassy, who accompanied His Royal Highness to Kagoshima, and numerous other naval officers. Later on His Royal Highness also met another younger brother of the Prince Regent and a son of the younger Prince Fushimi, who are on service at Kure.

After lunch with the commander-in-chief, His Royal Highness proceeded to inspect the naval dockyard and workshops, and returned on board H.M.S. "Renown" at 3 P.M.

His Imperial Highness Prince Higashi-Fushimi, who was to have come to Kure in order to take farewell, was unable to do so owing to indisposition.

At 4 P.M. H.M.S. "Renown," escorted by the "Kiso" and "Oi," left Kure for Kagoshima, his Excellency the Ambassador, Captain Colvin and Mr. Birch, first secretary to His Majesty's Embassy, being also on board.

Tuesday, May 9.

H.M.S. "Renown" arrived at Kagoshima at 8·30 A.M. At 9·45 the Governor of Kagoshima Prefecture, the mayor of Kagoshima and Mr. Shimadzu, a younger brother of Prince Shimadzu, who is at present in London, came on board and were presented to His Hoyal Highness.

At 10·15 His Royal Highness and his suite and his Excellency went on shore. The small British community of Kagoshima were assembled on the pier, and were presented in turn to the Prince.

Leaving the pier, His Royal Highness attended a reception held in the open by the Governor and Mayor, who each presented an address of welcome. On the conclusion of this part of the ceremony a parade was formed composed of men in ancient Japanese armour and children dressed to represent the rank and file of a Japanese army in bygone days, and provided a most picturesque and interesting spectacle. This was followed by an exhibition of massed fencing by students and a representation of a popular Satsuma dance known as "Bo-Odori."

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From the reception ground His Royal Highness proceeded to an exhibition of native products and visited a museum containing a very interesting collection of swords, armour, pictures and other treasures belonging to the Shimadzu family, whose ancestors were the chiefs of the famous Satsuma clan.

After spending some time in inspecting the collection His Royal Highness drove to the villa of Prince Shimadzu, which is situated in a lovely garden overlooking the sea, and had lunch with Mr. Shimadzu, Admiral Togo, Baron Ijuin, of the Foreign Office, Admiral Takarabe, commander-in-chief at Sasebo, Count Kabayama, all famous Satsuma men, and others being also present. A number of young Satsuma ladies dressed in bright kimonos, who served tea, added an additional charm to the proceedings and enhanced the picturesqueness of the scene.

Shortly after 2 P.M. the Prince took leave of all but the Japanese suite and left for the "Renown," accompanied by his staff. As on his arrival, the streets and open spaces were thronged with school-children and townspeople, who gave His Royal Highness a most hearty send off as he passed through their lines and when he left the shore.

At 2·25 His Royal Highness visited H.M.S. "Durban" and H.I.J.M.S. "Kiso" and "Oi," after which he returned on board the "Renown." The Japanese suite then took leave of His Royal Highness, and the "Renown" and "Durban," escorted by the "Kiso" and "Oi," left Kagoshima for Manila, thus concluding a visit which will remain in the minds of the Japanese people for many years to come as one of the most memorable events in the history of their country.

C. J. DAVIDSON.

Tokyo, May 24, 1922.

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A.S.C. 2.

ANGLO-SOVIET CONFERENCE.

Second Meeting at Foreign Office, at 3 P.M. *on April* 15, 1924.

In the Chair: The PRIME MINISTER
(later replaced by Mr. A. PONSONBY).

Present :

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. V. A. A. H. Wellesley.	C. G. Rakovski.
Mr. J. D. Gregory.	M. P. Tomski.
Mr. O. St. C. O'Malley.	B. S. Stomonyakov.
Mr. F. Phillips.	E. A. Preobrazhenski.
Sir S. J. Chapman.	A. L. Scheinmann.
Mr. H. Fountain.	A. M. Radchenko.
Sir W. H. Clark.	I. A. Zhitkov.
Experts.	*Experts.*
Sir C. J. B. Hurst.	G. N. Lashkevich.
Mr. W. Peters.	N. M. Lyubimov.
Mr. H. J. Hutchinson.	V. P. Osetrov.
Mr. S. D. Waley.	E. A. Behrens.
Secretariat.	*Secretariat.*
Mr. W. Strang.	Y. D. Janson.
Mr. P. M. Roberts.	A. F. Rothstein.
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

1. *Procedure of Conference.*

The Conference agreed that—

(*a.*) Instead of dividing into a political and an economic committee, as had been originally proposed, the conference should remain undivided. The Prime Minister would be in the chair whenever possible, and, when unable to be personally present, his deputy would take his place. The members of the two delegations present at each meeting would vary according to whether political or economic questions stood on the agenda.

(*b.*) Apart from meetings of special importance, no verbatim reports will be made. The decisions taken at each meeting will be recorded in writing, together with a short *exposé* of the discussion.

(*c.*) The secretariat will be responsible for communicating after each meeting a summary of the proceedings to the press.

(*d.*) English and Russian will be the official languages of the conference, and the minutes of the meetings will be drawn up in both languages.

2. *Agenda prepared by the Committee of Organisation.*

The Committee of Organisation had agreed to place on the agenda the following questions on the political side of the conference :—

(1.) Treaties.
(2.) Inter-Governmental debts.
(3.) Arbitration treaty.
(4.) Labour legislation.
(5.) Personal injury claims.

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The Soviet Delegation proposed to add to these questions—

(6.) Territorial waters.
(7.) Disarmament.
(8.) League of Nations.
(9.) Refugees.

The Soviet delegation further reserved the right to add to the agenda further questions as the need arose.

3. *Information required by Soviet Delegation.*

The Soviet Delegation explained that, in order to enable them to consider some of the questions coming within the scope of the conference, particularly the second question placed on the agenda by the Committee of Organisation (Inter-Governmental debts), they would require to have access to certain information. Some of this was information which the British delegation could doubtless supply, but beyond this they required to have access to the archives of the Embassy and consulate of the former Imperial Government in London, of the former Russian Government Committee in London and any other documentary sources which might be in existence.

The British Delegation undertook to assist with such information as it was in their power to obtain, and *the conference agreed* that the question of the archives of former organisations of the late Russian Government, &c., in this country should be reserved for discussion between Mr. Ponsonby and M. Rakovski.

4. *Preparation by each Delegation of Memoranda for communication to each other.*

The Conference agreed that Mr. Ponsonby and M. Rakovski should discuss together on what subjects it would be desirable to prepare memoranda.

5. *Validity of Treaties concluded between Great Britain and the former Russian Empire.*

The British Delegation explained that the view of His Majesty's Government on this question was stated in the following passage of the Prime Minister's speech at the opening meeting :—

> "Under the second head I class a discussion of the treaties concluded by your predecessors with His Majesty's Government. Since no steps have been taken on either side to determine these, they must be considered as being still binding on both parties in view of international law. Some on examination will probably be found to be inapplicable to present circumstances; others may be spent; others may conflict in the letter or the spirit with obligations assumed towards other Powers by either party since 1917."

The Soviet Delegation, on the other hand, did not consider it necessary to examine the question of principle involved from an academic point of view. All that was required was to examine the treaties and decide which are to be in force for the future. The Soviet view on this question was expressed in the third paragraph of the note replying to the British note conveying *de jure* recognition. This reads as follows :—

> "Consequently my Government is prepared to arrive at an understanding with the British Government to replace those former treaties which have either been denounced or have lost their juridical force as a result of events during or after the war."

During the interruption of formal relations between His Majesty's Government and Russia (so far as the Soviet Government may be considered as successor to the late Imperial Government) six years had elapsed, during which so much had been altered, legislation in various countries was so changed, that it was difficult to find an old treaty which applied to present conditions. It was unnecessary to go into the legal point of view; all that was required was to ascertain which treaties were useful and which were important. These could be mutually agreed upon and receive immediate re-confirmation.

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The British Delegation set out their view as follows: Seven years ago there were in force a very large number of treaties between this country and Russia. For some years past there has been no Government which has been recognised as the rightful Government of that territory; but now the situation is changed by reason of *de jure* recognition of the Government of the Soviet Union. Consequently, the two Powers are in a condition now to be able to communicate frankly with regard to the validity of these treaties. If these numerous treaties which previously prevailed are no longer in force, it must be owing to some cause which is capable of discovery. It is obvious that in practice there must be many treaties which are no longer in force. Individual treaties may be concluded only for a term, and have therefore since expired. Other treaties may have been concluded for the purpose of assuring the existence of some particular fact which can no longer exist. These treaties equally clearly are spent. After eliminating these categories, there will yet be found to remain a substantial number which are capable in the future of observance in the same way that they were observed up to 1917. The point of principle in which the British delegation is interested arises only in connection with the class of treaties which will be found still to be capable of observance in the future because their provisions are appropriate to the conditions which still obtain to-day. This principle is that those of the treaties in existence in 1917 which are still capable of observance in the future must be regarded as binding upon both Governments in the future. The only point in which there is any possibility of misunderstanding as to the future arises over the use and meaning of the word employed by the Soviet delegation: "reconfirmation." The British view is that, when both parties are agreed that a particular treaty is useful for the future, all that is necessary is to take no steps to determine that treaty. The treaty would remain, *ipso facto*, in force, and the Soviet Government would accept the obligations involved by it, so that there would actually be no need for formal confirmation.

The Soviet Delegation suggested that the question under discussion might be defined as follows: What is the nature of the act which must be performed when both parties are in agreement that the circumstances affecting a given treaty are not altered? In their note conveying *de jure* recognition, His Majesty's Government had stated that "it was obviously to the advantage of both parties that the position in regard to these treaties should be regularised simultaneously with recognition" in order to ascertain which of them were still in force.

The Soviet delegation added that, with regard to the change in the circumstances affecting treaties, it did not wish to enter into juridical questions, but might mention that it would be possible to bring forward examples in the relations between His Majesty's Government and other Governments, including that of Russia—for example, the Bessarabian question—where His Majesty's Government had themselves taken into consideration such a change of circumstances and had not adhered to the principle of continuity which they wished to establish. The Soviet delegation considered that, if the Government now in existence in Russia were to assume any of the obligations of the old Governments, reconfirmation of those obligations would be necessary. The Soviet delegation was not prepared to accept the British view that all treaties were in force except those which should be specifically cancelled or altered. There was not, as far as their examination had carried them, a single treaty which would not need some alteration, were it only in the title, which bore the name of the former Russian Government.

The British Delegation enquired whether the Soviet attitude would be correctly represented as follows:—

> In respect of those treaties which it is agreed are still of utility, the Soviet Government will recognise the responsibility inherited from former Governments, but wish, nevertheless, to reconfirm the treaties, in order, as it were, to put their *imprimatur* on them.

The Soviet Delegation replied that they would reconfirm all treaties which it was considered should remain in force, and that, by such reconfirmation, they would be taking responsibility as regards the future; but that they did not understand how the question of responsibility could arise as regards the past. Whatever treaties the Soviet Government signed they would carry out in the future, but they could not be responsible if the treaties had not been observed in the past seven years.

The British Delegation undertook to prepare and submit to the Soviet delegation a formula which might reconcile the views held on either hand.

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6. *Appointment of a Committee to examine Treaties.*

The Conference agreed to appoint a committee composed of two members of either delegation to examine, in the first instance, the bilateral treaties, multilateral treaties being taken later. If, however, it were subsequently desired to remove any treaty from the sphere of the committee in order to discuss it in full conference, this could be done. Mr. Gregory and Mr. Strang were appointed to represent the British delegation, and M. Preobrazhenski and M. Lashkevich on behalf of the Soviet delegation.

7. *Next Meeting of the Conference.*

The Conference agreed that the next meeting, which would be a full meeting, should take place at 3 P.M. on Wednesday, the 16th April. A full agenda would be prepared by both delegations of the questions it was desired to discuss at the conference. *The Soviet Delegation* further expressed the intention of preparing a brief programme containing those questions which it was considered might be dealt with in the first instance as being capable of prompt settlement.

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A.S.C. 4.

ANGLO-SOVIET CONFERENCE.

Third Meeting at Foreign Office, at 3 P.M. *on April* 16, 1924.

In the Chair: MR. A. PONSONBY.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. V. A. A. H. Wellesley.	C. G. Rakovski.
Mr. J. D. Gregory.	M. P. Tomski.
Mr. O. St. C. O'Malley.	B. S. Stomonyakov.
Mr. F. Phillips.	E. A. Preobrazhenski.
Sir S. J. Chapman.	A. L. Scheinmann.
Mr. H. Fountain.	A. M. Radchenko.
Sir W. H. Clark.	I. A. Zhitkov.
	I. I. Kutuzov.
	N. M. Shvernik.
Experts.	*Experts.*
Sir C. J. B. Hurst.	G. N. Lashkevich.
Mr. W. Peters.	N. M. Lyubimov.
Mr. H. J. Hutchinson.	V. P. Osetrov.
Mr. S. D. Waley.	E. A. Behrens.
	P. Y. Rabinovich.
	A. N. Dolgov.
Secretariat.	*Secretariat.*
Mr. W. Strang.	Y. D. Janson.
Mr. P. M. Roberts.	A. F. Rothstein.
Mr. O. T. Rayner.	V. Y. Yarotski.
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

1. *Preparation of Agenda.*

Both delegations had prepared a list of subjects for discussion at the conference, and *the conference agreed* that the two lists should be compared and combined into a single agenda by the Committee of Organisation after the close of the meeting.

2. *Preparation of Memoranda by each Delegation.*

The Conference agreed that these memoranda should be as brief as possible, and should not enter into controversial points, thereby duplicating the discussions which would take place at the meetings. The subjects on which memoranda will be prepared will, as previously arranged, also be decided by the Committee of Organisation.

3. *"Small Programme" proposed by the Soviet Delegation for immediate consideration.*

The Soviet Delegation considered that the method of procedure from the more easy to the more difficult questions should commend itself to both parties as likely to give in the shortest possible time the greatest practical results.

(1.) The first step on the small programme which the Soviet delegation had in mind had been taken at the preceding day's meeting, when the question of the treaties had been discussed, and had been referred to a committee for detailed consideration.

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The remaining points on the small programme were as follows :—

(2.) As the discussions on the Commercial Treaty may be prolonged, the Soviet delegation considered it expedient to extend forthwith certain articles of the Anglo-Russian Trade Agreement which had been concluded between Great Britain, on the one part, and the Russian Socialist Federal Soviet Republic, on the other, to the British Dominions and to the remaining Federated Republics of the Union. Any further obligations henceforth undertaken by the Soviet Government would, of course, automatically apply to the whole Union, and it was only necessary to propose such an extension of the Trade Agreement as it had been concluded prior to the formation of the Union.

One of the portions of the Trade Agreement which it would be most desirable to treat in this manner was that relating to navigation, and the Soviet delegation proposed that a decision on this point might at once be reached and recorded in the minutes of the meeting. Furthermore, at the end of the Trade Agreement was appended a declaration on various matters, including the liquidation of the claims of British subjects for goods and services not yet paid for. The Soviet delegation considered that in this connection the Trade Agreement provided a concrete basis for decision, which might also be taken as a starting-point for similar Russian claims. As regards ways and means of liquidating the question of these claims, the Soviet delegation naturally reserved the right to make their proposals in the course of the conference.

(3.) Territorial waters.

(4.) Treaty of Arbitration.

(5) and (6.) The questions of joint Anglo-Soviet initiative on international labour legislation and disarmament should also be included. The Soviet delegation was prepared to leave these in reserve if the British delegation was not ready to discuss them. They wished, however, to mention these points so that they could be studied. For the moment this exhausted their proposals as to the small programme.

The British Delegation, before definitely agreeing to this method of procedure, by which the questions which were least likely to give rise to serious dispute should be taken first, desired to give further consideration to the proposal both as regards the method and as regards the suitability for the purpose of the various subjects indicated in the small programme. They were inclined to think that, while certain of these subjects were doubtless capable of easy settlement, since they were detached, others were attached to much larger questions of principle which would have to be discussed later. While they were, on the whole, disposed to consider the proposal of the Soviet delegation favourably, it was difficult even to say, without consideration, which questions were likely to be found mutually suitable for the small programme. The proposed extension of the Trade Agreement, for example, might present no great difficulty, whereas it would be necessary to devote more careful consideration to the other matters.

The Conference agreed that this question also should be discussed by the Committee of Organisation, and recommendations would be presented to the next meeting.

4. *Date of next Meeting.*

The next meeting will take place on Thursday, the 24th April, at 3 P.M.

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PRIME MINISTER'S OFFICE

MEMORANDUM

17

Saturday,
April 19, 1924

MR. KING:

Senator Dandurand phoned from Montreal this morning, and asked to have the following cablegram he has just received from F.H.Clergue in London:

"Deliver this message to Senator Dandurand, and cable his reply, Savoy Hotel:

"Saturday morning Times, Ottawa correspondent, cables Russian delegation to Canada accused of circulating Red propaganda, and that Premier King demanded explanation. Stop. If this information authentic, British Conference with Russian delegation here likely be seriously affected, and I may not present Premier's letters Moscow. Stop. Harsh criticisms by Trotsky and other Moscow radicals of Premier Macdonald's propaganda protest likely interrupt negotiations here, if Ottawa charges against Russian Soviet Commission verified. Stop. Commissioner Larkin on continent, returning next week, so cannot consult him."

McG.
F.A. McGREGOR

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C 41362 E. 7050

THE DEPARTMENT OF EXTERNAL AFFAIRS
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LEAGUE OF NATIONS

C.188.M.56.1924.VII

Communicated to
Council and Members
of the League

Geneva,

April 23rd, 1924.

CORRESPONDENCE FORWARDED BY THE PERSIAN GOVERNMENT CONCERNING DE JURE RECOGNITION OF THE SOVIET GOVERNMENT BY THE BRITISH GOVERNMENT

Note by the Secretary-General

The following letter from the Persian Delegate to the League of Nations, together with copy of the correspondence between the British Minister at Teheran, the Persian Minister for Foreign Affairs and the Soviet Delegation at Teheran, is communicated to the Members of the League of Nations at the request of the Persian Government.

Letter from the Persian Delegate to the League of Nations to the Secretary-General

Translation

Sir,

April 8th, 1924.

I have the honour to inform you that I am instructed by my Government to forward to you the attached documents and to request you to communicate them to the Members of the League of Nations.

1. Copy of a letter from H.E. Sir Percy Loraine, His Britannic Majesty's Minister at Teheran to H.E. Zoka-ol-Molk, Minister for Foreign Affairs, dated February 2nd, 1924, No. 28.

2. Copy of the Note attached to the above letter.

3. Translation of the letter of the 21st of Dalve (Feb.10th, 1924) No.20007, from H.E. Zoka-ol-Molk to H.E. Sir Percy Loraine.

4. Translation of the letter dated Dalve 21st, 1302 (Feb.10th, 1924) No.20008 from the Persian Minister for Foreign Affairs to the Soviet Legation at Teheran.

I am, etc.,

(Signed) Prince ARFA-OD DOVLEH

First Persian Delegate to the League of Nations.

MAY 15 Rec'd

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British Legation,

Teheran.

No.28. February 2nd, 1924.

Monsieur le Ministre,

By direction of His Majesty's Principal Secretary of State for Foroign Affairs I have the honour to transmit to Your Excellency for the confidential information of the Persian Government the enclosed copy of a note which is being addressed to the Soviet Government by the British Agent at Moscow.

Mr. Ramsay MacDonald requests that the contents of this note shall not be made public until its text has been published in London.

(Signed) PERCY LORAINE.

His Excellency,
Zoka-ol-Molk,
Minister for Foreign Affairs.

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2. Note addressed to the Soviet Government by the British Agent at Moscow.

I have the honour by the direction of my Government to inform Your Excellency that they recognise the Union of Socialist Soviet Republics as de jure rulers of those territories of the old Russian Empire which acknowledge their authority.

In order, however, to create normal condition of complete friendly relations and full commercial intercourse, it will be necessary to conclude definite practical agreements on various matters some of which have no direct connection with the question of recognition, some of Which on the other hand are intimately bound up with the fact of recognition.

In the latter category may be cited the question of existing treaties. His Majesty's Government are advised that recognition of the Soviet Government of Russia will according to accepted principles of International Law automatically bring into force all the treaties concluded between the two countries previous to the Russian Revolution except where these have been denounced or have juridically lapsed. It is obviously to the advantage of both countries that the position in regard to these treaties should be regularised simultaneously with recognition.

Technically unconnected with recognition but clearly of the utmost importance are the problems of settlement of the existing claims by the Government and nationals of one party against the other and the restoration of Russia's credit.

It is also manifest that genuine friendly relations cannot be said to be completely established so long as either party has reason to suspect the other of carrying on propaganda against its interests and directed to the overthrow of its institutions.

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In these circumstances His Majesty's Government invite the Russian Government to send over to London at the earliest possible date representatives armed with full powers to discuss these matters and to draw up the base of a complete treaty to settle the questions outstanding between the two countries.

In the meantime I have been given the status of Charge d'Affaires pending the appointment of an Ambassador, and I am to state that His Majesty's Govornment will be glad to similarly receive a Russian Charge d'Affaires representing the Government of the Union at the Court of Saint James'.

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3. Translation of Letter No. 20007 of Dalve 21st, 1302,
(Feb. 10th, 1924) to H.E. Sir Percy Loraine.
His Britannic Majesty's Minister at Teheran.

Your Excellency,

I have the honour to acknowledge receipt of your letter of Dalve 13th (Feb. 2nd) No. 28, in which you were good enough to forward to me a copy of a note sent to the Soviet Authorities by the Representative of the British Government at Moscow, with reference to the recognition of the Soviet Government by Great Britain. In reply, I have the honour to inform you that I have duly brought the contents of the note in question to the notice of my Government. As the note contains the following sentence:- His Majesty's Government are advised that recognition of the Soviet Government of Russia will according to accepted principles of International Law automatically bring into force all the treaties concluded between the two countries previous to the Russian Revolution, except where these have been denounced or have juridically lapsed, and as, moreover, the Soviet Government has, in pursuance of the terms of the note, been invited to send representatives to London for the purpose of laying down the bases of a treaty between the two countries, I beg to remind you that, as His Britannic Majesty's Government is doubtless aware, any Convention which may have been concluded in the past or which may be concluded in the future between Great Britain and Russia with reference to Persia will in principle and de facto be regarded as null and void, and that the Persian Government, as the Government of an independent and sovereign State, has reserved and will continue to reserve its full right and its full liberty of action.

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4. Translation of Letter No. 20008 of Dalve 21st (Feb.10th) to the Legation of the Soviet Government

Your Excellency,

In its letter of Dalve 13th (February 2nd) No. 28 to this Department, the British Legation forwarded a copy of the note addressed by the British Government's Representative at Moscow to the Soviet authorities with reference to the recognition of the Soviet Republic.

I have the honour to forward for your information a copy of the reply, No. 20007, referring to the same subject, which was communicated to the British Legation on Dalve 21st (February 10th).

I am, etc.

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A.S.C. 6.

ANGLO-SOVIET CONFERENCE.

Fourth Meeting at Foreign Office, at 3 P.M. *on April* 24, 1924.

In the Chair: MR. A. PONSONBY.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. V. A. A. H. Wellesley.	C. G. Rakovski.
Mr. J. D. Gregory.	M. P. Tomski.
Mr. O. St. C. O'Malley.	E. A. Preobrazhenski.
Sir S. J. Chapman.	B. S. Stomonyakov.
Mr. H. Fountain.	A. L. Scheinmann.
Sir W. H. Clark.	A. M. Radchenko.
	N. M. Shvernik.
	I. Khidiraliev.
	I. I. Kutuzov.
	I. A. Zhitkov.
Experts.	*Experts.*
Sir C. J. B. Hurst.	G. N. Lashkevich.
Mr. W. Peters.	N. M. Lyubimov.
Mr. H. J. Hutchinson.	A. N. Dolgov.
Mr. S. D. Waley.	E. A. Behrens.
	V. P. Osetrov.
	P. Y. Rabinovich.
Secretariat.	*Secretariat.*
Mr. P. M. Roberts.	Y. D. Janson.
Mr. W. Strang.	V. Y. Yarotski.
Mr. O. T. Rayner.	A. F. Rothstein.
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

1. *Appointment of Committees to deal with Various Subjects.*

The Conference took note of and approved the agreement which had been reached by the Committee of Organisation to establish, in addition to the Treaty Committee already appointed, committees to deal with the following questions:—

(1.) Examination of and preparation of facts and figures with regard to (ii), (iii) and (iv) in the schedule attached to Mr. MacDonald's letter to M. Rakovski of the 11th February, namely:—

(ii.) Debts. (*a.*) Pre-war. (*b.*) War. (*c.*) Russian counter-claims.
(iii.) Determination of means for the restoration of Russia's credit in Great Britain.
(iv.) Claims of British subjects against Russian Government. Claims of Russian citizens against His Majesty's Government.

This committee may divide further into groups according to convenience.

The British Representatives will be:—

Mr. Wellesley ... ... } Foreign Office.
Mr. Gregory ... ... }
Mr. O'Malley ... ... }
Sir Sydney Chapman ... ... } Board of Trade.
Mr. Hutchinson ... ... }

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Mr. Phillips ... ... } Treasury.
Mr. Waley ... ... }

Sir William Clark ... ... Department of Overseas Trade.

The Soviet Representatives will be :—

M. Scheinmann,
M. Tomski,
M. Radchenko,
M. Shvernik,
M. Kutuzov,
M. Preobrazhenski,

with the addition of any necessary experts.

Arrangements for the meetings of the committee will be made between Sir Sidney Chapman and M. Scheinmann.

(2.) Drafting of a Treaty of Commerce and Navigation. To this committee will be referred the question of the immediate extension of certain clauses of the Trade Agreement to the British Dominions and to the Federated Soviet Republics.

The British Representatives will be :—

Mr. O'Malley ... ... Foreign Office,
Mr. Fountain ... ... Board of Trade.

and a representative of the Colonial Office.

The Soviet Representatives will be :—

M. Stomonyakov,
M. Janson,
M. Kutuzov,

with the addition of any necessary experts.

Arrangements for the meetings of the committee will be made between Mr. O'Malley and M. Stomonyakov.

(3.) Examination of and report on the question of Territorial Waters.

The British Representatives will be :—

Mr. Mounsey ... ... } Foreign Office,
Mr. Roberts ... ... }

and a representative of the Board of Trade.

The Soviet Representatives will be :—

M. Preobrazhenski,
M. Zhitkov,

with the addition of any necessary experts.

Arrangements for the meetings of the committee will be made between Mr. Roberts and M. Preobrazhenski.

(4.) *The Soviet Representatives* on the Treaty Committee will, in future, be :—

M. Preobrazhenski,
M. Zhitkov,
M. Khidiraliev,

with the addition of any necessary experts.

This committee will also consider the question of arbitration, in the form of a bilateral treaty.

The Conference decided that the British and Soviet representatives on each committee should set themselves in touch with one another immediately, with a view to arranging meetings of the several committees at the earliest possible moment.

The Conference agreed that the committees should be of an informal character, as this would enable the work to be carried through in a more expeditious and

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satisfactory manner. The duty of the first committee should be solely that of collecting information for submission to the conference; it would be beyond its scope to make proposals or elaborate formulæ.

The Conference agreed to a proposal by the Soviet delegation that the question of the liquidation of claims for goods and services not paid for, which is mentioned in the declaration annexed to the Trade Agreement, should be included within the sphere of the first committee as one of the first questions on which information should be collected.

The Soviet Delegation proposed that the questions of disarmament and international labour legislation should be included within the scope of the fourth committee.

The British Delegation, however, was of the opinion that these were not technical matters connected with any special treaties, but questions of general political principle, which should be primarily decided in a full session of the conference, if possible with the Prime Minister in the chair.

The Conference agreed to the latter procedure.

The British Delegation mentioned that there was one point in the schedule enclosed in the letter from the Prime Minister to M. Rakovski of the 11th February, under the heading of "Supplementary Outstanding Questions," which had been overlooked. This was the question of the claims of British subjects against the Soviet Government in respect of imprisonment and personal injury. The British delegation proposed that a special committee should be set up to deal with these claims.

The Soviet Delegation, however, considered that this category of claim could be dealt with by the first committee, as it came within the scope of (iv) of the schedule attached to the Prime Minister's letter of the 11th February.

The Conference agreed that these claims should be dealt with by the first committee, but should be treated as an entirely distinct and separate category. Claims of this nature would, of course, be considered on a basis of reciprocity.

2. *Validity of Treaties concluded between Great Britain and the former Russian Empire.*

On the proposal of the British delegation, the *Conference agreed* that the consideration of a formula which should reconcile the views held by the two delegations should be deferred until the conference was in possession of the report of the fourth committee.

3. *Next Meeting of the Conference.*

The Conference agreed that the next meeting should be held as soon as any of the committees had presented a report.

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Anglo-Soviet Conference. S.C.2.

Second Committee.

First Meeting at the Foreign Office on Friday,
25th April, 1924, at 3.0 p.m.

British Members.	Soviet Members.
Mr. O. St. C. O'Malley.	B. S. Stomonyakov.
Mr. H. Fountain.	I. I. Kutuzov.
Mr. E. J. Harding.	Y. D. Janson.
Secretariat.	Experts.
Mr. E. H. S. Marker.	A. N. Dolgov.
	G. N. Lashkevich.
	P. Y. Rabinovich.

Conclusions.

(1) The British members undertook -

(a) to endeavour to obtain a legal opinion as to whether the act of de jure recognition covered Canada and the other British Dominions and Colonies and to communicate this opinion to the Soviet members at the next meeting of the Committee;

(b) to state at the next meeting whether His Majesty's Government desired that the Trade Agreement of 1921 should be extended so far as Great Britain and Northern Ireland were concerned to cover those of the Soviet Republics comprised in the Soviet Union to which it did not at present extend.

(2) Mr. Harding, on behalf of the Colonial Office, undertook to consider whether steps could be taken to ascertain -

(a) whether Canada and the Irish Free State similarly desired/

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similarly desired that the Trade Agreement should be extended as indicated in (1) (b);

(b) whether any of the other Dominions and any of the Colonies desired to accede to the Trade Agreement pending the conclusion of a more elaborate Treaty of Commerce and Navigation.

(3) Mr. Stomonyakov undertook to examine the draft of a new Treaty of Commerce and Navigation which was submitted by Mr. Fountain.

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S.C. 5.

ANGLO-SOVIET CONFERENCE.

SECOND (COMMERCIAL TREATY) COMMITTEE.

Second Meeting at Foreign Office, Friday, May 2nd, 1924, at 3.0 p.m.

PRESENT:

British Delegation.	Soviet Delegation.
Mr. J.St.C.O'Malley.	B.S. Stomonyakov.
Mr. H. Fountain.	I.I. Kutuzov.
	Y.D. Janson.
Secretariat.	**Experts.**
Mr. O.T. Rayner.	A.N. Dolgov.
Mr. E.H.S. Marker.	G.N. Lashkevich.
	P.Y. Rabinovich.

SUMMARY OF PROCEEDINGS.

I. Mr. O'Malley communicated to the Soviet Delegation the attached legal opinion as to the effect of the de jure recognition.

II. Mr. O'Malley intimated that His Majesty's Government if so desired were willing to agree that the Trade Agreement of 1921 should be extended so far as Great Britain and Northern Ireland were concerned to cover those of the Soviet Republics comprised in the Soviet Union to which it did not at present extend.

The British Delegation took note of Mr. Stomonyakov's statement that the question of this extension was dependent on the question of the extension of the Trade Agreement to the British Dominions.

III. /

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III. Mr. O'Malley stated that if the Soviet Delegation desired the enquiry to be made, His Majesty's Government would be prepared to enquire (a) whether Canada and the Irish Free State desired that the Trade Agreement should be extended to cover the remaining Soviet Republics, and (b) whether any of the other Dominions and any of the Colonies desired to accede to the Trade Agreement pending the conclusion of a more elaborate Treaty of Commerce and Navigation. Mr. Stomonyakov said that the answers of the Soviet Delegation would be given at the next meeting, and Mr. O'Malley suggested that it might be best if Mr. Rakovski wrote to the Prime Minister both on this point, specifying exactly what enquiries the Soviet Delegation would like His Majesty's Government to make, and also setting out their views as regards II. above.

The draft Commercial Treaty which had previously been submitted to the Soviet Delegation by the British Delegation was then discussed. Mr. Stomonyakov proposed to begin with Article 5, and the Soviet Delegates agreed to communicate counter-drafts of this Article and of Article 6 to the British Delegation.

Mr. Stomonyakov stated that Article 7 could be accepted as it stood.

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The British Delegation are advised that, in view of the terms of the note of 1 February, it is unlikely that the courts in any part of the British Empire would maintain that the Government of the Union of Soviet Socialist Republics had not been recognised. In accordance with the usual British constitutional practice, the various self-governing portions of H.M. Dominions will make their own arrangements with regard to their future commercial relations with the Union. Any agreement or agreements which may be concluded as the result of the present negotiations will not bind the Dominion Governments.

26th April, 1924.

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A.S.C. 8.

ANGLO-SOVIET CONFERENCE.

Fifth Meeting at Foreign Office, at 11 A.M., *on May* 15, 1924.

In the Chair: Mr. A. PONSONBY.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. V. A. A. H. Wellesley.	C. G. Rakovski.
Mr. J. D. Gregory.	M. P. Tomski.
Mr. O. St. C. O'Malley.	E. A. Preobrazhenski.
Mr. F. Phillips.	A. L. Scheinmann.
Sir S. J. Chapman.	A. M. Radchenko.
Mr. H. Fountain.	I. A. Zhitkov.
Sir W. H. Clark.	I. Khidiraliev.
	I. I. Kutuzov.
	N. M. Shvernik.
	Y. D. Janson.
Experts.	*Experts.*
Sir C. J. B. Hurst.	P. Y. Rabinovich.
Mr. W. Peters.	A. Bitner.
Mr. H. J. Hutchinson.	E. A. Behrens.
Mr. S. D. Waley.	V. P. Osetrov.
	A. N. Dolgov.
	G. N. Lashkevich.
	N. M. Lyubimov.
	S. K. Bellegarde.
Secretariat.	*Secretariat.*
Mr. P. M. Roberts.	A. F. Rothstein.
Mr. W. Strang.	
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

MR. PONSONBY: Since the last full meeting of the conference, the sub-committees have been at work collecting detail and information; memoranda have been exchanged and sufficient preparatory work has been done for the delegates in full session to be able to arrive at certain decisions and to proceed to work towards a rapid conclusion of our labours. The work which is being done by the committees is of great value and will enable us, in a series of plenary sessions which can now be held, to deal with matters of policy and principle and so gradually dispose of all the questions which it is our duty to determine.

We can all agree that great goodwill has been shown already in the course of the negotiations; and I think that neither side need pay any attention to the comments which have been made outside the conference in the press of both countries.

The British delegation has drawn up an agenda for the present meeting with a view to exchanging opinions and, if possible, arriving at certain decisions on some of the main points. At our next session we hope the Soviet delegation will draw up the agenda in order to bring forward those questions upon which they would like an expression of our views.

The first subject which we propose to raise is that of treaties.

JUN 10 Rec'd

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	G. N. Lashkevich.
	N. M. Lyubimov.
	S. K. Bellegarde.
Secretariat.	*Secretariat.*
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Mr. W. Strang.	
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
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	G. N. Lashkevich.
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Secretariat.	*Secretariat.*
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M. RAKOVSKI: We, on our side, have become acquainted with the contents of the agenda for to-day's meeting, and raise no objection to it. We must, however, consider it as not exhaustive. Some, but not all, of the questions which fall to be discussed by the conference appear in it. I referred to this in my letter to Mr. Ponsonby, but I think it necessary to mention it at to-day's meeting. On the other hand, there are certain questions on the agenda, for example, private claims and pre-war debts, on which we shall not be able to express an opinion, as we have at present insufficient information in order to make a practical proposal. The material furnished to the sub-commissions has been insufficient, the data so far given by the British delegation being of too summary a character. We shall therefore have to ask for more detailed information. The Soviet delegation will be glad to hear the opinion of the British delegation on the question of the insufficiency of material; with regard to answering those points which are included in to-day's agenda, we shall reserve the right to give a reply at a future meeting after receiving additional information. I should like to inform the British delegation that the Soviet delegation have been preparing two memoranda; one we are presenting to-day (see Annex II), and the other will be presented before the end of the week. The memoranda refer (*a*) to bilateral treaties which have lost their force but the object of which is still in existence, affecting relations with eastern countries, and (*b*) the means for the restoration of Russian credit in Great Britain. We are also preparing the draft of the treaty for regulating fisheries off the Murman coast, and a draft treaty of arbitration has already been handed over to the British delegation.

MR. PONSONBY: Our agenda for to-day is not intended in any way to be exhaustive. We merely wish to arrive at an opinion on certain questions and so to advance matters further. The committees are still obtaining information, and their work is not yet finished; but we feel that it will assist the business of the conference in general if we can obtain an opinion on certain underlying principles. We do not expect to receive to-day an opinion on the points we shall bring forward, but we think that it is as well that the Soviet delegation should understand the opinion of the British delegation on these points.

M. RAKOVSKI: I agree.

MR. PONSONBY: With regard to treaties: The Fourth Committee has drawn up a list of treaties which may be regarded as no longer in force, and of those which are in force but require modification; the committee is now working on the draft of the necessary alterations in the latter class. The report of the committee (Annex I) has been circulated to the Soviet delegation, and I should be glad to obtain from them an opinion whether the classification of treaties into these two categories which has been arrived at should be accepted by the conference as a whole.

M. RAKOVSKI: The Soviet delegation would propose that the report of the Fourth Committee should be confirmed. The Soviet delegation has become acquainted with the work of the Fourth Committee and the contents of its report, and has no objection to the report being accepted by the plenary conference.

MR. PONSONBY: The British delegation entirely concurs.

M. RAKOVSKI: I wish to refer to those treaties which have lost their force but the object of which is still in existence. I have just handed to the British delegation a memorandum (Annex II) containing the general principles upon which the Soviet delegation is prepared to proceed and which should be observed in order to protect the interests both of the Soviet Union and of the British Government in this matter. I would therefore request the British delegation to acquaint themselves with the principles laid down in this document at the earliest possible moment, in order that the Fourth Committee may then proceed with the discussion of this category of treaties, namely, those where the treaty has lost its force but where the object of the treaty still exists. I must also express the desire that those treaties which may be regarded as in force but which require modification may be examined and the question settled at the earliest possible moment, as, according to the report made by the Russian members of the committee, the delay in this connection arises entirely from the British side.

MR. PONSONBY: The question of the modification of treaties will have to come before the conference again; a further report will be presented by the committee when it has reached a decision as to the alterations which should be made. Meanwhile, the British delegation will examine the Russian memorandum and express their views on it at a further meeting of the conference.

With regard to multilateral treaties:—The British delegation considers that there are certain multilateral treaties under which a bilateral agreement can be made between Great Britain and the Soviet Union. (A list of these treaties was read to the conference and will be found in Annex III.) The British delegation would suggest the following wording for such an agreement:—

"The two Governments are agreed that there is no obstacle to the observance henceforward as between Great Britain and the Union of Soviet Republics of the stipulations of the following multilateral treaties."

M. RAKOVSKI: On the Russian side the idea suggested by Mr. Ponsonby is naturally acceptable. We do not consider that the list put forward by Mr. Ponsonby is exhaustive, as we have not considered all the multilateral treaties from this point of view. I should like to point out that many multilateral treaties have been excluded which embody most important political questions affecting vital interests of the Soviet Union, and on the settlement of which depends the establishment of normal relations between the Union and Great Britain. In order that we may come to a settlement of those questions it is essential that we should have discussions with the British delegation on this matter and find some means of settlement. The Soviet delegation does not desire to fix the actual form or method of settlement, but the matter should be brought before the conference for discussion and settlement. These treaties—the treaties I have referred to—were included in the list which was prepared by the British Government and handed to me before I left for Moscow, and I regard this as being the fundamental constitution of the present conference.

MR. PONSONBY: While there may be one or two treaties of a formal business character which may be added to the list, I desire to make it clear, on behalf of the British delegation, that we do not consider that the other multilateral treaties can be brought within the scope of the conference. His Majesty's Government are not in a position to deal with them in any way without consultation with all the other signatory Powers. Generally speaking, we regard them as being all in force, and we shall be prepared to receive any declaration on the part of the Soviet delegation as to its attitude with regard to them.

M. RAKOVSKI: Naturally I entirely agree with the first part of Mr. Ponsonby's statement. It is perfectly clear that multilateral treaties can only be altered by agreement with all the signatory Powers, but in so far as these multilateral treaties affect the relations between Great Britain and the Soviet Union, I consider it essential that they should be discussed. The Soviet delegation considers that, in order to carry out the object of the conference, namely, to restore full normal relations, it logically follows that, while the treaties cannot be considered as a whole, those points must be considered which affect relations between Great Britain and Russia. Not only is the British Government interested to know the opinion of the Soviet Government on these questions, as regards both their mutual relations and the question of European peace, but the Soviet Government also is interested to know the attitude of the British Government towards these questions. These treaties were entered into at a time when there were no relations whatever between Russia and Great Britain, and when, consequently, it was impossible to exchange views. Now diplomatic relations have been restored, and this cannot be without its effect on the examination of these treaties. Now, it is logical for each party to enquire the attitude of the other towards the object of these treaties. In conclusion I would state that on the Soviet side we retain the right to present a written memorandum embodying our views on the subject of these treaties at such time as we may consider suitable.

MR. PONSONBY: The British delegation expected and welcomes such a course. While adhering to the statement which I previously made, I would say that we are, of course, prepared to examine any memorandum handed in by the Soviet delegation and to discuss it at a subsequent meeting of the conference

The next subject which the British delegation desires to discuss is that of personal injury claims. At a former meeting of the conference it was decided to entrust to Sub-Committee B. of the First Committee the task of dealing with the question of the claims for compensation of British subjects who have suffered imprisonment or personal injury in Russia since the revolution of November 1917. On examination of the correspondence which has passed since last May between our two Governments, we find that the principle which is to guide the settlement of this

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question has already been formulated. In the Foreign Office note of the 13th June, 1923, it was stated that " the other cases (of claims in respect to personal injuries' however, could not be ignored and would be brought up later. If the Soviet Government could establish a *primâ facie* case in the counter-claims they professed to have, there would be no objection to their being brought up at the same time, and we could discuss how they were to be dealt with, but we could admit no liability in these cases now." To that the British delegation adheres. The former British Government did not, it is true, proceed at once to make any more definite proposal for a settlement, but their intention was the appointment of an arbitral tribunal to deal *seriatim* with the British claims and with any counter-claims which the Soviet Government might see fit to put forward.

The question having been now brought within the scope of the present conference, there seems no particular reason to propose an alternative procedure to that just indicated, and all that the conference can really do is to confirm the suggestion referred to, in which the Soviet Government appears to have acquiesced. I therefore propose that we should insert in the general treaty which we are negotiating, a simple clause, establishing an arbitral tribunal to sit independently and assess and adjudicate on the various claims and counter-claims that will be brought within its jurisdiction, and making its decisions binding upon the two Governments. In these circumstances it will not be necessary to entrust this work to the sub-committee, as the full conference can now provide for the establishment of the arbitral tribunal and define its functions—if the Soviet delegation concurs in this procedure.

I want to make it quite clear that this proposal concerns personal injury claims, and has nothing to do with property claims.

M. RAKOVSKI: The Soviet delegation approves the method of examining, in the first instance, those claims in respect of which definite undertakings have been given by both Governments. I would point out that the undertaking entered into (*i.e.*, the exchange of notes last year) was not the first undertaking entered into by the two Governments, but that, in the Trade Agreement of 1921, undertakings were entered into as regards the settlement of certain claims. I therefore consider that the settlement of these claims should be considered in chronological order. In the agreement of 1921 it was agreed that a settlement should be made of the claims for goods and services not paid for, and these claims should, I think, now be taken up. I consider that the settlement of the claims on account of goods and services not paid for has a very definite moral importance. The claimants in these cases are largely persons without property, and the amounts represent, *e.g.*, salary due from various institutions, or payment due for goods. I am, therefore, of opinion that the two questions should be immediately taken into consideration—not only the first question put forward by Mr. Ponsonby, but the second question which I have just mentioned.

As regards the question of a formula in the settlement of these questions, I consider that arbitration should only be resorted to after it has proved impossible to come to an agreement by direct discussion. I consider that it is, first of all, essential to attempt to arrive at a settlement by direct conversation. I would ask that the British delegation should put forward all the documents and claims that they have on their side; the Soviet delegation, for its part, will put forward all its documents. I consider it desirable that arbitration should be resorted to only in exceptional and extreme cases, as it will only complicate the issue and will not help to bring the matter to a more rapid conclusion.

MR. PONSONBY: For the moment we are only dealing with personal injury claims, and not with the question of goods and services, which come under the heading of property claims. I understand that the Soviet delegation agrees that with regard to personal injury claims the procedure suggested might be carried out.

As to the larger category of property claims, I consider the moment appropriate for a general statement on behalf of the British delegation. We do not expect the Soviet delegation to make any formal and full reply here and now without further consideration or fuller information which we are ready to give, but they may be able to make a general statement and perhaps acquiesce in the principle we propose. With regard to claims relating to industrial properties and concessions, which should be taken to include factories, mining, oil-borings, forestry, and any other similar properties and concessions, we suggest that the Union should undertake to give fair and effective compensation, whether in the form of concessions of properties or otherwise, to British subjects or companies, for the industrial

properties or concessions previously owned by them or on their behalf, which have been nationalised or cancelled; and agree to arrange with the persons in question the terms of compensation in each case. If, in any case, disagreement should arise over the terms of compensation, or if, for any reason, a settlement should not be made within an agreed period, the natural solution would seem to be a reference to arbitration. The constitution of the arbitral body and its exact terms of reference would have to be discussed.

I think this meets, to a large extent, the proposition which the Soviet delegation has just made, that is to say, that, when settlement cannot be reached by both parties in agreement, then, and only then, the case should be referred to an arbitral body.

M. RAKOVSKI: I think the Soviet delegation must return to the first question under discussion (viz., that of payment for the goods and services referred to in the Trade Agreement); first, because the British Government must have had good reasons for separating this question from the general mass of claims for property; and, secondly, because the instructions given to the committees were specifically to consider this point first, as it was included in the " small programme " of the conference.

As regards the second question, that is to say, the proposition just put forward by Mr. Ponsonby, the Soviet delegation takes note of the proposals of the British delegation and of the formula put forward, to which they will give consideration. I must draw attention to the fact that the claims of British subjects fall into various categories, viz., pre-war debts, nationalised property, and so forth. The number of British claimants under the first category amounts to something like 30,000. I consider, therefore, that, when the question of private claims is considered (apart from claims for goods and services not paid for, and from personal injury claims), the pre-war debts should be examined first. The British subjects who fall into the second category of private claims, namely, those on account of nationalised property, although few in number, make themselves loudly heard; nevertheless, I consider that from the point of view of the State it is essential that the first category, viz., pre-war debts, should be first taken into consideration.

As regards the attitude of the Soviet delegation to the formula proposed by the British delegation, we have often stated that, as far as we are concerned, the question of a formula is of no importance, or, in other words, we do not consider that a formula can do anything except give a general line of operation. It cannot effect a concrete settlement. A concrete settlement of this question is only possible when we know the real extent of the claims that we have to meet. Then it will be possible to make an offer. We cannot accept a formula binding us to all manner of claims without any regard to our budget and the general financial position in Russia, or to the feelings of the masses of the Russian population. On the other hand, in discussing this question of private property, immediately we meet with a conflict between two different social systems. We adopt the point of view that nationalisation as a result of the revolution was legal and that we must refuse to pay for its consequences. The British delegation will state that such nationalisation was illegal, and will request us to pay for it. A formal agreement cannot be arrived at in face of such disagreement in principle. An attempt must be made to come to a practical settlement, *i.e.*, a settlement which may be accepted by both sides and which does not affect the legal conscience of either, but would harmonise the interests of both parties in practice.

We must also approach the matter from the general political point of view. The British say that an injustice has been done to British subjects. We, in the interests of both parties, are prepared to try and find a settlement of this injustice, but we must state that great injustice has also been done to Russia by the three years of intervention and blockade. The injustice done to British citizens affected perhaps 30,000 to 40,000 persons. But the injustice done to Russia affected 130,000,000 persons, since every peasant and every inhabitant of Russia has suffered as a result of this injustice. If the British delegation raises the question of the injustice done to 30,000 or 40,000 British subjects, what is the British Government going to do to make up for the injustice done to 130,000,000 Russian citizens? 1,350,000 human lives alone were lost in the fight against intervention. I repeat that the question of the settlement of British claims is insolubly connected with the Russian counter-claims.

MR. PONSONBY: I will now return to the personal injury claims. The British delegation has detached this category because it differs specifically from any other, and appeared suitable for being dealt with, as both sides had agreed on the method of settlement of these particular claims.

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As to property claims, of course, I cannot expect the Soviet delegation to make any reasoned reply to the statement which I have made. M. Rakovski has said that a formula possesses no positive importance, but, on reflection and examination of the proposition I have made, I think he will see that a guiding principle will help very much in the eventual settlement of claims. I noted that in his statement he declared that, after further investigation and more detailed examination of the claims in question, the Soviet delegation will be able to make an offer. I do not think it necessary at this stage to enter into a discussion of the political system of either country. The internal affairs of the Soviet Union are not a matter on which the British delegation intends to make, or would be justified in making, any remarks. I will only say, with regard to M. Rakovski's reference to intervention, that Great Britain was not alone in pursuing that policy, and that the Government of Great Britain which did pursue it was not His Majesty's present Government. But, as M. Rakovski has referred to intervention claims, a memorandum on which has been received by the British delegation (a memorandum which the British delegation cannot help regarding as vague and unsatisfactory), I think I ought to go on to one last point which the British delegation intended to raise this morning, since M. Rakovski's remarks bring me to it: I would state, on behalf of the British delegation, our views regarding war debts and intervention claims. Our suggestion on this subject is that all questions connected with the claims of His Majesty's Goverment against the Union, or of the Union against His Majesty's Government, arising out of the events which took place between the 4th August, 1914, and the 1st February, 1924, including all claims in respect of war loans advanced by Great Britain to Russia or of sums owed by any Russian Government to British Government Departments, or by such Departments to any Russian Government, and, similarly, all questions connected with claims in respect of loss or damage resulting from warlike operations or hostile measures during the above-mentioned period, shall be reserved for discussion at a later date. These two matters should not, in the opinion of the British delegation, be mixed up with the property claims about which I spoke previously, but should, as explained above, be reserved for discussion at a later date.

M. RAKOVSKI: I will first refer to the last proposition of the British delegation. I must, on behalf of the Soviet delegation, ask the British delegation to reconsider this proposition. It is my opinion that at this conference all questions outstanding between the two countries must be settled. The future must be started with a clean sheet. The Soviet delegation must absolutely decline to accept the suggestion that the discussion of war debts and Russian counter-claims should be postponed. We have only one group of claims, whereas the British have many—claims for war debts, personal injury and private property, &c.—and public opinion in Russia is such that if we do not receive satisfaction for the only group of claims which we are putting forward, the conference will be considered to have been a failure. I therefore repeat my request that the British delegation will reconsider this proposition. It is not necessary to go into details to-day, but I must emphasise the inequality of the position of the two parties, if the only question on which we expect a satisfactory settlement—where we particularly expect a satisfactory settlement from the present British Government—is not settled by the conference.

I should like also to refer to two points made by Mr. Ponsonby in the first half of his remarks. First of all, regarding Mr. Ponsonby's statement that the British delegation could not enter into or consider the internal régime of Russia. I should like to point out that, if the discussion of claims is to be opened on a basis of English legal principles and conceptions, that itself is in the nature of an interference in Russian internal affairs. Any formula based on English law will have that character. It will not of course be stated explicitly, but it involves this consequence. I trust that the unfortunate experiences of Genoa and The Hague will not be repeated by the search for a formula for the settlement of the matters under discussion, but that first of all we shall acquaint ourselves with all the material and so come to a direct settlement of the matters at issue. Secondly, regarding the question of intervention, I note Mr. Ponsonby's remark that England was not the only country involved and this fact will be taken into account. As regards Mr. Ponsonby's remark that intervention was not undertaken by the present Government, I would point out that neither were the pre-war debts of Russia incurred by the present Government of Russia, yet we have to accept and pay for the sins of former Russian Governments. I trust that the British Government will accept the principle of legal succession and will be prepared to pay for the sins of their legal predecessors.

MR. PONSONBY: I am not sure that we can carry the discussions much further this morning. To take one or two points, however: We are anxious for a practical settlement, and we made the proposed division of claims thinking that it was the most advantageous way to reach a settlement of the claims. There is no question of any English legal formula being used in examining the property claims. I did not intend to convey this in my remarks. The British delegation has so far not mentioned the claims which might be brought forward with regard to the Treaty of Brest-Litovsk. From M. Rakovski's remarks (I wish to be quite precise as to the intention of the Soviet delegation), I gather that they desire to put forward intervention claims as against all the British claims, that is, war debts, personal injury claims and property claims. If I am right in understanding this attitude on their part, as I am not head of the British delegation it will be necessary for the Prime Minister to attend in order to reply to this claim on the part of the Soviet delegation. But I would propose that, as I said at the beginning that we did not expect a full reasoned reply from the Soviet delegation on these important points, it would perhaps be better for them to examine our propositions more closely; and I would prefer not to regard M. Rakovski's immediate answer as the considered opinion of the Soviet delegation.

M. RAKOVSKI: I will limit myself in my reply to a few short remarks. First of all, I desire to dispose of one misconception, which certainly was not within my intention—my words have perhaps been misunderstood. The Soviet delegation does not consider the Soviet counter-claims as ranking against the whole mass of British claims, but principally as ranking against the British war debt. The Soviet delegation fully understands that private British claimants must receive some satisfaction, but the basis on which such satisfaction shall be given and the extent of such satisfaction will be communicated by the Soviet delegation after they have studied the material which is to be presented. The Soviet delegation considers it necessary to emphasise that article 6 (Chapter I, Section II, Part I) of the report prepared before the Genoa Conference by Allied experts in London accepted the principle of the right of Russian citizens to present claims for loss or damage which they may have suffered owing to direct military action by the Allies. I refer to this point in passing merely to make the situation clear.

The second matter is that of the Treaty of Brest-Litovsk. The question has been discussed, particularly in France recently, whether a claim can or cannot be brought against Russia on account of her retirement from the war after concluding the Treaty of Brest-Litovsk and thus prolonging the war. M. Poincaré, however, stated in the Senate that he abandoned this ground of claim. This is, of course, a historical discussion and it is a matter of merely historical interest whether the Russian revolution helped the Allies or the Germans the most. I could quote from English sources to show that it had by its effect on the German army served to shorten the war rather than to prolong it. I only make this historical remark because Mr. Ponsonby mentioned the Brest-Litovsk Treaty, and I consider that the question has no primary importance from the point of view of the tasks of the conference. The Soviet delegation will consider all the propositions made to-day by the British delegation, and will furnish their comments or concrete propositions in due course.

MR. PONSONBY: I am glad to understand more clearly the attitude of the Soviet delegation as expressed by M. Rakovski, which I note is that primarily intervention claims should be set against war debts, and that the remaining claims should be examined when a fuller knowledge of the facts has been obtained. I do not think it is necessary to go into fuller details at this stage. We have had a frank and full discussion this morning and we have been brought up against realities, and an expression of opinion on both sides which will be of the greatest use in our further proceedings.

M. Rakovski will communicate with me before our next meeting, which might take place at 11 o'clock on Tuesday, 20th May, in order that we may arrange what subjects he would wish to discuss.

It was agreed that the next meeting should take place as proposed by Mr. Ponsonby, and that the Second, Third and Fourth Committees should endeavour to meet before the end of the week.

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ANNEX I.

Report to Conference by Fourth (Treaty) Committee.

AT its meetings on the 24th and 29th April and 6th and 9th May, 1924, the Treaty Committee examined the bilateral treaties concluded between Great Britain and Russia up to the 7th November, 1917.

2. The committee decided that a provisional classification of the treaties should be made under the following heads :—

3. I.—*Treaties which may be regarded as no longer in force.*

(i.) Note : Surrender of Russian extra-territorial jurisdiction, Zanzibar ; St. Petersburg, July 5, 1907.
(ii) Notes : Scientific missions to Tibet ; St. Petersburg, September 23, 1910/January 9, 1911.
(iii.) Agreement : Military service, European war ; Petrograd, July 16, 1917.
(iv.) Treaty : Marriage of H.R.H. Duke of Edinburgh ; St. Petersburg, January 22, 1874.
(v.) Agreement : Waiver of consular fees, certificates of origin ; Petrograd, July 16, 19 5.
(vi.) Protocol : Afghan frontier ; London, September 10, 1885.
(vii.) Protocol : North-west frontier of Afghanistan ; St. Petersburg, July 10/22, 1887.
(viii.) Notes : Afghan boundary ; St. Petersburg, May 31/12th June and 8/20 June, 1888.
(ix.) Protocol : Water-rights in Kushk Valley ; August 22/September 3, 1893.
(x.) Agreement : Spheres of influence in the region of the Pamirs ; London, March 11, 1895.
(xi.) Convention : Affairs of Persia, Afghanistan and Tibet ; St. Petersburg, August 31, 1907.
(xii.) Agreement : Meshed–Seistan, Meshed–Tehran telegraph lines ; St. Petersburg, August 31, 1907.
(xiii.) Notes : Railway interests in China ; St. Petersburg, April 28, 1899.
(xiv.) Exchange of notes : Trade-marks in China ; Peking, October 29/30, 1906.
(xv.) Exchange of notes : Protection of patents and trade-marks, Morocco ; Tangier, October 9/11, 1908.
(xvi.) Notes : Shatt-el-Arab Riverain Commission ; St. Petersburg, April 23/29, 1914.

4. Nevertheless, the subject-matter of treaties (x) to (xvi) may require further discussion with a view to an appropriate definition of Anglo-Soviet relations in regard to Eastern countries.

5. II.—*Treaties which may be regarded as in force, but which require modification.*

(i.) Agreement : Money orders ; London/St. Petersburg, October 17/29, 1904.
(ii.) Declaration : Estates of deceased seamen ; London, August 9, 1880.
(iii.) Declaration : Tonnage measurement ; London, June 9, 1882.
(iv.) Agreement : Joint stock companies ; St. Petersburg, December 16/29, 1904.
(v.) Treaty : Surrender of fugitive criminals ; London, November 24, 1886.

6. In addition to the treaties mentioned above, the following remain still to be classified, as the two delegations on the committee are not yet in a position to come to an agreement as to the method of their disposal :—

(i.) Notes : Seal fishery, North Pacific Ocean ; St. Petersburg, May 12, 1893/January 10, 1894.

(ii.) Agreement : British subjects and property, Chinese Eastern Railway area ; Harbin, April 30, 1914.
Notes : Ditto ; Peking, December 9, 1914.
(iii.) Agreement : Commercial relations between Russia and Zanzibar ; London, August 24, 1896.

(N.B.—In the opinion of the Soviet delegation this agreement should be classed in group II.)

7. The committee agreed to refer the consideration of the Zanzibar Agreement of 1896 to the Commercial Treaty Committee.

8. Each delegation reserves to itself the right to state at a meeting of the full conference the reasons for arriving at its conclusions and the matters which in its view deserve further discussion.

9. The committee decided, after the presentation to the conference of the present initial report, and subject to its approval, to proceed—

(*a.*) To negotiate the amendments required to bring up to date the instruments placed in category II ;
(*b.*) To examine further the treaties mentioned in paragraph 6, which still remain to be considered.

10. In connection with the agreement relating to the Meshed–Seistan and Meshed–Tehran telegraph lines, St. Petersburg, the 31st August, 1907, the Soviet delegation enquired whether the British had handed over to the Persians the telegraph line between Meshed and Seistan. The British delegation stated in reply that this line had been handed over to the Persians, who are now in complete control of it.

J. D. GREGORY. E. PREOBRAZHENSKI.

May 9, 1924.

ANNEX II.

M. Rakovski to the Chairman of the British Delegation of the Anglo-Soviet Conference.

Delegation of Union of Soviet Socialist Republics,
London, May 14, 1924.

Sir,

In a letter dated the 11th February, 1924, addressed by the Prime Minister of Great Britain to the Chargé d Affaires of the Union of Soviet Socialist Republics in London, it was proposed, as regards the method of reviewing treaties, that the Political Committee of the present conference should be instructed to begin its work by reviewing all treaties entered into between the two countries prior to the 7th November, 1917, and that this committee should submit for the consideration of the conference its views as to which of these treaties should remain in force, which require modification, and what decisions are required to replace the treaties which may be regarded as no longer in force. It was suggested, further, that the committee should enter upon a similar examination of the treaties entered into with other countries, and, thirdly, should review the situation created as a result of post-war agreements concluded between the former Allied States on the one part and the former enemy Powers on the other part, and also those concluded between Russia and the last-named Powers.

The Committee on Treaties appointed by the conference has, in the first place, entered upon an examination of the bilateral treaties concluded between Great Britain and the former Russian Governments prior to the 7th November, 1917. Having determined which of the treaties cannot be regarded as being in force and which treaties may be recognised as remaining in force subject to proper modifications, the committee agreed to form a special group of those treaties which are no longer in force, but the subject matter of which requires further discussion between the two delegations with a view to a proper definition of Anglo-Russian relations in the countries of the East.

The important interests, which now both the Soviet Union and Great Britain have in the Near Asiatic East, in Central Asia, and in the countries of the Far East, continue to be a possible source of misunderstandings between the two countries. The Soviet delegation thinks that it fully meets the intentions of the British delegation by endeavouring to reach, during the present negotiations, complete understanding in this

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matter by eliminating differences and contradictions, and by facilitating in this way closer relations between the two countries.

The Soviet delegation, on its part, considers that the first condition of such an understanding is to determine such basic principles which could guide both Governments in the settling of this question. Rejecting, as incompatible with friendly relations between two countries, the policy of secret acts and intrigues. and considering that relations between States should be animated by a spirit of moral honesty, the Soviet delegation expresses its point of view on the Eastern question with full sincerity and frankness.

The origin of the Eastern question, in the opinion of the Soviet delegation, is to be found in the political and economic backwardness of the Eastern nations, who, in this way, owing to their comparative weakness, offer a bait to the greed of the world Powers. This spirit dominated also the old Tsarist policy. The Soviet Republics have definitely abandoned this policy. By the decree of the 28th October, 1917, the Soviet Government has abrogated all the old secret treaties, which have created in Eastern countries special privileges for the Russian ruling classes. In diplomatic notes of the Governments of the Soviet Republics, and later on in treaties concluded between the Soviet Republics and Eastern States, a new principle was brought to light—that of respect for the rights of nationalities; the treaties between Tsarist Russia and other Russian Powers, which violated this principle, were abrogated.

The Soviet delegation has already definitely declared, at the first meeting of the conference, that the Union Soviet Government will invariably follow in the future this main line in its international policy and, in particular, in its policy in regard to the Eastern States.

The Soviet delegation considers that this policy of securing the independence and sovereignty of the Eastern States represents a principle equally acceptable to both countries, and, starting from it, they can discuss concretely all questions of interest to them The acceptance by both States of this main principle will at the same time ensure conditions for a durable peace in the Near East and in Central Asia, and for the cultural, political and economic development of the Eastern States. It will obviate wars and conflicts and put an end to the attempts which might be made by foreign Powers to take advantage of the backwardness of the Eastern countries in their own selfish interests.

With a view to this it is desirable that the main principle of the policy of both States in the countries of the East shall be that of disinterestedness and of safeguarding the interests of the Eastern nations. The Soviet delegation points out that the Union of Soviet Socialist Republics, in its relations with these nations, is guided by these very principles, which have, in particular, been given expression in its treaties with Persia, Turkey and Afghanistan.

In conformity with the foregoing, all possibility of violations of the sovereignty of the States of the East and of their territorial integrity must be done away with—in particular, the possibility of an interference by one or the other of the two Governments in the internal affairs of the said States.

Further, the Soviet delegation, while rejecting all attempts at dividing the territories of the countries of the East into spheres of influence as violating the sovereignty and hindering the economic development of these countries, considers that the two Governments should not prevent each other's economic activities in the countries of the East contributing to the development of the latter. Both parties, however, must be assured that such economic activity does not mask any kind of hostile activity against the other party. Therefore, in such cases, when either of the two Governments should entertain well-founded fears, that any enterprise may, for some reason or other (as, for instance, location in the vicinity of the boundaries of the other country, &c.), constitute a political or strategic threat to the safety of that country, the Government of that country will be afforded the possibility of expressing its views on the matter.

In the event of any such question arising, both parties undertake to discuss it jointly with the Government of the affected Eastern State, and to find a satisfactory practical solution which would eliminate all possible misunderstandings and dissipate the fears of the party concerned.

It is, of course, understood that this does not infringe on the indisputable rights of the Eastern countries to use any foreign assistance for the purpose of the development of their economic resources.

The logical consequence to be drawn from the above-mentioned principle is the recognition that to use the territories of the Eastern countries, directly or indirectly,

for the military purposes of European States is absolutely incompatible with the mutual interests of both sides and with the rights of the Eastern countries.

The establishment of mutual confidence naturally requires that the two Governments, as well as enterprises and citizens of both States in their economic competition on the Eastern markets, shall be debarred from using such methods which go beyond the limits of the usually adopted form of trade competition, passing into aggressive action specially directed against the other party.

These are the main principles which the Soviet delegation proposes to lay down as the basis of the policy of both States in the countries of the East.

The Soviet delegation considers that if the British delegation approves of these basic principles the present conference will be enabled, in the interests of both countries, to come to a satisfactory solution of the particular questions connected with the problem of defining their mutual relations in the East.

Yours faithfully,
C. RAKOVSKI.

ANNEX III.

Multilateral Treaties to which His Majesty's Government and the Imperial Russian Government were Parties which it might be possible to put into effect between His Majesty's Government and the Government of the Union by Bilateral Arrangement.

Convention, &c.: Telegraphs; St. Petersburg, 1875; Lisbon, 1908.
Convention, &c.: Submarine cables; Paris, 1884, 1886, 1887.
Convention: Radiotelegraphs; London, 1912.
International Postal Convention.
Final Act: Marine Conference; Washington, 1889.
Convention: Rules relating to (1) collisions; (2) salvage; Brussels, 1910.
Convention: Protection of fur-seals, North Pacific Ocean; Washington, 1911.
International Sanitary Convention; Paris, 1903.
Agreement: Unification of formulæ for potent drugs; Brussels, 1906.
Convention: Circulation of motor vehicles; Paris, 1909.
Agreements relating to white slave traffic and obscene publications.

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A.S.C. 9.

ANGLO-SOVIET CONFERENCE.

Sixth Meeting at Foreign Office, at 11 A.M. *on May* 20, 1924.

In the Chair: Mr. A. PONSONBY.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. V. A. A. H. Wellesley.	C. G. Rakovski.
Mr. J. D. Gregory.	A. L. Scheinmann.
Mr. O. StC. O'Malley.	I. A. Zhitkov.
Sir S. J. Chapman.	N. M. Shvernik.
Mr. H. Fountain.	Y. D. Janson.
Sir W. H. Clark.	A. M. Radchenko.
	I. I. Kutuzov.
	I. Khidiraliev.
Experts.	*Experts.*
Sir C. J. B. Hurst.	M. I. Skobelev.
Mr. W. Peters.	S. K. Bellegarde.
Mr. H. J. Hutchinson.	E. A. Behrens.
Mr. S. D. Waley.	A. N. Dolgov.
	V. P. Osetrov.
	G. N. Lashkevich.
	N. M. Lyubimov.
	P. Y. Rabinovich.
Secretariat.	*Secretariat.*
Mr. W. Strang.	A. F. Rothstein.
Mr. P. M. Roberts.	
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

MR. PONSONBY: M. Rakovski will make a statement on behalf of the Soviet delegation.

M. RAKOVSKI: The Soviet delegation has received various materials from the British delegation, and is now preparing formulæ for the settlement of the disputed economic questions between Great Britain and the Soviet Republics. To-day the Soviet delegation is prepared to present its formulæ on the two following classes of claims, viz.: (1) Claims in connection with pre-war debts, and (2) claims for personal injuries of a non-material character. As regards the question of private property, the Soviet delegation has not yet received all the necessary materials, and therefore will be able only to present concrete propositions at the next meeting of the plenary conference, which I propose should be held on Monday of next week. To-day I also propose to present our memorandum regarding the restoration of the credit of Soviet Russia on the English financial market. I consider that to-day's meeting can confine itself to the study of these three points, and, if the British delegation agrees, I will now proceed to read the formulæ.

MR. PONSONBY: The British delegation will be glad to hear the views of the Soviet delegation on the subjects named by M. Rakovski.

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M. RAKOVSKI: The following is the formula on the question of pre-war debts: On condition of the conclusion, with the assistance of the British Government, of a long-term loan for productive purposes, the Government of the U.S.S.R. agrees, in accordance with the amount of the loan and its conditions, to determine by agreement with the British Government a lump sum in order to cover the pre-war debts of Russia in relation to British subjects, and to make payment of such sum on the following conditions: Only those British holders will receive satisfaction who owned Russian securities before the 12th March, 1917, and who subsequently have not taken active part against the Soviet power. In fixing the total amount of this sum intended to extinguish the pre-war debts of Russia, there will be taken into consideration the reduction in the territory of the former Russian Empire, the reduction in the revenues of the State, the reduction of the profitability of the undertakings for which the loans were concluded (such as municipal undertakings, railways, &c.) and, in general, all those circumstances which have reduced the paying capacity of the State, and also changes in quotations and currency values which have affected the Stock Exchange price of the loans. In fixing the sums intended to satisfy individual claims, the smaller claims shall receive preference. The sum specially provided for settling these claims shall be paid off by the addition of extra amounts to the annuity payable each year on the loan. The greater part of the loan is intended for orders and purchases in Great Britain.

MR. PONSONBY: The British delegation will necessarily have to examine more closely the proposals which M. Rakovski has just made, but I may say now that M. Rakovski's reference to the assistance of the British Government in connection with the loan which he hopes to raise cannot be counted on. The British Government can in no way guarantee such a loan, but we feel confident that, if there is reasonable prospect of a settlement by the conference of our various outstanding questions, the Soviet delegation will find no difficulty in raising the loan M. Rakovski refers to.

With regard to some of the other points raised by M. Rakovski, no doubt he will be able to furnish us with more detailed particulars, but at this stage I would like to ask whether, with regard to these pre-war debts, compensation involves the admission of a capital liability, the resumption of interest and the payment of back interest—all these or which of these will be included in the compensation which is proposed to be given?

M. RAKOVSKI: For purposes of consideration I will divide Mr. Ponsonby's declaration into two parts: First, the part referring to the general conditions of the settlement of the question before us, where reference is made to assistance to be given by the British Government, and, secondly, the questions asked by Mr. Ponsonby as to our understanding regarding the conditions of calculating the amount of the debt. As regards the first point (the assistance to be given by the British Government), the Soviet delegation knows and appreciates the burdensome conditions in all States after the war, and, in particular, is aware of the heavy loads which have to be borne by British taxpayers, and, in consequence, the Soviet delegation presents no demands for a Government loan from the British Government. None the less, the Soviet delegation considers that a settlement satisfactory to both States of the disputed economic points is inconceivable without the active intervention of the British Government. The Soviet delegation demands no material sacrifice, but only moral assistance. We do not desire to determine beforehand the form such assistance should take, but we consider that such assistance is indispensable. Without such assistance it will be impossible to conclude such a favourable loan as would enable us to restore the economic life of Russia and provide for the annuities proposed, which are to be increased in a certain proportion in order to pay off the pre-war debts. We do not ask more than has already been given to other States which have suffered, and, in fact, to States which were in a different military camp from that in which Russia was. If assistance was given to such States, each of us will ask why such assistance cannot be given to us. Therefore, we consider that without such assistance to make satisfactory conditions for a loan, the loan is impossible. Although not mentioned in the formula, an essential part in concluding the loan will be the participation of the Russian State Bank, which is accepted in financial circles as extremely sound and worthy of credit. This financial institution has at the present time deposits with English banks amounting to 12,000,000*l.* and a fully paid-up capital of 250 million

gold roubles. I say this in order to show that the British Government, in the present case, has serious guarantees presented to it, and that the assistance which it should give will involve no risk. This question is most essential, and therefore I must request the British delegation to state whether they definitely exclude the possibility of Government assistance in any form whatever, or only in one or the other specific manner. This answer is of decisive importance, and I must request a reply.

I would say further that the proposed loan on the English financial market is of quite an exceptional character. I know of no loan which has been placed recently on the English money market of which the proceeds have remained mostly in Great Britain, and thus supported British industry and trade in the way we propose. This proposed loan gives the possibility of settling the pre-war debts on the lines indicated, gives the possibility of restoring Russia's economic structure and gives the possibility of developing British industry and trade and, to a certain extent, relieving unemployment in Great Britain.

In conclusion (with regard to Mr. Ponsonby's first question), I would say that all these considerations which I have just outlined show the importance of including in our formula a request for the assistance of the British Government for the conclusion of a loan.

With regard to Mr. Ponsonby's second question, the Soviet delegation is glad to give replies to all questions which may be raised, and is now prepared to reply to the three questions which have actually been put forward. These, in fact, amount to one, viz.: Are we prepared to pay the pre-war loans at their nominal value with the addition of interest or are we not? I reply categorically that we are not. If in all States pre-war loans have suffered depreciation owing to the depreciation of currency, it is strange that Russia, which has been ruined through intervention and before intervention through war, and by its sacrifices in the interests of the Allies, should be called upon to carry out the principle of paying everything. We consider that all the interest on loans must be written off. We consider that the principal of the loans must be considerably reduced, and have therefore included in the formula just put forward reasons providing a legal justification for such a reduction. Russia cannot be called upon to pay interest on railway loans, when for a period of six years the railways have either served the Allies or have been serving against intervention. We cannot pay the interest and not reduce the principal when the Russian railways, owing to a reduction of territory (in which reduction Great Britain has taken an active part) have lost much of their sources of revenue. For example, the Moscow–Windau–Ribinsk Railway, which connected the grain-producing provinces of central Russia with the Baltic ports, and has now lost its importance. I could give many other examples and could point to other cases where the State revenues have been reduced as a result of war and intervention. The reasons given are sufficiently convincing for the Soviet delegation to maintain that not only must the interest be entirely written off, but that the principal must be reduced. It is hardly necessary to point out that some loans were concluded in Russian roubles. I might suggest that we should be quite prepared to pay such loans in Russian roubles, though it is doubtful if the British delegation would agree—I have, of course, in view the Russian rouble which was in existence before the recent currency reform and which is still sometimes used in internal accountancy. In addition, I wish to bring to mind that at the Genoa Conference the memorandum prepared by the Allied experts in London put forward such conditions as the following: That Russia should commence to pay in 1927 or 1928—I do not remember the exact year—and that the Allies were prepared to give Russia a five years' moratorium. We now say that we are prepared to pay not in 1927 or 1928, but on the first day of the conclusion of the loan and in accordance with the degree of its realisation. We take as a basis that it is necessary to make an immediate, even if limited, payment to British bondholders, and I suggest that this attitude is the best proof of the seriousness of our approach to this question.

The British delegation must also take into consideration the serious financial position of Russia. It is no good making claims beyond Russia's paying capacity, as this simply means that such claims will not, in fact, be paid. It is better to give an undertaking which can be fulfilled than to give an undertaking which is unfulfillable and would be the source of future friction between the Governments of the Soviet Union and Great Britain.

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MR. PONSONBY: I will deal with the two points which M. Rakovski has raised in his statement. First, the question of the loan, and, secondly, the method of payment which he proposes with regard to this particular form of claim. I note that M. Rakovski says that there is no demand on his part for a Government loan or for active intervention on the part of the Government. He asks for moral assistance, and it is the definition of that moral assistance about which I have some doubt. Apart from an actual guarantee, I do not see very clearly what the British Government can do with regard to this loan. If approached by the interests who are responsible for the raising of the loan, the Government of course would be prepared to say that they did not desire to place any obstacle in the way of the raising of such a loan, but they could not accept responsibility for it. I would, however, point out once again that since, as M. Rakovski says, the Russian State Bank is participating in these negotiations, as there is prospect, too, of an economic revival in the Soviet Union, and I may add, too, a restoration of confidence which would result from a satisfactory conclusion of the political questions with which the conference is concerned; all these factors, if taken into account, seem to me to point to a situation which would encourage those who desire to make themselves responsible for this loan to go forward with their negotiations without demanding any sort of Government guarantee. I would also take into account the considerations which M. Rakovski raised with regard to the objects to which the money raised by the loan would be devoted, and this in itself would react in such a manner as to restore the confidence I have spoken of. Taking all these circumstances into account, the sympathetic attitude of the Government towards such a project can naturally be taken for granted, but any idea of a specific guarantee must necessarily be left out of account.

The British delegation has noted what M. Rakovski has said with regard to meeting the claims of the bondholders, especially his reference to the immediate though limited payment to the bondholders. But we shall have to consider more closely the suggestions he makes on this point, and in the meanwhile I would ask him to give the conference some idea of the plan he suggests for a settlement of these claims to the satisfaction of the bondholders in cases where direct negotiation between the Soviet delegation and the bondholders does not reach a satisfactory conclusion.

M. RAKOVSKI: I desire to restore the clear meaning of some of the declarations that I have made. I will begin with the last point regarding the method of negotiation. The Soviet delegation considers that the British Government represents the collective interests of the whole interested body, viz., of all the bondholders. The negotiations must not be considered as a private transaction, but as a transaction of the greatest political importance to the Soviet Republics and to the British Government. On these negotiations will depend whether the bondholders will receive a limited, but real, compensation for their losses. If three years' discussion, in which were included the discussions at Genoa and The Hague, has led to no result, and British bondholders have been unable to get a copeck, it is because the Governments carrying out the negotiations have considered that this subject should be settled by direct discussion between the Soviet Government and the bondholders. I consider that it is primarily an inter-governmental question, and that the British Government is an interested party—a party which must weigh up all the circumstances and conditions, and must decide, on behalf of the bondholders, the total sum which Russia is able to pay in accordance with her circumstances. I do not doubt that the British bondholders will fully believe that the British Government has done the maximum possible on their behalf. How do we represent the actual case to ourselves? To cover past debts it is necessary to have resources and means. The present Soviet budget, although much has been done to make it balance, still shows a deficit amounting to about 400 millions, *i.e.*, 22 to 24 per cent. of the amount of the estimates. It is clear that new expenses cannot be added to the present budget if we are not given assistance to improve our economic condition and to increase State revenues, and this is only possible if loans are secured on favourable terms. As a result of an objective examination of the conditions of the English money market, it appears that favourable loans can only be secured with the active assistance of the British Government, and, if such assistance means a guarantee is essential, then such guarantee should be given. Such a guarantee is really only a moral assistance, since, taking into consideration the participation of the Russian State Bank, the continual development of Russo-British trade, and especially of

our exports from Russia to Great Britain, we consider that a sufficient guarantee of our credit capacity is forthcoming.

I propose to call upon M. Scheinmann to speak, who will refer to certain questions of importance in these negotiations.

M. SCHEINMANN: Little remains for me to add to what the president of the Soviet delegation has said. I should only like to point out that in the memorandum submitted by us to-day we have actually indicated that a guarantee by the British Government would facilitate the obtaining of the loan, and the conditions on which the loan is granted would be far more favourable. In putting forward this proposition we had in view the inter-governmental loans granted during the war and after-war period. We had this more particularly in view considering that its application would be not for administrative, military or budget requirements, but for the restoration of the economic life of one of the most important countries of the world and for satisfying the claims of citizens of that country where the application for the loan is being made.

However, taking into consideration internal conditions in Great Britain, we did not use the term "British Government Guarantee" in the formula proposed by our chairman, but only referred to the assistance of the British Government. It is not the form which matters to us, but the result of such a participation by the British Government. This is of importance to us for the following reasons: Considering that the loan is intended for productive purposes, and not for budget purposes, *i.e.*, since that loan and all obligations connected with it, and the settlement of former claims, will not be borne by the taxpayers but will be met from our economic organisation which will have to produce new wealth and increase its production, the loan will have to be fixed in such a manner and at such periods, and the terms of settlement must be so arranged, that our economic organs, including the State Bank, are able to provide not only for the repayment of this loan, but also for the additional amounts necessary to settle old claims. For this reason, the assistance of the British Government appears to us very valuable, though we cannot attempt to determine or measure its rôle in this connection, but it must be judged by its results, which are of the greatest importance.

I should also like to request the British delegation to give special attention to the following point: If the Soviet Government gives an undertaking to repay this loan—an undertaking which will undoubtedly be fulfilled—and together with this loan also a certain proportion of old claims, there will have to be a considerable development of our trade, some 10–20-fold, since the amount can only be paid from the commercial profits, and not from capital. In other words, if it will be necessary to pay to Great Britain 10,000,000*l.*–20,000,000*l.* annually, then for a certain number of years our country will have to produce and export from ten to twenty times this amount, as we can only pay from the interest, and not from the capital.

Turning to the question raised by Mr. Ponsonby, how the Soviet delegation regards the settlement of disputes which may arise between the Soviet Government and individual claimants, it seems to us that on this question the British Government has the most important rôle to play. It cannot be permitted that such an important question as the restoration of the economic life in U.S.S.R. and the regulation of the mutual relations between Great Britain and Russia should suffer because an individual bondholder refuses to accept the conditions which his Government considers satisfactory. Our formula contains, therefore, a proposition that the total sum to be applied to the settlement of the bondholders' claims should be fixed in agreement with the British Government. Naturally, from time to time negotiations with individuals or groups of bondholders will be possible in the future.

In the discussion about the total sum to be fixed, all the changes which occurred owing to the war and intervention must be taken into consideration.

To sum up, if the U.S.S.R. receives a loan which will enable it to restore the economic life of the country, it can repay this loan and compensate to a certain extent holders of former Russian Government bonds, increase more than ten-fold its trading relations with Great Britain, and thus secure peaceful relations in the whole world.

MR. PONSONBY: I note what M. Rakovski and M. Scheinmann have said. With regard to the latter point, their suggestion is that a total sum should be fixed by agreement between the Governments, but that this does not rule out direct negotiations with the bondholders in cases where agreement can be reached.

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On the point of the guarantee for the loan, it would be unfair in me to give any wrong impression as to the intentions of the British Government. The difficulty still seems to me to be what assistance they can give—and they would naturally be willing to give—apart from a specific guarantee. Just as the British Government have made it clear from the outset that they cannot raise a loan, they are obliged also to make it equally clear that they cannot guarantee a loan. But if the proposed lenders came to the Government and said that they were prepared to take all risks but wanted to know first whether such a loan were in the national interest and whether it were agreeable to the Government, and, secondly, whether they could rely on the Government's good offices, although the Government took no responsibility, if difficulties arose, we should be prepared to give an affirmative answer. Perhaps I may hope that this statement may satisfy the Soviet delegation on this point.

M. RAKOVSKI: The Soviet delegation notes with satisfaction the readiness of the British Government to give assistance, but at the present moment the Soviet delegation is unable to consider the form of such assistance as finally determined. We cannot know what difficulty we may meet when the actual loan is under discussion. We must therefore retain the right to return to this question should it become necessary. If the declaration of the British Government of its good offices is sufficient, the Soviet delegation will be glad not to have to ask for more; but if it becomes clear that intervention in such a form is insufficient, then it will be necessary to ask the British Government to adopt more active measures of intervention. Direct negotiation with individuals or groups of bondholders during these inter-governmental negotiations can be of importance merely for the purposes of information; but the total sum to be laid down for covering pre-war debts must be fixed by agreement between the two Governments.

I suggest that it is enough to-day for the Conference to confine itself to this exchange of views.

MR. PONSONBY: I note what M. Rakovski says, and of course he is quite justified in raising this subject again in future if he wishes to do so. But I hope very much that the extent to which we have gone to meet him on this point will suffice. I agree that it is perhaps too late now to embark on any other question; but as on Monday he is going to raise the question of the private property claims, I should just like him to include in those claims, in order that he may give us a full report on his method of dealing with them, a class of claim which cannot be dealt with by concessions, viz., the claims of private individuals for private personal property, for the deposit of cash securities and valuables in banks which have been nationalised, for shares in companies which have been nationalised, for bills accepted here and not met. This covers a fairly large number of cases, and whether they are to be dealt with by setting aside a lump sum or not is a matter on which we should like the opinion of the Soviet delegation when we are dealing with private property claims at our next meeting on Monday.

At the same time, before concluding, I would ask M. Rakovski whether his statement on personal injury claims would not be sufficiently brief to enable us to settle that point before dispersing this morning.

M. RAKOVSKI: I am in entire agreement with the first part of Mr. Ponsonby's remarks. I have to make the following declaration: After study of the material promised by the British delegation regarding claims of former owners and also regarding other claims against the U.S.S.R., the delegation will present its concrete propositions on this question.

As regards the question of personal injuries, we have in general accepted the British formula, except the last point regarding arbitration, which, in my opinion, should only arise in the case of disagreement between the Governments. I will now read the following formula: Both Governments agree, on the basis of reciprocity, to examine and satisfy the claims of citizens of both countries for personal injuries of a non-material character; in those concrete claims where agreement is not arrived at between the Governments, the Governments will determine the manner of settling these disputed cases.

MR. PONSONBY: Yes. I would just add that these claims are, of course, confined to injuries suffered by British subjects on Soviet territory and by Soviet citizens on British territory.

M. RAKOVSKI: I have no objection to the proposition; but British territory should be considered as extended to wherever the British flag was raised and the British were in command.

MR. PONSONBY: No. British territory is the British Empire and British dominions, and we cannot claim such large parts of the globe. That would bring in quite a different class of claims—this is really rather a small class of claims confined to the British Empire and British territory.

M. RAKOVSKI: If that is so, then one of the cases is that of M. Chicherin. I suggest that this proposition, which is an addition to the first British formula, should be put forward for separate consideration, as it is quite new to us, and it is necessary for us to take into consideration the notes exchanged in the past between the two Governments.

MR. PONSONBY: Well, perhaps at the next meeting M. Rakovski could give us a reply on this point.

M. RAKOVSKI: The last point is for the Soviet delegation to put forward a memorandum regarding the restoration of Russian credit in Great Britain. This contains matters which have been referred to to-day. I request that this memorandum (see annex), which has already been handed to Mr. Ponsonby, should be examined by the British delegation.

MR. PONSONBY: Yes, it will be examined, and perhaps it will be possible to make some statement upon it at the next meeting. I understand that it will be convenient for the next meeting of the conference to be held on Monday, the 26th May, at 11 A.M.

ANNEX.

The Possible Participation of the British Government in the Matter of the Restoration of the Foreign Credit of the Union of Soviet Socialist Republics.

IN order to establish firmly the credit of the Union of Soviet Socialist Republics in Great Britain, two conditions are indispensable:—

1. The satisfactory position of the whole national economy of the U.S.S.R., on which its solvency depends, and
2. The confidence in the U.S.S.R. on the part of financial and industrial circles in Great Britain.

I.

The Position of the National Economy of the U.S.S.R.

Out of the world war the national economic life of the U.S.S.R. has emerged greatly weakened and disorganised. The subsequent war of intervention, which was carried on on the territory of the Union, has reduced its economic life to the extreme limit of ruin. The richest and most important districts from the agricultural and cattle-raising point of view like the Ukraine, Siberia, the Volga region and Turkestan, as well as the principal industrial centres (Transcaucasia, the Don Basin, the Ural) were during a prolonged period occupied by enemies and were the theatre of military operations, which resulted in the destruction and perishing of the live-stock and implements, of buildings and equipment, the destruction of pits, &c

By the time the war came to an end (in 1921) the destruction has become so great that production in the above-mentioned districts had ceased almost completely. Only by a gigantic straining of its forces and at the price of enormous privations the workers and peasants of the U.S.S.R. have succeeded in saving the remnants of the economic resources which remained intact after the war and beginning gradually the rebuilding of the economic strength of the State. The result of their efforts was that during the past three years the economic condition has been brought to a level which can justly be termed satisfactory.

In the present memorandum we shall confine ourselves to stating that in the principal branches of industry (oil, coal, manganese, timber) the output has reached

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50 to 60 per cent. of the pre-war level, thanks to which not only are the needs of the home market being satisfied, but there are surplus quantities of oil, timber goods, manganese, &c., available for export abroad. A similar improvement is to be observed also in various branches of agriculture and of agricultural industry which not only satisfies the requirements of the home market but also provides very considerable quantities of products for export. The foregoing statement is borne out by the figures of the Central Statistical Office, which appear regularly in the economic press. A brief summary of these data is embodied in an enclosure to this memorandum. The restoration of industry as a whole has made such good progress that those branches which before the war were working partly on home-produced and partly on foreign raw material have now strengthened their position to such an extent that they have resumed the importation of raw materials from abroad, as, for instance, cotton, tanning extracts and certain varieties of hides. At the same time, in some branches of industry we see a resumption of construction work, also of re-equipment, which resulted in the resumption of imports from abroad of machinery, turbines, engines, &c.

Indisputable improvement is to be noted also in all branches of transport and communications. The regular working of railway, marine and river transport, of the ports, postal and telegraph services, is fully established, in spite of the fact that the destruction in these branches was particularly severe—it is sufficient to state that of bridges alone about 3,500 were destroyed, whilst the total length of spans damaged exceeds 37,000 sazhen.

Comparatively rapid strides are being made also in the development of foreign trade, which at the height of the war of intervention and of the blockade ceased altogether. The gradual regeneration of agriculture and of exporting industry is shown in the improvement of quality and increase in quantity of Russian exports, which during the last two years have attained such dimensions that for payments abroad the U.S.S.R. does not have recourse any more to the sale of gold, but, on the contrary, has provided for itself a trade balance in its favour. Of course, this favourable nature of the trade balance is the result of systematic regulation of imports and exports, and if sufficient means were available imports could be increased considerably. The Soviet Government, however, are evincing in this question the greatest caution and are aiming at a favourable trade balance, in order to accumulate for the future a reserve of foreign currency required for the carrying out of a currency reform and for the general settling of accounts by the Union with foreign countries, accounts not of a commercial character.

The national economic position is best reflected in the State budget.* During the period of the intervention and the year after a large part of the expenditure of the State was covered by the issue of paper money, and only a quite insignificant part came out of taxes and revenue receipts. In the second half of the current financial year (April–October) it is proposed to cover as much as 75–80 per cent. of the State expenditure out of taxes and revenue receipts, whilst the remaining 20–25 per cent. will be made good by placing among the population of the Union internal State loans The experiment made in this direction by the issue of a lottery loan for 100 million gold roubles has proved completely successful; the loan was taken up completely more than six months ago, and there is every reason to think that further credit operations will meet with equal success.

It should be noted that in its efforts for the rehabilitation of the State budgets the Soviet Government is striving with equal persistence for the increase of revenue and for reduction in expenditure. On the revenue side of the budget of growing importance are becoming the revenues from State industry, both in the form of taxes and of profits. The growth of the purchasing capacity of the population gives ground to the hope that in the future also, with the increase in sales, the revenues of the State from this source will also increase. At the same time the strictest economy is observed in the spending of State funds, more particularly on items of a non-productive character. The reductions effected in the budgets of the War and Naval Departments, which in 1924 amounted to 18·3 per cent. of the total budget as compared to 30 per cent. in 1913, are in this respect specially significant.

Payment in kind, introduced at the time of the intervention, of taxes, wages, as well as a number of other kinds of payments, has now been abolished, and at present all payments to the Treasury are made exclusively in money.

Another great success achieved by the Soviet Government is the placing of the

* See enclosure.

monetary system of the State on a sound basis, carried out by them during the last year and a half. The reform of the currency began at the end of 1922 with the issue into circulation of notes of the State Bank (chervontsi), secured by gold, foreign currency, and other securities.

The cautious policy of the Government on this question has created for the chervonets an exceedingly strong position, not only within the borders of the U.S.S.R., but also abroad. In the very near future the currency reform will be completed by the issue into circulation of Treasury notes, made out in gold value, and by calling in of the depreciated Soviet paper money. Thus, at the present time there is in circulation a stable currency only, and the national economy has been spared the losses and perturbations which inavoidably attend a disorganised monetary system and a depreciated paper currency. Simultaneously with the issue of Treasury notes, a silver coinage has been brought into circulation, and very shortly a copper coinage will also be issued.

The return of the national economic life to productive labour, following upon the end of the war of intervention, has enabled the Soviet Government to give up the system of militarised organisation of industry, and to begin organising it on proper commercial lines, when undertakings or groups of undertakings (mills, factories, trusts, syndicates) were granted the status of independent commercial undertakings, and had assigned to them for their operations special property, separated from the general assets of the republic, and had imposed on them the obligations arising from the exercise of these rights. Such organisation of State industry and commerce, and likewise the existence of co-operative internal and external trade and the allowing of private traders to operate, have created a number of subjects for credit, and as a result of this, in order to satisfy the requirements which have arisen, the State Bank was established in 1921, and in 1922 it was transformed into an issuing bank.

During the more than two years of its existence the State Bank has accomplished work, exceptional in its importance, for the restoration of the economic life of the country. In its activities at home the State Bank, during the period of falling currency, has managed to convert the paper money received from the Government as its share capital into gold and foreign currency. This object was attained chiefly by financing Russian exporters, as a result of which at present the total amount of gold and foreign currency belonging to the bank represents 262 million gold roubles.

In its activities abroad the State Bank has succeeded in establishing durable relations with a number of first-class foreign banks; in particular, it has among its correspondents the leading London banks, whilst the sums kept by the State Bank in England have reached the total of 12,000,000*l.* sterling. The State Bank takes an active part in the export of grain, by way of financing the grain-collecting organisations as well as by exploitation of all the elevators in the ports of the U.S.S.R. which it holds on lease. Warrants issued by the State Bank on grain taken into the elevators have gained confidence, and are the object of dealings, not only in Russia, but also abroad. Apart from this, the bank acts as intermediary for foreign firms interested in imports into and exports from Russia, issues letters of guarantee on behalf of Russian importers, and undertakes the opening of credits for export business. The State Bank, like the trusts, works on the basis of a commercial undertaking, and in its operative work it is an absolutely independent institution. Its capital and the property belonging to it are quite distinct from the general assets of the republic, but, at the same time, in contradistinction to the other trusts, the State bears additional responsibility for all obligations assumed by the bank.

The growing volume of trade has brought forward the question of the organisation of the insurance business, and the institution created for that purpose has not only established confidence in itself inside the country, but has also succeeded in extending its sphere of operations to foreign countries, its policies being recognised in a number of States.

The success achieved in the matter of restoring the national economy could, however, have been much greater if the work of restoration of the country were carried on not exclusively with the internal resources of the Union, not infrequently in the teeth of opposition encountered abroad, but by enlisting the aid of foreign capital in various forms. However, even the successes achieved with our own resources are sufficient to show that even the present level of the national economy, and particularly the circumstance that the economic position of the Union is continuously, even if slowly, improving, establish the Union as a fully and organically credit-deserving subject. Some figures illustrating the position described above are given in the enclosure to the present memorandum.

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II.

Confidence in the U.S.S.R. on the part of Financial and Industrial Circles in Great Britain.

From the foregoing it may be seen that the U.S.S.R. belongs to that number of countries the national economy of which is gradually being restored, as distinct from whole series of European States, the economic position of which is continuously becoming worse. At the same time, the distrust towards the Union with which public opinion in Great Britain is inspired is based not on the economic position of the Union, but on the circumstance that the country, ruined by the war and by the autocratic régime, has not found it possible to bear obligations forcibly imposed on it by the Tsarist Government, irresponsible in every respect, and also by circumstances which arose in consequence of the world war. It should be pointed out here that at the time when the Tsarist Government was contracting loans, protests against them were registered not only by the Council of Workers' Deputies, which at that time already were the real guardians of the interests of the whole labouring people, but also by separate authoritative bodies expressing the public opinion, and acts of protest and warning of non-recognition by future Russian Governments of the loans of the Tsarist Government came even from the First State Duma (the Viborg appeal).

With the object of compelling the country to fulfil these obligations and of destroying the new political and social régime established in the days of the revolution, a bitter war of intervention was during three years carried on in the territory of the country, which caused the country incalculable damage and has reduced its resources to such a degree that it could exist only with difficulty. However, in spite of all the efforts of its opponents, the U.S.S.R. was not conquered, and the attempt of foreign Governments to win their lawsuit against the Union by a recourse to arms has ended in failure. Nevertheless, basing itself on purely practical reasons of mutual advantage, and with the object of eliminating all obstacles in the way of restoring the fullest confidence in the Union, and likewise with a view to creating such mutual relations between the two great countries which would render possible peaceful work and economic co-operation between the peoples, the Government of the Union is ready to make certain concessions and to take upon itself certain obligations. However, the extent of the obligations which the ruined country can take upon itself must be in strict conformity with its paying capacity.

It was stated above that all the available resources of the country are being expended on the attainment and development of the above-described success. The possibility, therefore, for the Union to incur expenses on any further needs depends entirely on the rate of increase of its productivity and of the growth of its general prosperity. The latter, however, is possible by the expenditure of considerable means over a prolonged period. The Union has no such capital at its disposal, and therefore this development can be attained only with the aid of capital attracted from abroad. The Government of the Union, conditionally upon receiving from Great Britain a loan which would enable it to create within the borders of the Union additional sources of national and State revenues, is prepared to pay on the loans received, over and above the normal annuity, also some additional sum annually towards paying off the claims against the Union which may be recognised as having to be satisfied.

However, notwithstanding that all the economic institutions of the Union have been very scrupulous in the fulfilment of obligations undertaken by them towards foreign countries, and some of them are already receiving credit from English industrialists and banks, the credit of the Union as a whole in the outside world is generally under less favourable conditions than the credit of countries which intrinsically are less deserving of credit. It is, therefore, to be feared that any independent appearance of the Government of the U.S.S.R. on the international money market is doomed to meet with serious opposition or with exceptionally onerous terms if the British Government will not render the necessary assistance to ensure the success of the loan.

Such assistance on the part of the British Government would be an act fraught with political advantage, as it is perfectly obvious that (1) the granting of credits to the U.S.S.R. will hasten the restoration of the economic life of the Union and, consequently, also of its paying capacity; (2) in this way the British Government would ensure the possibility of considerable orders being placed by the Union in Great Britain, and will correspondingly increase the volume and cheapen the cost of the imports of goods into Great Britain from the U.S.S.R. It is thus in the interests of both Governments that these credits shall be granted on the easiest terms possible,

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in order that the interest on the loans shall not fall as a too heavy burden on those branches of industry for which they will be destined. The less the Government of the U.S.S.R. will have to pay in interest on loans and the larger will be the amount of the loans the more will it be possible to assign annually for the purpose of satisfying creditors.

III.

Forms of Assistance by the British Government.

The assistance of the British Government could take the form of guaranteeing the loan which will be issued by the Soviet Government for this purpose in England; in other words, the British Government would lend to the Government of the U.S.S.R. not money, but only its credit, and in this way it would not have to incur any direct expenditure for this purpose. The existence of this guarantee would enable the Soviet Government to obtain money at approximately the same rate of interest at which it is obtained by the British Government itself, and in this manner it would be able to assign an additional percentage for the special purpose of satisfying those classes of creditors of the U.S.S.R. whose claims will be found as deserving to be met.

It was shown above, that in reality no risk or expenditure need be incurred by the British Government in the future, the loan being raised not for keeping up an economic organism sinking into ruin, but for accelerating the process of restoring the economy of a State entering on the road of economic rehabilitation. The guarantee by the Government of Great Britain would, therefore, reduce itself to a simple act on its part, without any monetary disbursements whatever.

IV.

Allocation of the Credits.

The credits asked for, which are to be expended gradually in the course of a number of years, are intended for the restoration of all forms of productive industry; in the first place, of agriculture, then of the timber industry, the oil and mining industries; also of several branches of manufacturing industry, such as the textile industry, transport, elevators and cold stores. In the majority of cases, as a result of this credit, there will be an increase in the exports of the goods, in the production of which the particular branch of industry is engaged, and, consequently, the proceeds of the sale of same, which will come in in foreign currency, will go towards payment of interest on the loan raised.

As regards all questions connected with the raising, apportioning, utilisation and the placing, for a corresponding part, of orders in England, it would be advisable to concentrate these in the hands of one single Soviet institution, like, for instance, the State Bank, which would be represented also in Great Britain. The same institution should likewise be entrusted with the management of the respective foreign loans of the U.S.S.R.

The credits will to a large extent be expended on the importation of articles required for developing and increasing production (machinery and equipment for manufacturing industry, ships, agricultural implements, and fertilisers for agriculture, &c.), and, consequently, will be mainly expended in England. Part, however, would obviously have to be remitted to the U.S.S.R. in the form of money, because in the greater part of the exporting industry a very considerable portion of the expenditure is made within the U.S.S.R., and although the Soviet Government on its part will endeavour to find the means for financing the rouble side of the expenses, it may, nevertheless, be presumed, that in view of the considerable extent of these outlays, the Soviet Government's own resources will in some cases prove insufficient for this purpose.

An approximate list of materials required for the restoration of the national economy of the U.S.S.R., which may be bought in England provided a loan is obtained, is given in the tables attached hereto.

Summarising the foregoing, it is necessary to state that, in the opinion of the delegation of the U.S.S.R., the only way of ensuring the possibility of satisfying, to an extent to be agreed, the claims presented to the Soviet Government, is the granting to the latter by Great Britain of credits sufficient for the development of the national economic resources of the U.S.S.R., which would enable it to provide,

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over and above the normal annual payment on the loan, for a certain additional payment towards satisfying certain classes of claims.

C. RAKOVSKI.

May 20, 1924.

Enclosure.

THE successes attained by the Government of the U.S.S.R. in recent years in various branches of national economy may be illustrated by the following brief data:—

Agriculture.

Area under cereal cultivation (in millions of desyatins):—

1913	87·8
1918	69·7
1921	45·3
1923	62·8

The same under industrial and intensive cultivation:—

1913	9·7
1918	7·2
1921	4·1
1923	8·4

Thus, the total area under cultivation in the year 1922 amounted to 73·9 per cent. of the pre-war area, against 50 per cent. in 1921. In the current year, according to the data available of preparation for the autumn ploughing, it may be expected that the total area will increase to 80 per cent. of the pre-war figure.

Particular note should be taken of the increase in the area of cultivation for cotton (in thousands of desyatins):—

1913	750
1921	100
1923	190

In 1924 an increase is expected at least to 280,000 desyatins.

The state of the cattle-raising business is illustrated by the following figures, which include both full-grown and young animals (in millions of heads):—

——	1916.	1922.	1923.
Horses	31·4	19·0	20·1
Large horned cattle	50·4	33·1	38·6
Sheep and goats	84·5	41·6	56·5
Pigs	19·5	7·7	9·1

The first column of figures is taken for 1916, as in that year a special census was taken, which was not done in the last years before the war.

The improvement in the state of agriculture has enabled the U.S.S.R. to again come out on the world's markets as a supplier of cereal products and, to a lesser degree, of animal products.

Industry.

The Oil Industry.

The change in the output of crude (in millions of poods) of the principal oil-fields of the Union is shown in the following table. The first two columns are in respect of calendar years, whilst the last two are for working years, calculated by us from the 1st October of a given year to the 30th September of the following year:—

——	1913.	1918.	1921–22.	1922–23.
Baku District	471·5	194·8	183·7	217·9
Grozni District	73·7	25·2	87·7	91·7
Ural-Emba District	6·0	8·9	8·2	8·1
Other districts	14·8	4·0	4·2	4·1
Total	566·0	232·9	283·8	321·8

The increase in output in 1922–23 compared to the preceding year amounts to 13 per cent.; the total output now amounts to about 60 per cent. of the pre-war figure.

Simultaneously with this, serious attention is paid to drilling, which during the last year has increased 3½ times (from 9,128 lineal sazhen in 1921–22 to 32,680 lineal sazhen in 1922–23).

The growth in the output of oil has enabled the country, without adversely affecting the interests of the home consumers of oil products, to recommence exportation abroad, which was suspended in recent years.

During the year 1922–23 the export of oil products grew from month to month and for the year amounted in round figures to 19·9 million poods.

The bulk of these products was shipped from Batum.

Out of the total quantity exported the exports to Great Britain represented 45·6 per cent., to Germany 17 per cent., to Turkey 10 per cent.

The export of oil products, particularly to Great Britain, could be easily developed further, provided certain expenditure was incurred on the further equipment of the oil-fields, the reorganisation of certain oil refineries and the laying of pipe-lines to Batum and Novorossisk.

The Coal Industry.

The last two years show a considerable improvement in the position of the coal industry, which may be illustrated by the following figures:—

——	1913.	1920.	1921–22.	1922–23.
Output of coal (gross) in all districts of the U.S.S.R., in millions of poods	1,738	466	622	713

The Donets Basin in particular has increased its output from 285 million poods in 1920–21 to 439 million poods in 1921–22 and to 494 million poods in the working year 1922–23.

This was obtained by means of extensive work on bringing into working condition of pits, the electrification of mines, &c.

The basin in the Moscow district, which supplies with coal the central industrial area, and was not affected by the events of the post-war period, has been rapidly developing; already in the year 1920–21 it yielded 38 million poods of coal, *i.e.*, a quantity in excess of its yield during the whole pre-war and war period. In the last few years the output of coal in the district round Moscow has been fluctuating, rising to 40 million poods, in proportion to the demand for it.

The Timber Industry.

Of the 1,529 million desyatins of the timber area of the whole world, so far made known, the U.S.S.R. has as its share about 500 million desyatins, *i.e.*, slightly less than one-third. In relation to the timber area of Europe, the U.S.S.R. owns about 60 per cent. and of Asia 90 per cent. The export of timber before the war was a very considerable item in our foreign trade balance. Thus, during the five years from 1904 to 1908 the value of timber goods exported from Russia amounted in the average to 93·4 million roubles per annum; in the following five years (from 1909 to 1913) it rose to a yearly average of 144·5 million roubles. About half of this amount represented sawn timber, and the other half, round timber (logs, balances, props, firewood, &c.). The share of Russia in the world's exports of sawn timber was fairly large and growing steadily. Thus, the yearly average exports of it during the five years 1904–1908 represented 30·8 per cent. of the total world's exports, whilst for the five years 1909–13 it was already 36·7 per cent., and in 1913 this figure rose to 40·7 per cent.

In the year 1922–23 the exports of timber, which had ceased completely during the time of the civil war, furnished us already with an amount of more than 40 million roubles.

The total quantity of timber goods prepared in 1922–23 (exclusive of firewood) amounted to 1,438 thousand cubic sazhen, against 1,002 thousand cubic sazhen prepared in the preceding working year.

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The Textile Industry.

During 1919 and 1920 the number of working enterprises in the cotton industry amounted altogether to about 13 per cent. of those remaining in the territory of the U.S.S.R.; spindles at work, about 7 per cent.; and looms, about 10 per cent. The output of yarn was only 4·5 per cent. (compared to 1912 and allowing for the mills now outside Union territory), and of manufactured fabrics 4·6 per cent.

In the following working year (reckoned in the U.S.S.R. from the 1st October of a given year till the 30th September of the next calendar year) a sharp rise occurred in the cotton industry, as will be seen from the following figures:—

Working Year.	Yarn.	Unfinished Fabrics.	Finished Fabrics.
	Thousand poods.	Million arshins.	Million arshins.
1920–21	1,073	133	210
1921–22	3,105	501	426
1922–23.. ..	4,492	842	787

Compared to the figures for 1912, this shows already 24·2 per cent. of the output of spinners, 32 per cent. of the weavers and 25 per cent. of finished fabrics. Thus in the four years the output has increased six times.

Beginning from 1920, a marked rise is observable in the *linen industry*, which may be seen from the following figures:—

Working Year.	Yarn (thousand poods).	Finished Fabrics (thousand square arshins).
1920–21	531	40,691
1921–22	1,155	88,157
1922–23	1,783	152,530

Thus, if in 1920–21 flax spinning amounted to only one-sixth, it now exceeds one-half of the pre-war quantity.

As regards the *woollen* industry, the output of manufactured goods in all the mills remaining on the territory of the U.S.S.R., according to the figures of the special census, amounted to 82 million arshins.

In 1919 the output of finished goods fell to 16·5 million arshins. Subsequent years show a considerable increase in output, as may be seen from the following figures:—

	Million arshins.
1920–21	22·2
1921–22	29·8
1922–23	30·8

Thus, of woollen goods there is at present being produced in the U.S.S.R. about 37 per cent. of the pre-war quantity.

A considerable growth of output is to be noted also in other branches of industry, such as the glass, paper, matches, rubber and leather industries, which are supplying a *wide home market*, in which the output has in the last working year, compared to the preceding year, increased from 37 per cent. to 104 per cent.

The Metallurgical Industry.

The evolution of this branch of industry is characterised by the following figures of the output of pig iron (in millions of poods):

1913	257·4
1915	225·3
1917	190·4
1919–20	6·3
1921–22	10·5
1922–23	18·3

Parallel with it rises also the output of iron and steel:—

1920–21	10·5
1921–22	19·4
1922–23	36·0

As may be seen from the above figures, the output of Martens metal has in the last two years gone beyond the output of pig-iron.

During the next two years it is proposed to attain in this output an equilibrium, and to increase the output of metal in accordance with the anticipated demand by one-and-a-half times to double.

Transport.

The whole network of *railways*, remaining within the territory of the Union, is at present in exploitation, whilst in 1918 the part in exploitation was reduced to 40 per cent.

The traffic, reckoned in pood-versts, which in 1918 represented 27 per cent. of the traffic of 1913, and in 1919 even only 23 per cent., has risen in 1922 to 33 per cent., and in 1923 to 45 per cent.

At present the transport services are carrying successfully and without delays all the goods traffic tendered to them.

The average daily loading of trucks along the whole railway system of the Union, which in 1922 amounted to only 9·5 thousands, in 1923 rose to an average for the year of 11½ thousands, whilst in February 1924 it rose as high as 13·1 thousand trucks, exceeding 40 per cent. of the pre-war figure of loadings.

Parallel with this is also growing the park of fit locomotives. Thus, in 1921 the number of locomotives fit for service was 6,830; by the 1st January, 1924, this number had grown to 9,003.

An enormous amount of work has been performed along the railway system in the replacement of sleepers, in the rebuilding of bridges, buildings, &c.

The restoration of the *water* transport presents greater difficulties to the Union than of the railway transport, our sea-going fleet having suffered most serious losses in course of the war and the revolution. Thus, the tonnage of large vessels left represents for the White Sea 40 per cent., for the Black Sea and the Sea of Azov only 9 per cent., and only in the Caspian Sea is it practically equal to the pre-war tonnage.

Nevertheless, even here we witness during the last two years considerable improvements.

Thus, the goods traffic of the small coasting trade, which in 1913 amounted to 724·4 million poods, and which in 1921 fell to 24·6 million poods, rose in 1922 to 95·5 million poods, and in 1923 had reached 231·8 million poods.

In 1923 begins the resumption also of the large coasting trade, it is true, only on a very small scale (1·9 million poods in 1923 as against 36·8 million poods in 1913).

The Budgets of the U.S.S.R.

In 1921 the tax-collecting organisation was practically non-existent; the objects themselves of the future system of taxation were still in their inception. The national wealth even in 1922 still consisted to the extent of no less than three-quarters in produce; the fundamental basis of the system of taxation continued to be the food tax in kind, which made the financial business of the State consist partly in dealings in goods. For the purpose of budgeting reliable criteria were lacking both on the revenue and the expenditure sides, which lent to the first yearly budgets (for the years 1921 and 1922) the character of theoretical attempts sketching out certain plans, meant to guide the Government in its financial work, and only as a result of two years' strenuous work, by the time of the preparation of the budget for 1923–24, has the financial department been able to begin elaborating a really realisable yearly budget plan. By this time the definite tendency of the growth of receipts from State taxes and undertakings has become clearly evident. The proportion of State revenues in the budget for every quarter of a year shows a steady improvement, a symptom of the sounder position of the finances:—

1922.	Issue of Currency.	Taxes (National and Local).	Revenues from Properties and Undertakings.
	Per cent.	Per cent.	Per cent.
January–March .	86·7	2·7	10·6
April–June	69·4	8·9	21·7
June–September	56·8	13·6	29·6
October–December ..	46·3	24·4	29·3

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The movement of State revenues during the first nine months of 1923 is shown in the following figures:—

Months.	Food Tax and Single Agricultural Tax.	Other Taxes.	Revenue from State Property and Enterprises.	Credit Operations.	Issue of Currency.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
January	23·2	14·2	26·7	4·4	31·5
April	7·4	14·1	34·3	8·0	36·2
July	5·7	17·4	35·7	14·0	27·2
September	2·8	14·2	17·7	35·8	21·3

According to provisional data the issue of currency has in the first quarter of 1923-24 (*i.e.*, October–December 1923) declined to 14 per cent. of the total expenditure, which testifies to the further decline in the part played by the issue of currency in the State finances. The draft budget for the year 1923–24 balances at the amount of 1,750,000,000 roubles. If we exclude from this 41 million of the budget of the Far Eastern Province, which was not included in the budget for 1922–23, we can then compare the two consecutive budgets for the years 1922–23 and 1923–24.

(Million Chervontsi-roubles.)

1. Taxes, ordinary revenue (in money and in kind)	378	498
2. Revenues from properties and enterprises (exclusive of revenues from railways, posts and telegraphs)	48	141
3. People's Commissariat of Transport	376	598
4. People's Commissariat of Posts and Telegraphs	25	39
Total of ordinary revenue	827	1,276
Extraordinary sources—		
5. Credit operations and sale of foreign currency	129	253
6. Issue of currency	390	180
Total	1,356	1,709

It is clear from the above that, with a total increase in the budget by more than 350 million roubles, normal revenues have increased by 450 million roubles, and receipts from extraordinary sources, which substantially represent the deficit which had to be covered, have been reduced by 100 million roubles. By the side of this should be noted the sharp decline in the deficit covered by the issue of currency. 180 million roubles for the year or 15 million roubles per month represents a little over 10 per cent. of the total budget for 1923–24.

APPROXIMATE List of Orders and Purchases by the U.S.S.R. in Great Britain required for the Restoration and Development of the Economic Resources of the U.S.S.R., and which might be made in the event of the granting by Great Britain of a Loan to the U.S.S.R.

	Roubles.
1. *Orders for Shipbuilding Works.*	
Various kinds of steamers and motor-ships according to a specification to be prepared later	25,000,000
2. *Orders for Engineering Works.*	
(1.) Additional equipment and re-equipment of several metal-working works in the U.S.S.R.	6,500,000
(2.) Additional equipment and re-equipment of several collieries	3,000,000
(3.) Additional equipment and re-equipment of gold and platinum placer mines (dredges and auxiliary plant)	12,500,000
(4.) Re-equipment and fresh plant for textile factories:—	
Cotton mills	19,000,000
Woollen mills	21,000,000
Linen mills	9,000.000
Cotton cleaning works	5,000,000
(5.) Re-equipment of seed-crushing mills (presses)	700,000
(6.) Additional equipment for electrical manufacturing works (lathes)	3,300,000
(7.) Additional equipment and re-equipment of saw mills	5,000,000
(8.) Additional equipment and re-equipment of railway workshops	3,000,000
(9.) Purchasing and ordering of sets of ship's engines and boilers for river craft	2,000,000
(10.) Orders for internal combustion engines	10,000,000
(11.) Orders for the equipment of elevators	10,000,000
3. *Orders to Agricultural Machinery Works.*	
Complex agricultural machinery according to a special specification	15,000,000
4. *Orders to Electrical Engineering Works.*	
(1.) Electrification of certain metal-working works	2,000,000
(2.) Electrification of certain collieries	3,000,000
(3.) Electrification of the Suram section of the Transcaucasian Railway	3,000,000

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ANGLO-SOVIET CONFERENCE.

SECOND (COMMERCIAL TREATY) COMMITTEE.

Eighth Meeting at the Foreign Office on Thursday, May 22nd., at 3.0 p.m.

PRESENT:

British Delegation.	Soviet Delegation.
Mr. O.St.C. O'Malley. Mr. H. Fountain.	Y.D. Janson. I.I. Kutuzov.
Expert.	Experts.
Mr. C.H. Hipwood.	A.N. Dolgov. G.N. Lashkevich. P.Y. Rabinovich. M.I. Skobelev.
Secretariat.	Secretariat.
Mr. E.H.S. Marker.	A.A. Binder.

Mr. Hipwood, the head of the Mercantile Marine Department of the Board of Trade, attended the meeting in order to discuss the questions raised by the Soviet counter-proposals in their bearing on British shipping.

Mr. Hipwood enquired in the first place what exactly was the object of paragraph 1 of the Protocol. Was it, or was it not, desired to reserve the right to confine the emigrant trade to Russian vessels?

The Soviet Delegation stated that, as had been pointed out at the previous meeting, emigration constituted a State monopoly in the Soviet Union and could only .....

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only be carried on by companies holding a special concession for that purpose. The object of the provision was to prevent any claim under Treaty to the right in question which was a matter of concession, but at the same time there was no provision definitely excluding British vessels from engaging in the trade subject to their holding a concession.

Mr. Hipwood pointed out that what the Soviet Delegation had said in fact meant that the Treaty did not apply to emigration and gave no rights in regard to it. It would be perfectly open to the Soviet Government hereafter to say that the trade in emigration was, in fact, limited to Soviet ships, though it was not their present intention so to limit it. This raised a very serious question of principle for a maritime country like the United Kingdom which was engaged in trade all over the world.

Mr. Hipwood went on to point out that paragraph 1 as drafted made the emigration traffic an express exception from the provisions of Article 11. It certainly had the appearance of the Soviet Government claiming the right to reserve to national vessels a certain portion of their trade, viz. the passenger trade. If a sending State insisted on sending passengers or goods in its own vessels, the receiving State which also had rights in the matter might even insist on receiving them only in national vessels. In such ...

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such a case cargo and passengers would have to be exchanged in mid-ocean and chaos would result.

The British Delegation then said that, while they accepted the Soviet statement that they wished to retain specific control over emigration, the Article as drafted was so wide that it enunciated a principle dangerous from the British point of view. They accordingly suggested that the wording of the paragraph should be as follows:-

> "It is understood that the right of any vessels "to participate in the carriage of emigrants "from or immigrants into the territories of "the U.S.S.R. is the subject of concessions "accorded to particular Lines with that "object. The Government of the U.S.S.R., "however, undertakes that in the accord of "these concessions, they will not discriminate "in any way against British shipping Lines".

The Soviet Delegation in reply stated that the proposal under consideration was not one for the monopolisation of the whole, but of a very small branch, of Soviet shipping. The monopoly did not mean that the Soviet Government interded to reserve the carrying of emigrants exclusively for the Soviet Fleet. Should the Soviet Government experience a shortage of means of transport it would invite the co-operation of foreign shipping by entering into concession agreements with one or many shipping lines for the purpose of arranging the handling of this particular branch of transport on a satisfactory basis. As a matter of fact, such a concession had already been given to British Shipping Companies, notably the White-Star-Line and others. The

fear ...

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fear of the British Delegation that the endeavour to protect the interests of the national fleet might bring about the necessity of exchanging cargoes in mid-ocean appeared to the Soviet Delegation ill-founded. It was obvious that in such a case it would still be possible to find a means of avoiding the exchange of cargoes in mid-ocean, but the Soviet Delegation considered it hardly necessary to discuss a hypothetical case and proposed to return to the question before the Committee, namely, the monopoly of carrying emigrants only. With regard to the formula put forward, the Soviet Delegation stated that they saw no way out of the difficulty because they felt that the most-favoured-nation principle could not, in fact, be worked in the case of concessions, the grant of each of which was necessarily dependent upon special circumstances. If, for example, they gave a concession for £100,000 to a company of one country, it could not be maintained that they must for that reason give a concession for exactly the same amount to a company of another country. They agreed that the wording of paragraph 1 should be altered, and they proposed the following formula:-

> "The right of any vessel to participate
> "in the transport of emigrants and immigrants
> "is granted only to ships or lines which have
> "entered into a corresponding agreement with
> "the Government of the U.S.S.R. On its
> "part, the Government of the U.S.S.R. under-
> "takes in the conclusion of such agreements
> "not to discriminate against British ships
> "on the basis of their flag".

The British Delegation stated that this formula was

preferable ...

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preferable to that originally put forward but that they would like to consider it before expressing their final views.

As regards paragraph 2 of the Protocol, the British Delegation enquired what was the exact meaning of the words "for direct shipments".

The Soviet Delegation explained that they had in mind "through rates", and it was agreed that the words "special tariffs or regulations for direct shipments" should be deleted and the words "through rates" substituted.

As regards paragraph 3, the British Delegation said that they were prepared in principle to agree that the Soviet Government should be entitled to include in the expression "coasting trade" trade between Russian ports on one sea and Russian ports on another, but they preferred that this should be done by means of a unilateral declaration on the part of the British Government appended to the Treaty rather than in the form of a bilateral agreement. To this the Soviet Delegation agreed. The British Delegation proposed the following formula, which the Soviet Delegation agreed to consider:-

"The British .....

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"The British Government recognises the right of the "Soviet Government in reserving the coasting trade "to national ships, to include in that reservation "the carrying of goods and passengers between "Soviet ports whether situated on the same coast "or on different coasts".

Article 12. The British Delegation pointed out that the concession in return for which the Soviet Government had opened the trade between certain ports in the Black Sea to Italian ships was the opening to maritime transport by the Italian Government of trade between certain Italian ports. The entire coasting trade of Great Britain was open to foreign shipping, including Russian shipping, and the British Delegation considered that so long as Great Britain maintained this very generous attitude she should be entitled to all the advantages which might be conceded by the Soviet Government to third countries.

The Soviet Delegation explained that the concession given to Italy was for a period of two years only and that it had been given in view of the special services rendered to Soviet trade by the Italian Lloyd during the period of the blockade. The coasting trade of Great Britain could hardly be made use of by Soviet shipping, whereas the trade between Italian ports referred to in paragraph 3 of Article 25 of the Italian-Soviet Treaty might be of some value to them. Moreover, the competition of British ships in the Black Sea would be a very serious factor for the Soviet coasting vessels.

The British Delegation pointed out that the matter ....

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matter was one of political importance in this country and that His Majesty's Government would find it difficult to face Parliament if they had to confess that in the Treaty concluded between this country and the Soviet Union as a result of the British recognition of the Soviet Government they had been unable to obtain for British shipping a concession given to Italian shipping in the Black Sea, a concession which had, in fact, attracted wide attention in this country and had formed the subject of comments in Parliament.

The Soviet Delegation stated in reply that a question of such small economic value to British shipping should not, in their opinion, be made one of great political importance, and asked the British Delegation not to press this question of coasting trade which could hardly give any real advantages to British shipping.

The British Delegation finally expressed the view that His Majesty's Government would be bound to insist that so long as the coasting trade of Great Britain was open to Russian ships, the Soviet Government must concede to British ships whatever concessions might be given to the ships of any third power. The Soviet Delegation were accordingly asked to reconsider their attitude.

Article 13. The Soviet Delegation expressed a desire to add a unilateral declaration with regard to certain Russian ships which had escaped nationalisation and they ....

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and they proposed to submit the necessary words at a subsequent meeting.

Articles 14 and 15. (Industrial Property, etc.). Consideration was postponed until such time as the British experts could attend the Committee.

Article 2. The Soviet counter-draft of this Article is annexed.

The British Delegation enquired what exactly was the object of the Soviet proposal and they asked that they might be given a full explanation of what the Soviet Government had in mind so that they might give the matter due consideration. The discussion of this Article was adjourned.

It was agreed that the next meeting should be held on Tuesday, 27th May, at 11 o'clock (subsequently changed to Monday,26th May, at 11 o'clock).

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ANGLO-SOVIET CONFERENCE.

SECOND (COMMERCIAL TREATY) COMMITTEE.

Ninth Meeting at the Foreign Office on Monday, 26th May, at 11.0. a.m.

PRESENT:

British Delegation.	Soviet Delegation.
Mr. O.St.C.O'Malley. Mr. H. Fountain.	Mr. Y.D. Janson.
Expert.	**Experts.**
Mr. G. Mounsey.	A.N. Dolgov. G.N. Lashkevich. P.Y. Rabinovich. M.I. Skobelev.
Secretariat.	**Secretariat.**
Mr. E.H.S. Marker.	A.A. Bindor.

The discussion of the Soviet counter-draft of Article 2 was continued.

Mr. O'Malley said that he wished to know exactly what the Soviet Delegation had in mind in putting forward their counter-draft. In the first place, he understood that it was their view that the nature of the business which they had to transact made it necessary for them to take special precautions for keeping their affairs confidential. In particular they wished to be in a position to send cypher telegrams and they desired that there should be no access to their books and accounts.

The Soviet Delegation expressed the view that since foreign trade in the U.S.S.R. was in the hands of the Government ...

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of the Government, their Trade Representation should be regarded as an inseparable part of the Soviet State Representation in this country, and should form part of the diplomatic institutions. This was the case in all other countries with which the Soviet Government had entered into relations, as it was also the case in Great Britain where the Soviet Trade Delegation had been enjoying ex-territorial rights during the last three years. The State monopoly of foreign trade was looked upon by the Soviet Government as one of the most important functions of the State.

The Soviet Delegation stated that Mr. O'Malley had rightly understood that their claim to special treatment was based on formal and legal grounds.

(1) In the Soviet Union foreign trade was a State monopoly and therefore the Trade Delegation represented the State so far as trade was concerned. The function of the Trade Delegation differed entirely from that of a Commercial Attaché, since it, in fact, controlled and carried on the foreign trade in the name of the State.

(2) There were practical reasons. While a State could not accept responsibility for the actions of its citizens trading on their own account in a third country, it was responsible for its own trade and the Trade Representation must therefore be looked upon as a State Representation and ought to be afforded adequate guarantees. On the other hand, the smallest misunderstanding might have the most serious consequences and anything affecting the normal trading activities might ...

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might affect the whole trade of the Soviet Union.

Mr. O'Malley said that it appeared, therefore, that the Soviet Delegation's claim to special privileges was based on grounds of two kinds, viz.

(1) On what might be termed the theoretical ground of the relation of States to one another. In the case of the Soviet Union trading was essentially a part of the State organisation and trade representation might, therefore, be regarded as essentially a part of the Soviet Embassy in this country.

(2) On practical grounds, such as the supposed necessity for their operations to be specially safeguarded against disclosure.

He was anxious to understand all the practical advantages which the Soviet Delegation hoped to derive from the acceptance of their proposal. Was there any other practical reason for the claim of the Soviet Delegation besides the desire for secrecy?

Mr. O'Malley then proceeded to point out the objections that occurred to the British Delegation:

(1) A fundamental principle of His Majesty's Government and of practically all Governments other than the Soviet Government, was that trading should be separated from the functions of State representatives abroad. Privileges given to the diplomatic staff of foreign countries have not normally extended to trade and so far as they may have so extended, it was the British view that they should be restricted. If the Governments of the British self-governing Dominions

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wish to engage in trade (for example, if they run a steamship line) they have to pay taxes and His Majesty's Government could not make to a foreign country a concession which they were not prepared to make to their own Dominions.

Diplomatic privileges existed for the purpose of enabling Governments to carry out what had hitherto been the recognised functions of Governments, and for that purpose alone. The functions of a trader were different from those of a Government and the existing body of laws and regulations represented the conditions under which - as a result of experience - it was considered that trade could most properly and conveniently be carried on here. The British Delegation understood that the Soviet Government was in a different position towards other Governments, but the British Delegation did not think this rendered it necessary or desirable for His Majesty's Government to alter their policy. If the Soviet Government could point to any practical inconveniences which they would suffer by accepting the British draft clause, the British Delegation would see whether some way of obviating these could not be found.

(2) It was claimed that as the Soviet State was responsible for all its actions any control that might be exercised in this country was unnecessary and because unnecessary, bad. This was a principle which might be carried to great lengths, and if extra-territoriality were conceded to a trading organisation on this ground,

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it would be open to a foreign government to claim that all its nationals in this country should be placed outside the local law, if and because it assumed responsibility for their actions outside its own territory.

(3) If the Soviet Government feared that action against them on one particular incident might affect the whole of their trade, was there any reason why they could not split their organisation into a number of bodies dealing with separate branches of trade?

(4) On the question of secrecy, no private firm had any special facilities for keeping its business secrets to itself and yet it was well known that business secrets remained such. The Soviet supposition that, in the absence of a special Treaty stipulation to the contrary, their business secrets would become known was, in fact, based on a complete misconception of conditions in this country.

The Soviet Delegation in reply observed that the task of the two Delegations was to harmonise two conflicting systems. They desired that there should be in this country a representative organ of their state trading system which should trade with the British system. This organisation should have diplomatic privileges until it actually engaged in a specific transaction, which transaction would be subject to the Courts of Law. There was nothing here in their view to conflict with the British system.

Then as regards the question of State secrets,

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while no doubt a British firm was able to keep its secrets, it was the view of the Soviet Delegation that they must be able to protect their secrets, which were in fact State secrets, not only by the legal practice existing in this country at the moment, but also by treaty rights. They were not in the same position as a private firm since the disclosure of their secrets would affect the interests of a whole nation. A firm whose secrets are disclosed is placed in a more serious position relatively than its competitors. The case of the State Trading Representation was different: for instance, if the export and import plan of the Soviet Union were disclosed to the outside world, everybody would know that the Soviet Government wished to buy certain produce and that Government would, therefore, be placed at a definite economic disadvantage.

With regard to Mr. O'Malley's remark that a foreign Government might claim ex-territorial rights for its nationals abroad, or that they should be placed outside the local law, it was obvious that such a claim could not be realised since the foreign State where those private citizens resided would not in the least be disposed to take any notice of such a preposterous demand. The Soviet Delegation did not wish to extend the principles of extra-territorial jurisdiction over their nationals, nor even over their individual State trading trusts and co-operative organisations, but demanded extra-territorial

privileges ...

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privileges only for the Representation of the State Trading monopoly.

As regards the suggested sub-division of their organisation, this was not regarded as practicable, since the People's Commissariat for foreign trade was organisdd as a complete unit and, therefore, their Representation abroad must work on the same lines.

Three years' experience of the work of the Trade Delegation on the basis of the Trade Agreement of 1921 had shown that there was no practical objection to the privileges for which they were asking. That Agreement gave them all the necessary privileges and they wanted these privileges confirmed.

The Soviet Delegation suggested, therefore, that the general discussion should be abandoned and that the two Delegations should proceed to consider how the rights and privileges for which the Soviet Delegation were asking could be more definitely laid down and determined.

Mr. O'Malley agreed that there was a difference between the two systems and that the business of the Committee was to harmonise those systems. The way to do this was for each party to refrain, so far as possible, from pressing for modifications of the laws or customs existing in the territory of the other party. What the Soviet Government now really demanded was that they should be allowed to carry their system into Great Britain so far as they were trading. Would the Soviet Government agree reciprocally to allow British subjects and companies, that is to say, the British system, to

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enter their territories without let or hindrance and to enjoy ex-territorial privileges? If so, His Majesty's Government would be prepared to consider the Soviet' request.

As regards the question of secrecy, the British Delegation did not understand how any Soviet State secrets could be given away under existing conditions except in a lawsuit in respect of a particular transaction.

Both His Majesty's Government and the Soviet Government were bound by a network of Commercial Treaties. If His Majesty's Government accepted the Soviet standpoint in this matter, other foreign countries might ask for the same privileges, and the British Dominions had already subscribed to the doctrine that States engaged in trade should not enjoy diplomatic immunity so far as their trading operations were concerned.

The Trade Agreement of 1921 conferred certain privileges because, things being as they were, it was the only possible way in which trade could be started. His Majesty's Government did not object to the immunities conferred by the Trade Agreement as temporary measures, but they would take a different view if it became a question of fitting them into the regular diplomatic system. And, after all, the privileges of the Trade Agreement did not go very far. They gave personal immunity only and did not meet the Soviet Delegation's point as to the question of ex-territoriality for their offices or special safeguards for Soviet trade secrets. ...

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secrets.

The Soviet Delegation finally made the following points:-

(1) As regards the remark about Treaty relations in Great Britain with other countries in this matter, the draft proposal of Article 2 submitted by the Soviet Delegation began: "In view of the fact that the foreign trade of U.S.S.R. constitutes a State monopoly". Therefore, so long as a State monopoly of foreign trade did not exist in another country, it would not be possible, in the view of the Soviet Delegation, for such a country to claim from Great Britain the privileges now in question.

(2) They considered that their proposal was in no way inconsistent with the laws of Great Britain, since particular transactions would be liable to be brought into Court. The Soviet Delegation did not demand that they should be allowed to carry their system into Great Britain. It was merely a question of the agency of the Soviet trading system being established in this country with the purpose of transacting business with trading organisations in Great Britain. Without the existence of such a Trading Representation in Great Britain, trade would, in fact, be impossible.

(3) As regards the treatment of British firms in the Soviet Union, they pointed out that it was possible for a number of British firms to represent British industry in the Soviet Union, but that so far as they were trading they ...

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they must, of course, comply with Soviet Law, as the Soviet Government trading in Great Britain would have to comply with British Law. The Soviet Government did not extend diplomatic privileges to foreign private companies, nor did they ask that these privileges should be extended to Soviet private companies and organisations in Great Britain. Immunity was asked only for the State Representation of Foreign Trade and their members, but not for private persons or firms. If a State Monopoly of Foreign Trade existed in Great Britain, the Soviet Government would, of course, on the basis of reciprocity, not be able to refuse ex-territorial rights to the British State Representation of Foreign Trade in the territory of the Soviet Union.

With regard to the rights accorded to the Soviet Delegation by virtue of the Trade Agreement of 1921, they did not consider that the Agreement of 1921 afforded a final basis for the mutual relations of the two countries. That agreement might have been satisfactory as a temporary measure, but they thought that the present Treaty should have a much broader basis.

It was agreed that the discussion be postponed until the British Delegation had had the opportunity of further considering the Soviet draft of Article 2.

Further meetings of the Committee were arranged as follows .....

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follows:-

(1) Wednesday, 28th May, at 11.0 a.m.

(2) Friday, 30th May, at 11.0 a.m.

The latter for the purpose of considering the Soviet counter-draft of Article 14 (it is understood that the Soviet Delegation accept the British draft of Article 15).

Finally, the British Delegation enquired whether the Soviet Delegation were yet in a position to bring forward their proposals on the points outstanding in Articles 6 and 10, and whether they agreed to the British proposals in regard to paragraphs (a) and (f) of Article 11A.

The Soviet Delegation undertook to forward their amendments to most of these provisions before the next meeting.

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ANNEX.

Soviet counter-draft of Article 2.

ARTICLE 2.

In view of the fact that the foreign trade of the U.S.S.R. constitutes a state monopoly and is exercised directly by the Government of the Union, as a State function of the Union - the Trade Representation of the U.S.S.R. in Great Britain shall enjoy the following rights.

1. To represent the economic interests of the Union and of its citizens in Great Britain, and to assist in the development of trade relations between U.S.S.R. and Great Britain.
2. To regulate the foreign trade and exchange of commodities between the Union and Great Britain.
3. To carry on the foreign trade of the Union on the territory of Great Britain.

The Trade Representation of the U.S.S.R. in Great Britain constitutes an integral part of the Embassy of U.S.S.R. in Great Britain.

The Trade Representative and the members of the Council of the Trade Representation, the number of which is to be determined later by agreement between the two contracting parties, shall enjoy personal inviolability and other privileges and the immunity accorded to members of a diplomatic mission.

All offices of the Trade Representation of the U.S.S.R. shall enjoy ex-territorial rights.

All other ....

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All other employees of the Trade Representation and their families, in so far as they are not British subjects, shall enjoy the following privileges:

Complete exemption from all taxes and imposts, right of entry, except in cases of personal objections, and residence in the country during the continuance of their employment; in regard to the inviolability of the person and domicile - all privileges accorded by virtue of the provisions of international law to employees of diplomatic missions who are not members of the corps diplomatique.

The Trade Representation and its organications (branches ?) shall have the right to use cipher.

The Government of the Union takes upon itself the responsibility for all transactions concluded by its Trade Representation in Great Britain and submits in respect of those transactions to the jurisdiction of British Courts; the property of the Trade Representation shall, however, not be subject to judicial measures of a preliminary character.

The Trade Representation of the U.S.S.R. shall likewise have the right to form in Great Britain in accordance with existing laws, special companies for business and trade activity and to act in the name of the Union Government as founder of such companies.

The activities of these companies shall be regulated by British laws in the usual manner.

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animals or of plants useful to agriculture, of regulating the trade in arms and ammunition under general provisions of law or the trade in any particular article under the provisions of any general International Convention which is binding on either Party.

ARTICLE 2 (BRITISH DRAFT).

In the event of the Government of either Party engaging in trading operations with or within the territories of the other either directly or through any authority or body under its control it is agreed that in respect of such trading:

(1) Such Government shall enjoy within those territories the same privileges and facilities as are accorded by the Treaty to its nationals.

(2) Such Government will neither exercise nor permit any discrimination either direct or indirect against the other Party as compared with any foreign State as regards the treatment of its nationals, commerce or vessels or of goods originating in or destined for its territories.

Each/

ARTICLE 2 (SOVIET DRAFT).

In view of the fact that the foreign trade of the Union of Soviet Socialist Republics constitutes a state monopoly and is exercised directly by the Government of the Union, as a State function of the Union - the Trade Representation of the Union of Soviet Socialist Republics in Great Britain shall enjoy the following rights:

1. To represent the economic interests of the Union and of its citizens in Great Britain, and to assist in the development of trade relations between the Union of Soviet Socialist Republics and Great Britain.

2. To regulate the

foreign/

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Each Government agrees that in respect of such trading and of all property used therefor or involved therein it will waive any claim to the immunities accorded to a foreign Government and its property in matters of taxation, administration and jurisdiction.

foreign trade and exchange of commodities between the Union and Great Britain.

3. To carry on the foreign trade of the Union on the territory of Great Britain.

The Trade Representation of the Union of Soviet Socialist Republics in Great Britain constitutes an integral part of the Embassy of the Union of Soviet Socialist Republics in Great Britain.

The Trade Representative and the members of the Council of the Trade Representation, the number of which is to be determined later by agreement between the two contracting parties, shall enjoy personal inviolability and other privileges and the immunities accorded to members of a diplomatic mission.

All offices of the Trade Representation of the Union of Soviet Socialist Republics shall enjoy ex-territorial rights.

All other employees of the Trade Representation and their families, in so far as they are not British subjects, shall enjoy the following privileges:

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Complete exemption from all taxes and imposts, right of entry, except in cases of personal objections, and residence in the country during the continuance of their employment; in regard to the inviolability of the person and domicile - all privileges accorded by virtue of the provisions of international law to employees of diplomatic missions who are not members of the corps diplomatique.

The Trade Representation and its organisations (branches?) shall have the right to use cipher.

The Government of the Union takes upon itself the responsibility for all transactions concluded by its Trade Representation in Great Britain and submits in respect of those transactions to the jurisdiction of British Courts; the property of the Trade Representation shall, however, not be subject to judicial measures of a preliminary character.

The Trade Representation of the Union of Soviet Socialist Republics shall likewise have the right to form in Great Britain in accordance with existing laws, special companies for business and trade activity and to act in the name of the Union Government as founder of such companies.

The activities of these companies shall be regulated by British laws in the usual manner.

ARTICLE 3/

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bearing trade marks or trade names to which they have no right, or marks, devices, names, inscriptions or wrappings which convey directly or indirectly false indications of the geographical or commercial origin of such goods.

ARTICLE 16.

(Not yet discussed).

The stipulations of the present Treaty shall not be applicable to India or to any of His Britannic Majesty's self-governing Dominions, Colonies, Possessions or Protectorates unless notice is given by His Britannic Majesty's Representative at Moscow of the desire of His Britannic Majesty that the said stipulations shall apply to any such territory.

Nevertheless, goods produced or manufactured in India or in any of His Britannic Majesty's self-governing Dominions, Colonies, Possessions or Protectorates shall enjoy in the territories of the Union of Soviet Socialist Republics complete and unconditional most-favoured-nation treatment so long as goods produced or manufactured in the territories of that Union are accorded in India or such self-governing Dominion, Colony, Possession or Protectorate treatment as favourable as that accorded to goods produced or manufactured in any other foreign country.

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ARTICLE 17....

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ARTICLE 17.

(Not yet discussed).

The terms of the preceding Article relating to India and to His Britannic Majesty's self-governing Dominions, Colonies, Possessions and Protectorates shall apply also to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty.

ARTICLE 18.

(Not yet discussed).

The present Treaty shall be ratified and the ratifications shall be exchanged at as soon as possible. It shall come into force immediately upon ratification, and shall remain in force for a period of ten years from the date of ratification and after the end of the said period of ten years until the expiration of twelve months from the date on which either of the Contracting Parties shall have given notice to the other of its intention to terminate the Treaty.

As regards, however, India or any of His Britannic Majesty's self-governing Dominions, Colonies, Possessions or Protectorates, or any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, to which the stipulations of the present Treaty shall have been made applicable under Article 16, either of the Contracting Parties shall have the right to terminate it separately at any time on giving twelve months' notice to that effect.

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RUSSIA. [May 27.]

CONFIDENTIAL. SECTION 1.

[N 4594/3377/85]

No. 1.

ANGLO-SOVIET CONFERENCE.

Seventh Meeting at Foreign Office at 11 A.M. *on May* 27, 1924.

In the Chair: MR. A. PONSONBY.

Present :

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. J. D. Gregory.	C. G. Rakovski.
Mr. O. StC. O'Malley.	A. L. Scheinmann.
Mr. F. Phillips.	A. M. Radchenko.
Sir S. J. Chapman.	I. A. Zhitkov.
Mr. H. Fountain.	N. M. Shvernik.
Sir W. H. Clark.	Y. D. Janson.
	I. Khidiraliev.
Experts.	*Experts.*
Mr. W. Peters.	P. Y. Rabinovich.
Mr. S. D. Waley.	M. I. Skobelev.
Mr. H. J. Hutchinson.	S. K. Bellegarde.
	E. A. Behrens.
Secretariat.	A. N. Dolgov.
Mr. P. M. Roberts.	G. N. Lashkevich.
Mr. W. Strang.	N. M. Lyubimov.
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	*Secretariat.*
Mr. H. Broadley.	A. F. Rothstein.

MR. PONSONBY : M. Rakovski will now give us the opinion of the Soviet delegation on the question of property claims.

M. RAKOVSKI : The Soviet delegation first desires to know the answer of the British delegation in reply to the proposition put forward by us at the last meeting regarding the liquidation of pre-war debts in connection with the question of a loan and orders to be placed with British industry.

MR. PONSONBY : With regard to the declaration of the Soviet delegation, at the last meeting of the conference, on pre-war debts, I would prefer to deal with that question and their declaration on property claims together. We are anxious to have the whole story before us before expressing an opinion. With regard to the loan, I think that question was very fully discussed at the last meeting of the conference, and our views were made quite clear. I made, on behalf of the British delegation, a proposition, and I understood from what M. Rakovski said, that his idea was that, for the time being, they would accept that assurance on the understanding that they might reopen the question at a later stage if they found they were unable to conclude negotiations for a loan.

M. RAKOVSKI : As regards the question of private claims, the Soviet delegation will to-day express its opinion. Although there is a chronological connection between this question and the other questions—and, in fact, all the questions on the agenda—none the less, the formula which we put forward at the last meeting as regards pre-war debts has a definite, concrete character, and we desire to know the opinion of the British delegation on this formula. The British delegation has only expressed an opinion on one point of the formula, viz., the question of a loan, and has expressed no opinion on the other points. I desire to know when the British delegation will express its opinion on the formula in its entirety, as put forward at the last meeting.

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MR. PONSONBY : I quite appreciate the point that the pre-war debts and the property claims come under different categories, but it was merely for the sake of convenience and to avoid repetition that I wanted to hear first the opinion of the Soviet delegation on the subject of the property claims, and, having heard it, I will give M. Rakovski our reply under both these heads and make suggestions.

M. RAKOVSKI : I must draw attention to the fact that the position of the two delegations is unequal, the British delegation being, so to speak, in the position of a claimant. The Soviet delegation has given its answer on one question, and I would state that, while repeating that we are prepared to-day to deal with other questions, none the less, as regards the concession which we made in order to show our desire to settle disputed questions, we have no indication whether this concession is acceptable to the British delegation or not. Up to the present an answer has been made to each proposition or question as it has been put forward. Certainly the British delegation has the right, after hearing subsequent replies, to connect them with preceding replies or to make its replies conditional on subsequent events, but none the less, the Soviet delegation expects a reply. I repeat that I quite appreciate that the reply may be conditional, but public opinion in Russia expects an answer to the formula which has been put forward.

MR. PONSONBY : The British delegation desires to give that answer, but in former meetings of the conference the British delegation put forward certain propositions covering the whole field of these various claims and debts. The Soviet delegation has dealt very fully with one class of debt, and it would seem to us to be a better method of procedure for us to give our reply on the whole question when we have heard the views of the Soviet delegation on this further point. Let me make it quite clear that there is no reluctance on our part whatever to express our opinion on the propositions which have already been made by M. Rakovski, only if there is any divergence of view between us it is better that it should be expressed on the whole problem rather than on a section of it.

M. RAKOVSKI : I feel that I must call attention to one point. The British delegation did not give any general formulæ, but, at the last meeting but one, put forward one formula only, viz., a formula for dealing with private claims for nationalised property, factories, mines, works, &c. Consequently, the British delegation adopted the policy of giving separate formulæ for separate classes of claims. I quite understand and approve of this method of approach. After all, claims have to be divided into many categories. The division into categories has been, in fact, adopted by the British delegation. There are claims of a perfectly clear character; there are, on the other hand, claims of which the character has now to be settled. There is in this respect a great difference between pre-war claims and all other claims. In the case of pre-war claims, at any rate, the nominal value is determined by the value of State or municipal securities. The amount of the other claims can only now be settled. I would point out that I desire in this manner merely to underline the difference between these different categories of claims, which difference leads to the necessity for separate replies being given in regard to each category of claim.

MR. PONSONBY : With regard to the pre-war debts, I note that at the last meeting of the conference M. Rakovski, when asked whether they were prepared to pay the pre-war loans at their nominal value with the addition of interest, declared categorically that they were not, and, further, that he considered that all the interest on loans must be written off and the principal of the loans must be considerably reduced. That proposition I can say now, on behalf of the British delegation, does not meet with our acceptance. But, with regard to these pre-war debts, M. Rakovski made it clear that they must depend to a large extent on the success that he might get in negotiating a loan. He made this class of debt dependent on a loan, and, as we expressed our views very clearly on that subject, it will only be necessary for us at a further stage to make suggestions with a view to meeting the situation if the Soviet delegation is unable to conclude negotiations with regard to a loan. This class of claim, therefore, for the time being seems to be dependent on something that has not yet been finally settled; but our view with regard to the method which M. Rakovski laid down in his speech at the last meeting of the conference I can give briefly in this way. But I should like him to give us his further views on the property claims, as by that means his intentions on the whole subject of debts and claims will be made more clear to us.

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M. RAKOVSKI: The Soviet delegation has, in this manner, received a reply of a general nature to the proposition which it had put forward. If the British Government insists upon the formula which it proposes—and I understand this proposition to be that the Soviet Government should pay pre-war debts in full with interest—then the Soviet Government is face to face with such an important fact that I consider it absolutely essential that explanations should be given in connection with this question and an agreement arrived at with the British Government. It is clear that, if the settlement of one class of claim only demands that the Soviet Government should accept undertakings far above the capacity of our budget and national economy, the British delegation thereby takes away from the Soviet delegation the material possibility of even giving consideration to the question of satisfying other categories of claims. Therefore, I consider that, after Mr. Ponsonby's statement, it is essential that the question of pre-war debts should be elucidated in order to make it possible to proceed with a clear discussion of the other classes of claims. I am not talking of the substance of the claims, but only putting forward purely formal reasons. If it is so desired, we can put forward detailed reasons why it is impossible for us to accept the suggestion made by the British delegation that pre-war debts should be paid in full with the addition of interest.

MR. PONSONBY: M. Rakovski must not conclude from the remarks I made that the British delegation is making any unreasonable demand with regard to pre-war debts, in the way of proposing that they should be paid in full, with interest and immediately. Nothing that has been said on behalf of the British delegation can be interpreted in that way. We are prepared to make an alternative suggestion to that brought forward by M. Rakovski, but it is perfectly true that this class of claim stands in a different category from the property claims. With regard to the property claims, the Soviet is in an entirely different position. There is no need for them to be dependent on raising any money by way of a loan; the properties are in their country, and I must repeat that it would be better for me to make my suggestions on behalf of the British delegation on both these points together once I have heard the proposals of the Soviet delegation with regard to these property claims.

M. RAKOVSKI: I have heard with relief Mr. Ponsonby's explanations that the British delegation does not intend to ask the Soviet Government to pay the pre-war debts in full. As regards the suggestion that the pre-war debts should be paid at once, I had no doubt on this point; to demand immediate payment from a State ravaged by three years of war when 19 millions were mobilised for the common task of the Allies, as against 21 millions mobilised by all the other Allies, including America, and ravaged by a fight for its existence against a coalition of fourteen Powers, when it has suffered from the pangs of famine and now has a budgetary deficit of 400,000,000 roubles—this would be a demand beyond human power. It is, however, very important to know the actual amount that is demanded in settlement of pre-war debts. It is, of course, true that different classes of claims are different in the way they will actually be settled, but, whether payment is made in money or in concessions, payment has to be made out of the resources of the country, and, although different categories differ in their characteristics, finally the Soviet Government must pay for them in one form or other, and this proves how expedient and essential it is that the Soviet Government should receive a more concrete answer on the subject of pre-war debts. I do not object to this reply being given at the next or one of the next meetings, but I consider it essential that a reply should be furnished. If the British delegation declares that the Soviet delegation will receive a concrete reply, then we will express our opinion as regards other forms of private claims.

MR. PONSONBY: M. Rakovski can be assured that a full and concrete reply in the form of a counter-suggestion will be made on this point, and I shall be glad now to hear what he has to say with regard to the property claims.

M. RAKOVSKI: Up to the present the Soviet delegation has proposed a formula for one category of claims only, namely, for pre-war debts. Other claims the Soviet delegation divides into two large groups, one group including various types of claims of a money character, and the other group connected with claims for nationalised property. The Soviet delegation will now give a reply as regards these two groups. As regards the first group, I will request M. Scheinmann, who has been studying this matter, to express his opinion, after which I will make a concrete proposition on behalf of the Soviet delegation.

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M. SCHEINMANN: The British delegation cannot be unaware that for the purpose of the preliminary investigation of the character of the claims it was arranged that for each different class of claim the Soviet delegation should be given copies of specimen claims for study and investigation. All claims, except pre-war debts and claims for nationalised property, are sub-divided by the British delegation into numerous other categories. The specimens of claims, however, which have been given to the Soviet delegation do not give sufficient material for the preparation even for each category of any kind of general statement. If it is necessary to give special consideration to a whole series of categories of claims, it is necessary to make extremely complicated investigations, because, in the consideration of these claims, the relations between the two countries have to be taken into consideration. For example, in connection with claims against Russian nationalised banks, the question arises of the relations between Russian nationalised banks and British banks, and to what extent the British banks, or the British Government, accept responsibility for the fact that the former owners of these nationalised banks continued, when abroad, to manage the assets of these nationalised banks abroad—banks on account of which claims are now made against the Soviet Government.

M. RAKOVSKI (interposing): It is very necessary to make clear this point. When the banks, or even in some cases trading companies, were nationalised, they had assets and liabilities abroad. As far as the liabilities are concerned, the British banks now suggest that the Soviet Government should pay them. As regards the assets, the former owners of these banks have used them up in establishing their own businesses here. The proposition, therefore, now comes to this:—that the Soviet delegation is asked to cover all the liabilities, but the assets have disappeared through the action of individuals, who still continued to control nationalised property. As regards the question of the property of private persons, people who had property nationalised in Russia had equally capital and liabilities abroad. As regards the capital they have done what they liked with it, but now, as regards liabilities, they demand that they should be paid by the Soviet Government. We have inherited not only from the Imperial Government but also from private persons liabilities without the corresponding assets.

M. SCHEINMANN (resuming): Many difficulties of this nature are bound to arise in the consideration of these claims, claims of a nature which is hardly comprehensible:—for example, there are claims for goods which have been lost on Russian railways, and a claim of a British merchant against a Russian merchant for caviare sold in Sweden, and therefore the Soviet delegation limits itself to a general proposition of one description. The Soviet delegation willingly admits that each category contains claims of British subjects which are not covered by bilateral accounts of the nature indicated, and really refer to cases where British subjects have suffered loss through events in the Soviet Republics, and the Soviet delegation therefore suggests that in order to cover such claims a lump sum should be provided as in the case of the pre-war debts. I therefore put forward the following proposition:—The two Governments shall determine a lump sum for the satisfaction of approved and well-founded small claims, and fix the maximum amount which shall be paid out for each individual category of claims. Simultaneously with the confirmation of the present agreement, article 10 of the Trade Agreement of 1921 is repealed, and the property rights of the Soviet Government enter in Great Britain into effective force.

MR. PONSONBY: The British delegation is very glad to hear the views of the Soviet delegation on the question of this particular category of claims, and their proposition will receive careful consideration. We fully realise what M. Scheinmann pointed out, that there are many difficult and intricate matters involved, and we note his general proposition for the allocation of a lump sum to deal with each class of claims. I would only ask at this juncture whether I clearly understand what he said when he declared that only the smaller claims would be admitted.

M. RAKOVSKI: That is the correct understanding, and the limit of such claims is to be agreed upon between the two Governments.

MR. PONSONBY: Does that mean that the larger claims will be ruled out entirely? Is that the suggestion?

M. RAKOVSKI: In our formula we understand that they will be entirely excluded. This, of course, is not the question of nationalised property.

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MR. PONSONBY: No, no.

M. RAKOVSKI: The question here mostly relates to debts which have already been written off by the banks themselves.

MR. PONSONBY: Well, we will give consideration to that statement of M. Rakovski and M. Scheinmann, and M. Rakovski will now, perhaps, say a word about the question of nationalised properties.

M. RAKOVSKI: Turning to the question of nationalised property, the Soviet Government is attempting to find a practical way of settling this question. As a practical way we regard a way which, commencing with the interests of the Russian State, at the same time satisfies the interests of the other party. At the present time we are in negotiation with certain former owners of nationalised property for the return of their property on a concession basis, and in the almost immediate future we shall enter into negotiotions with other former owners. The Soviet delegation therefore considers that in the course of the negotiations a solution of this problem will be arrived at, and we therefore suggest that the present question should be discussed by the conference at a later date. This is my idea as embodied in the formula which has been prepared, and which reads as follows:—The Soviet delegation has commenced negotiations with certain former owners on the question of granting to them as a concession their former undertakings, now nationalised. In the immediate future the delegation will commence negotiations with certain other former owners, and anticipates that in the course of these negotiations a practical method of settling the question of former owners may be found. The Soviet delegation therefore proposes to postpone the examination of the question of nationalised property.

MR. PONSONBY: I am very much obliged to M. Rakovski for having stated clearly the views of the Soviet delegation on the two points that we have had before us to-day. The British delegation has now heard the views of the Soviet delegation on pre-war debts, property claims and other points, and we shall consider them with the greatest care.

We desire to take fully into account the economic situation which now exists in Russia and the difficulties the Soviet Government has had to confront in the establishment of the new régime. We do not for a moment wish to press unreasonably in any direction demands which the Soviet delegation cannot be expected to meet. Our desire is rather to invite their agreement to methods of payment and the gradual liquidation of debts in the future in a definite form which can be agreed upon in this conference than to attempt to exact any promises for immediate payment.

While I feel that in regard to the commercial treaty, the bilateral treaties and other political questions advance has been made and there is no reason to doubt that a settlement can be reached, I cannot disguise the fact that on the subject of pre-war debts and property claims there seems to be at present a rather wide difference of opinion between us, judging by the propositions which we put forward at the conference on the 15th May and the replies we have received on the 20th May and to-day, with the exception perhaps of the category of claims dealt with by M. Scheinmann, where there may possibly be a basis for agreement.

I am inclined to think that the continued exchange of memoranda and declarations in full conference is not likely to carry us much further. By way of giving the reply of the British delegation, therefore, I will have specific proposals prepared on our part in the form of articles of a treaty covering the points in question, which will be communicated without delay to the Soviet delegation; and at a meeting of the conference which might be held next week they can be discussed *seriatim*.

By this method the Soviet delegation will be apprised more precisely of our views. In examining our proposals, I would beg the Soviet delegation to believe that we are not taking up any uncompromising attitude, and wherever possible we are anxious to meet any reasonable modifications they may suggest.

The present British Government, in coming into power last January, lost no time in showing their goodwill towards the Soviet Union by their act of recognition. As is well known, that goodwill still exists and a desire for an early settlement of all outstanding questions is sincerely entertained by His Majesty's Government. The prospects of recovery which lie before the great country comprised in the Soviet Union and the vast potential riches contained in it may allow the Soviet delegation to be more hopeful in their outlook and therefore to give favourable consideration to the counter-proposals we shall submit to them. I would remind the Soviet

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delegation that the present British Government is not in a position to carry through Parliament any special or extravagant measures. The Government has no majority in the House of Commons, and it intends, therefore, while carrying out its obligations to British interests, to assist to the fullest extent possible the economic recovery of a great and friendly nation. And I myself believe that the Soviet delegation will be consulting its own interest and that of the Government it represents best by endeavouring to meet us on these points.

If the subjects we are now discussing can be disposed of by an amicable agreement, we can proceed further to other points, and a reasonable prospect of an early settlement will then be more fully realised. Delay and postponement, such as M. Rakovski has proposed with regard to the property claims, can only be interpreted outside as a failure, and neither the Soviet nor the British delegation is yet prepared to admit that it has failed to reach a solution of our differences, difficult though it may be.

M. RAKOVSKI : In the name of the Soviet delegation I desire to express our satisfaction at hearing the declaration of Mr. Ponsonby proving the goodwill of the British Government in regard to the favourable outcome of the negotiations. First of all, I desire to disperse the pessimism which can be created, and is being created, around the conference. When a question of a character which affects the vital interests of peoples is examined, it is entirely natural that the negotiating parties should approach this question with the most extreme caution. It is hardly necessary to point out that many years are sometimes insufficient to settle important questions between Governments. This conference has not been sitting for years but only for a few weeks, and during those few weeks considerable progress has been made. I consider that without doubt a real result will be arrived at, acceptable to both sides, if the British delegation will take into full consideration the special position of Russia. As I have several times pointed out, the positions of the two countries are unequal and Russia has all the disadvantages. On one side there is a rich country to whom the claims now presented are almost a negligible part of the wealth of the country. On the other side a ruined country (I do not wish to speak about the cause), a country facing the utmost difficulty in restoring its economic life and obliged to exert the greatest care in order to retain its vigour, and a country which cannot accept claims or undertake obligations incompatible with its resources. On the one side you have the claims of a few thousands of British subjects, and on the other side you have the millions who will have to carry the burdens which the Soviet delegation may here undertake. The British delegation must appreciate the sensitiveness with which Soviet public opinion is following these negotiations and how the Russian labouring masses are affected by any fact which proves the readiness of the British Government to assist, and how any such step will undoubtedly help towards the settlement of these questions in dispute. If the Soviet delegation says that it is essential as regards pre-war debts, loans, or orders to receive a reply, and a positive reply, on these matters from the British delegation as soon as possible, it is because the Soviet delegation appreciates how a satisfactory settlement of this first question will affect the settlement of all other questions. We must not be put in the position of persons who only assume obligations while the other side only gives good wishes without expressing these in a tangible form. The Soviet delegation has proved by its action its firm resolve to attain at this conference practical results satisfactory to both parties. As far as political matters are concerned, Mr. Ponsonby has admitted that there are no insuperable difficulties to face, and I consider that difficulties on economic questions can also be overcome if the British Government will with sufficient sympathy study the formula that we have proposed as regards pre-war debts. I know that the British Government has difficulties to contend with—less than those which the Soviet Government has to contend with, but none the less real—but our proposal for dealing with pre-war debts affects the interests of the most varied categories of British subjects. If the Soviet Government makes a proposition whereby bondholders, who for more than five years have not received a copeck of their securities, now begin to receive money, this is a positive result. Similarly, it is a positive result if orders can be placed with British industry. I therefore consider that the question of the realisation of a loan is not a question of interest to one party only but to all industrial parties in England, and I consider that the British Labour Government will in this matter receive the support of the entire public opinion of Great Britain. In my speech at the opening of the conference I underlined the special service done by the present British Government to the Soviet Union in its

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grant of unrestricted recognition. In addition to great positive political consequences, this sensible act will have important economic consequences and consequences of a material character. I must point out how much nearer we are to a settlement of the dispute on economic questions than we were five months ago, when it was impossible even to discuss these questions. This possibility is now present and we shall now continue the consideration of these questions and seek a practical settlement of them.

MR. PONSONBY : The British delegation is very much obliged to M. Rakovski for the expression which he has given of his opinion with regard to our proceedings. Like him, I do not share the pessimism which is shown outside, and I only desire with his co-operation to defeat the wishes of those who desire this conference to fail. But it would be foolish for us not to realise where difficult points arise and where there is a strong difference of opinion, and it is in order to make a practical step with a view to advancing our proceedings that I made the suggestion of sending to the Soviet delegation categorical suggestions, which I will do in the course of the next few days; and I repeat the wish which I expressed before, that these counter-proposals of ours may meet with the sympathetic consideration of the Soviet delegation.

I would suggest that we should meet at 11 A.M. on Wednesday in next week (4th June), if that suits the Soviet delegation.

M. RAKOVSKI : We agree.

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M. RAKOVSKI : We agree.

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S.C.14.

ANGLO-SOVIET CONFERENCE

SECOND (COMMERCIAL TREATY) COMMITTEE.

Tenth Meeting at the Foreign Office on Wednesday, 28th May, 1924, at 11.0 a.m.

PRESENT:

British Delegation.		Soviet Delegation.
Mr.O.St.C.O'Malley Mr. H.Fountain		Y.D.Janson
Experts		Experts
Mr. C.G.Spry Mr. L.Browett Mr. G.R.Hamilton	Board of Inland Revenue.	A.N. Dolgov G.N. Lashkevich P.Y. Rabinovich M. Skobelev
Secretariat.		Secretariat.
Mr. E.H.S.Marker.		A.A.Binder.

The Committee proceeded to consider certain amendments (appended as Annex A) which were prepared by the Soviet Delegation in accordance with arrangements come to at previous meetings.

Article 6. The Soviet Delegation proposed that the words "except in cases of national calamities" should be inserted after the words "are exempt from compulsory services" in the British revised draft of this Article.

The British Delegation considered these words as being still too wide and they undertook to consult their legal advisers as to the possibility of suggesting an alternative phrase.

Article 10.

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Article 10. The Soviet Delegation proposed to insert certain words (see Annex A) to make it clear that any special taxation of foreigners should not apply to taxation of industry or trade.

The British Delegation accepted the proposal of the Soviet Delegation in principle but suggested that to make the meaning clearer the actual formula should be as follows:- After the words "all foreigners" in the Soviet counter-draft of Article 10 continue as follows to the end of the first paragraph:-

> "Such special laws shall not impose taxation on the subjects or citizens of one Party in the territories of the other in respect of their industry, trade, occupation or business, and in regard to all forms of taxation such subjects or citizens shall not be placed in a less favourable condition than the subjects or citizens of the most-favoured-nation".

The Soviet Delegation agreed to this revised wording.

In this connection the British Delegation drew attention to the second paragraph of Article 10 which was, in their view, not satisfactory since it gave companies and other juridical persons most-favoured-nation treatment only and not national treatment in matters of taxation. Although it might be that the matter was of little practical importance at the moment, a Treaty was made with reference to the future, and His Majesty's Government always desired to secure treatment for their companies at least as favourable as that secured to companies of the State. Attention was drawn to the recent Treaty between Italy and the Soviet Union which appeared to give to Italian companies in the Soviet Union the rights for which the British Delegation

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Delegation were now asking (see Article 9, paragraph 4, and Article 8, paragraph 2, of the Italo-Soviet Treaty).

The Soviet Delegation pointed out that in Russia industry and trade were largely in the hands of juridical persons really owned by the State, and that foreign private companies could not be placed on the same basis as State undertakings. It was for this reason that they had proposed most-favoured-nation treatment and not national treatment. So far as foreign companies would be allowed to operate, their relation to the Soviet Government in matters of taxation and otherwise would be regulated by their concession agreements under which they would in fact receive more favourable treatment in respect of taxation than Russian private companies. It was the policy of the Soviet Government to tax private enterprises as much as possible in order to place them at a disadvantage as compared with State undertakings and co-operative societies. It was not in the interest of British companies therefore to be placed in the same position as Russian companies which would have to mean Russian companies controlled by private capital. The Soviet Delegation offered, however, to concede whatever in this respect had been given to Italy under the Treaty above referred to, and they then suggested that the following paragraph might be substituted for paragraph 2 of their counter-draft of Article 10 -

"Companies

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"Companies and other juridical persons of one Party permitted to carry on operations on the territory of the other Party will not, on condition of reciprocity, be subject to taxation other or higher than companies and juridical persons of the other Party established with the participation exclusively of private capital or than the companies and juridical persons of any third State".

The British Delegation objected to the word "exclusively" and enquired whether the Soviet Delegation would be ready to substitute "predominantly". As the proposal was worded it would be open to the Soviet Government by means of an infinitesimal participation in a company to take it altogether outside the provisions of the Treaty for the purpose of taxation. It was explained that in the United Kingdom there was no differentiation of any kind in favour of companies in which the Crown had an interest, and that municipal undertakings were subject to taxation just as private undertakings.

The Soviet Delegation did not consider that the contingency feared by the British Delegation would in fact arise, but they were not prepared to accept the British modification, as there might be cases of mixed companies of national importance in which the Soviet Government's share was less than 51%.

The British Delegation stated that the discussion showed how very difficult it was, in view of the difference between the two systems and especially of the Russian system of favouring State enterprise, to secure anything better than most-favoured-nation treatment. The provision now proposed by the Soviet Government left too much

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much room, in their opinion, for evasion and for this reason they preferred the original paragraph 2 although it secured most-favoured-nation treatment only. The British Delegation could not disguise the fact that they did not regard the paragraph as satisfactory but they felt obliged for the present to leave it as it stood.

Article 11a. As regards paragraph (a) the British Delegation accepted the Soviet wording which was identical with that put forward by the British Delegation at a previous meeting.

As regards paragraph (f) the British Delegation agreed in principle but suggested the following form of words to make the meaning clearer. After the words "navigation on inland waters" add -

> "closed to foreign vessels in general, even though such navigation might be open to the vessels of limotrophe States".

The Soviet Delegation agreed.

As regards the proposed Soviet Declaration to Article 13, the British Delegation reserved their views pending consultation with their experts.

The Committee then adjourned until Friday, 30th May, at 11.0 a.m.

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Printed in 1919.

ANNEX.

United States Tariff Commission,

Reciprocity and Commercial Treaties.

Extract. Page 42.

Difficulty of reconciling reciprocity and most-favoured-nation pledges.

The evidences show that the conclusion of reciprocity treaties is likely to lead to claims from States outside the agreement which, if granted, will defeat the purposes of the treaties, and which, if not granted, occasion the preferring of a charge of disloyalty to treaty obligations. The practice of making reciprocity treaties requires the conditional construction of the most-favoured-nation clause. But the use by the United States of the conditional interpretation of the most-favoured-nation clause has for half a century occasioned, and, if it is persisted in, will continue to occasion frequent controversies between the United States and European countries.

x x x x

So many have been the inconveniences and difficulties of the most-favoured-nation practice, it has frequently been suggested that the pledge be done away with.

Whatever the relative advantages and whatever the difference in net results, the practice of "preference", "reciprocity" and conditional most-favoured-nation treatment necessitate frequent and repeated special negotiations, constant bargaining, inevitable delays, actual inequality of treatment. There are without question circumstances in which

special/

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special treatment is warranted; this is recognised in relation to certain circumstances in the favoured-nation practices of all nations. But in the absence of special circumstances or special relations, special treatment inevitably creates unwarranted distinctions and tends to perpetuate discriminations.

x x x x

When the peace settlement is being decided, it should be found possible to frame a model pledge or pledges intended to secure equality of treatment; also to devise machinery for the construction and enforcement of such, along with other international pledges.

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ANNEX A.

Amendments proposed by the Soviet Delegation.

EXEMPTION FROM COMPULSORY SERVICES.

Article 6.

After the words: "are exempt from compulsory services", add:-

"except in cases of national calamities".

TAXATION OF FOREIGNERS.

Article 10.

After the words: "with the exception of special cases provided for by the laws in regard to all foreigners": add:-

"which are, however, not to apply to taxation of industry and trade".

Exceptions from national treatment in connection with the restoration of the National Fleet.

Article 11a. paragraph a.

After the words: "the application of special laws for the safeguarding, renewal and development of national merchant fleet", add:-

"so long as such laws do not discriminate in favour of the carriage of goods or passengers by national ships or provide for reductions in the dues levied in the ports of either contracting party on national ships".

Article 11a paragraph f.

After the words: "navigation on inland waters": add:-

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add:-

"though such navigation might be open for vessels of limitrophe states".

Vessels of the Russian Navy which had escaped nationalisation.

Article 13.

The Soviet Delegation proposes to add to the Treaty the following unilateral declaration, attached hereto:-

Declaration (to Art.13).

At the moment of signing the Commercial Treaty between the Soviet Union and Great Britain I am instructed by the Government of the Union of Socialist Soviet Republics to make the following declaration:

The Union Government maintain their right of property over all the ships of the former Russian navy as well as over the ships of the Russian commercial fleet, nationalised by the decree on the nationalisation of the commercial fleet dated January 26th, 1918, which have not been sold by the Soviet Government or with its consent.

The Union Government on several occasions had the opportunity to make similar declarations to all foreign Powers and protested in the notes addressed to their Governments against any kind of commercial transactions with these ships, presenting the full lists of names of such vessels.

The Union Government maintain their right to claim the restitution of these vessels as the indisputable property of the Russian people. Therefore the Union Government will never recognise as British any of these ships found in possession of British nationals or firms and will treat them as the property of the Russian people.

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C 41446

S.C.15.

ANGLO-SOVIET CONFERENCE.

Second (Commercial Treaty) Committee.

Eleventh Meeting at the Foreign Office on Monday, 2nd June, 1924, at 11 a.m.

PRESENT:

British Delegation.	Soviet Delegation.
Mr. O. St.C. O'Malley. Mr. H. Fountain.	Y.D. Janson. I.I. Kutuzov.
Secretariat.	Experts.
Mr. E.H.S. Marker.	A.N. Dolgov. G.N. Lashkevich. M.I. Skobelev.
	Secretariat.
	A.A. Binder.

The Committee proceeded to discuss Article 1 of the original British draft of the Treaty.

The Soviet Delegation saw no objection to the general principle underlying the classification adopted in the Article which covered (a) goods, (b) the rights of individuals in matters of commerce etc. and (c) the exceptions from the preceding provisions. As regards (c) the Soviet Delegation said that they would wish to suggest further exceptions. As regards (a) they enquired what exactly the British Delegation meant by most-favoured-nation treatment of goods. As regards (b) they pointed out that a number of these matters were covered in the later articles and that it would be necessary to consider what cases were not covered.

The British Delegation agreed that as regards (b) certain/

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certain matters, namely, acquisition and disposal of property, had been covered and might therefore perhaps be omitted. As regards (a) they considered that the meaning was perfectly clear. His Majesty's Government expected full and unconditional most-favoured-nation treatment in all matters of commerce, insurance, finance, industry, transport and in particular in respect of customs duties etc. British goods must be treated in every respect as favourably as the goods of any other foreign country; there must be no discrimination in regard to transport rates charged on them and they must not be subject to other or higher customs duties than similar goods of other foreign countries. The same applied to charges of all kinds, loading and unloading facilities, prohibitions and also commercial travellers' samples.

The Soviet Delegation stated that they could give full most-favoured-nation treatment in certain respects but only conditional most-favoured-nation treatment in other respects. In particular they were unable to concede unconditional most-favoured-nation treatment in regard to customs tariffs.

The British Delegation regarded this as an extremely serious statement. Great Britain had always insisted on absolutely unconditional most-favoured-nation treatment in respect of customs duties. There was not a single country in Europe, outside Russia, which did not give it or had not promised it. The one outstanding exception at the moment was Poland with which country a commercial treaty had been concluded, and so soon as the ratification of this Treaty had taken place Great Britain would enjoy most-favoured-nation treatment in every country in Europe. Great

Britain/

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Britain herself gave this treatment and her customs tariff was extremely limited, nearly all Russian goods being free of duty on importation into this country. His Majesty's Government were therefore not in a position to bargain in the matter and they ought not to be placed in a worse position in the Soviet Union than a country which fixed duties at a high level and then after negotiation reduced them but still maintained them at a substantial rate. For this reason His Majesty's Government considered themselves entitled to special consideration. They did not ask for duty free admission for their goods but only that there should be no favouring of other countries and that British goods should enjoy the privileges accorded to the goods of other countries. His Majesty's Government considered themselves entitled to all the reductions conceded for example by the recent Italian-Soviet treaty, and they could not conceive of a commercial treaty between Great Britain and the Soviet Union which did not give full, complete and unconditional most-favoured-nation treatment in respect of customs duties.

The Soviet Delegation stated that the commercial treaties of the Soviet Union differed from the treaties of western European nations, and that His Majesty's Government should be satisfied if on the whole they secured in this treaty no worse treatment than that given to another power in any treaty concluded by the Soviet Government; on the understanding of course that the Soviet Union obtained in Great Britain treatment as favourable as that obtained by the Union in any other country.

The difficulty, in the opinion of the Soviet Delegation, resulted from a difference between the two

systems/

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systems and they therefore suggested that the following principles should be adopted -

(1) that the treaty should not be worse than other Soviet treaties either actually concluded or to be concluded in the future, and

(2) that an attempt should be made to accommodate the differences between the two sides.

In the Soviet Union there was an autonomous tariff of a very protectionist character which would be departed from only in regard to particular goods if due compensation were received. The grant of unconditional most-favoured-nation treatment would make such a breach in the Soviet system as would destroy the principle underlying their network of treaties. The Soviet Delegation admitted that the British statement that most Soviet goods were free of duty on importation into the United Kingdom was probably true and they might desire further information on this point. They adhered to their view, however, that a modification of their tariffs should only be granted in return for some concession.

The British Delegation were still unable to understand the difficulty. It appeared to them that exactly the same arguments applied to other countries which also had general tariffs and that there was nothing peculiar in the Soviet system under this head. For example Italy had a general tariff which she used for bargaining and then conceded reductions in her tariff in return for reductions in the tariff of the country with which she was negotiating. Yet Italy did not hesitate to give Great Britain full and unconditional most-favoured-nation treatment as guaranteed in the Treaty of 1883. It appeared to be suggested that if the Soviet Government gave Great Britain most-favoured-nation

treatment/

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treatment they would have to give it to every other country. Italy, however, had not agreed to give the Soviet Union full most-favoured-nation treatment though she gave it to the United Kingdom. It was not the case therefore that if a country gave most-favoured-nation treatment to one country, it was therefore bound to give it to all.

Spain had a tariff containing two 'columns' or scales of rates and also conceded special rates by treaty. She had refused many countries most-favoured-nation treatment but she had in fact conceded it to Great Britain by means of a provision in Article 5 of the Treaty of 1922 which provides that "if at any time any benefit or advantage is conceded to any foreign country in respect of any specified article which is of interest to the trade of His Britannic Majesty's territories, the Government of His Catholic Majesty will be prepared to extend such benefit or advantage to similar articles produced or manufactured in His Britannic Majesty's territories on receiving an application for such extension from His Britannic Majesty's Representative at Madrid."

There was nothing peculiar therefore in the Soviet system which would justify the refusal of most-favoured-nation treatment to all British goods, and the British Delegation could see no reason why the Soviet Government should not concede to the United Kingdom what other countries had conceded. The Soviet Delegation should think not once but twice before they refused this request as it was most improbable that His Majesty's Government would conclude a commercial treaty without this provision, which was, in fact, the cornerstone of British commercial policy.

The Soviet Delegation in reply said that despite what the British Delegation had stated, the system in the

Union/

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Union of Soviet Socialist Republics and the conditions there at the present time were entirely different from those in any other country. To concede unconditional most-favoured-nation treatment to Great Britain would take away from the Soviet Government a very valuable bargaining counter in negotiations with other countries. They would find it impossible to negotiate tariff agreements with other countries if those countries knew beforehand that whatever tariff concessions the Soviet Government might concede by treaty to the goods of those countries would automatically be extended to Great Britain. They desired to be able to offer against compensation concessions to particular countries on condition that they should not be extended to Great Britain without compensation of some kind. In this connection they mentioned certain negotiations with another country for a reduction in their own duty on paper, as against a similar reduction on wheat exported from the Union of Soviet Socialist Republics into that country. If whatever reductions on tariffs that country might obtain in the Union of Soviet Socialist Republics would by the terms of this treaty automatically be extended to Great Britain, the concession would be of no real value to the other country since the paper industry of Great Britain would be able very effectively to compete with the paper producers of the other country. This would be the case also with all the most important articles of import into the Union of Soviet Socialist Republics. British industry was in a much stronger position than the industry of other countries; if Great Britain were to receive without compensation all the benefits of a reduction in tariff which the Union of Soviet Socialist Republics should concede to other countries against some compensation, those benefits would lose all their value for

those/

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those countries. The Soviet Government would in fact then have to refuse to conclude any special customs conventions with other countries. If therefore they gave most-favoured-nation treatment unconditionally to Great Britain they would have to abandon their whole system of tariffs.

The British Delegation could only say that all history was opposed to the Soviet argument. On their reasoning tariff negotiations would be useless because other countries would know in advance that any concession given to them would be extended to Great Britain. Yet such negotiations had been conducted throughout Europe for many years past. No European country had ever on this account refused to give unconditional most-favoured-nation treatment to Great Britain. Spain possessed a law which made it impossible for her to concede unconditional most-favoured-nation treatment in words and Spain had therefore surmounted the difficulty by inserting the provision previously referred to, by virtue of which in fact Great Britain enjoyed in Spain full, absolute and unconditional most-favoured-nation treatment. It was fact and not form that mattered, and in the special case mentioned by the Soviet Delegation His Majesty's Government could never accept a position by virtue of which another country obtained a low rate of duty on paper which was not extended to paper produced in the United Kingdom. If the Soviet Delegation were unable to meet the British Delegation on this point, they were unable to meet them on the most important point of all and a commercial treaty on such lines was, in the view of the British Delegation, not to be thought of.

The British Delegation then enquired for the purpose of record whether there were any other matters in which the Soviet Government were not prepared to concede unconditional most-favoured-nation treatment to British goods.

Mr./

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Mr. O'Malley then quoted an extract from the Report printed in 1919 of the United States Tariff Commission on "Reciprocity and Commercial Treaties", which is appended as an annex to these minutes. He drew attention to the fact that the policy of the United States Government now was to get rid of the last relics of the conditional system and he advised the Soviet Government to follow suit.

The Soviet Delegation in reply stated that their system was called for by their position. By accepting the British position they would be compelled to give full most-favoured-nation treatment to all the large industrial countries, and they thought it better therefore to enter into special treaties with each country.

As regards the further question asked by the British Delegation, the Soviet Delegation stated that they could give unconditional most-favoured-nation treatment to British goods in regard to practically all the other matters dealt with in Article 1, namely, transport, the handling of goods, charges other than the actual customs tariffs, prohibitions of import (in regard to which there was no difference of treatment, though it should be understood that the grant of licences in favour of one country did not entail the grant of similar licences to another country). Most-favoured-nation treatment could also be given as regards drawbacks and probably as regards commercial travellers' samples.

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ANGLO-SOVIET CONFERENCE. S.C. 16.

SECOND (COMMERCIAL TREATY) COMMITTEE.

DRAFT TREATY RELATING TO COMMERCE AND NAVIGATION.

(Position on 2nd June after eleventh meeting of the Committee).

ARTICLE 1.

(Not agreed)

Each of the Contracting Parties undertakes to accord to the subjects or citizens, companies or other business organisations of the other and to goods the produce or manufacture of the territories of the other simultaneously and unconditionally, without request and without compensation, in every respect the treatment which is or may hereafter be accorded by it to the subjects or citizens, companies, or other business organisations of the most favoured foreign state and to goods the produce or manufacture of the territories of that State.

The provisions of this Article shall extend to all matters of commerce, insurance, finance, industry, transport and in particular to customs duties and other charges and facilities of all kinds, prohibitions or restrictions on importation or exportation, warehousing, drawback, residence, acquisition and disposal of property, the treatment of commercial travellers and their samples, licences to trade and concessions of all kinds.

Nothing in this Article shall preclude the right of either Party to enforce special sanitary or other provisions for the purpose of securing the safety of persons or of

animals/

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ARTICLE 3.

(Agreed.)

Goods, the produce or manufacture of the territories of either of the contracting parties, passing in transit across the territories of the other by routes open to transit under the general legislation of the country, shall be free in those territories from all transit duties.

ARTICLE 4.

(Provisionally agreed and subject to amendment by the Fourth (Treaty) Committee).

Companies and other juridical persons established for commercial, industrial, financial, insurance, transport and forwarding purposes, domiciled in either of the two countries shall, provided that they have been duly constituted in accordance with the laws in force, be recognised as having a legal status in the other, and in particular shall have there the right of appearing before the Tribunals, either for the purpose of bringing an action or of defending themselves.

In any case the said companies and juridical persons shall enjoy in the other country the same rights as are or shall be accorded to similar companies of any other country.

It is understood that the foregoing provision does not affect the question of determining whether any such company constituted in one of the two countries shall or shall not be admitted to carry on its trade or industry in the other country, this admission remaining always subject to the existing regulations on this point in the latter country.

It is understood that the foregoing provisions are applicable both to companies and juridical persons constituted before the signature of the present Agreement, as well as to those which may be constituted subsequently.

ARTICLE 5.

(Agreed)

Each of the contracting parties undertakes to grant to the subjects or citizens of the other the right to enter its territory on conditions not/

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not less favourable than those applicable to the subjects and citizens of the most-favoured nation.

The subjects or citizens of one of the contracting parties who have been permitted to enter the territory of the other, may reside there and exercise their trades, industries or professions on condition that they comply with the regulations in force for the citizens of the most-favoured-nation in the territory to which they have been admitted, and they shall be at complete liberty to leave the territory to which they have been admitted whensoever they please.

ARTICLE 6.

(Agreed except on one point of importance)

The subjects and citizens of each of the Contracting Parties shall in the territories of the other be exempted from all forms of compulsory military service whatsoever, whether in the army, fleet, air forces, national guard or militia. They can only be subject to military exactions, requisitions and compulsory contributions imposed on payment of full pecuniary compensation. They are exempted from all money contributions, compulsory loans and pecuniary taxes for war purposes and from compulsory billeting except in so far as such contributions, loans, taxes and billeting are imposed by the law of the country on all the inhabitants.

The subjects and citizens of each of the two contracting parties shall in the territories of the other likewise be exempted from all judicial, administrative, and municipal functions whatsoever, other than those imposed by the law relating to juries, as well as from all compulsory services [except in cases of national calamities][x] and from all/

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[x] The words in square brackets were put forward by the Soviet Delegation but have not been accepted by the British Delegation.

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from all contributions, whether pecuniary or in kind, imposed as an equivalent for personal service. They shall be subject only to such taxes and charges as are imposed upon the inhabitants generally by the law of the country.

In all matters covered by this article the treatment accorded to the subjects or citizens of each of the Contracting Parties in the territories of the other shall not be less favourable treatment than that which is, or may be, accorded to subjects or citizens of the most favoured nation.

ARTICLE 7.

(Agreed)

The subjects or citizens of one of the Contracting Parties admitted into the territories of the other shall be at liberty to communicate freely by post and by telegraph and to make use of telegraphic codes provided that they specify beforehand the code being used and under the conditions and subject to the regulations laid down in the international Telegraph Convention of St. Petersburg of 1875, as revised at Lisbon in 1908.

ARTICLE 8.

(Agreed but not satisfactory)

Each of the Contracting Parties guarantees national treatment to the subjects or citizens and juridical persons of the other (including limited liability and other companies and associations) in all that concerns the possession, the inviolability and the rights to dispose of their property, whether imported to the respective territory or acquired in this territory in conformity with the provisions of the present treaty and with the laws and rules in force in this territory.

ARTICLE 9.

(Agreed)

The Contracting Parties undertake to recognise the articles on arbitration introduced into the contracts entered into by the subjects, citizens or companies of both countries.

They/

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They equally undertake to execute the awards of the arbitral tribunals appointed in conformity with the above-mentioned contracts, subject, however, to the following conditions:-

1. That the award is not rendered incapable of execution by the existence of a previous judgment given on another point by the judicial tribunals of the country where the award would be carried into effect.

2. That the award does not contain provisions contrary to the laws of the country where it is to be carried out.

A convention, to be contracted three months after the present Treaty has come into force shall determine the conditions to which the execution of the awards will be subjected.

ARTICLE 10.

(Second paragraph unsatisfactory).

The subjects or citizens of one of the Contracting Parties admitted on the territory of the other Party shall not be subjected personally or with regard to their property or to their activities to any other or greater taxes, imposts or obligations than those which are or may be imposed in the like conditions upon subjects or citizens of the last named Party, with the exception ...

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exception of special cases provided for by the laws in regard to all foreigners. Such special laws shall not impose taxation on the subjects or citizens of one party in the territories of the other in respect of their industry, trade, occupation or business, and in regard to all forms of taxation such subjects or citizens shall not be placed in a less favourable condition than the subjects or citizens of the most-favoured-nation.

Companies and other similar juridical persons of one Party admitted to carry on operations on the territory of the other Party shall not be subjected to any other or higher taxes than those which are or may be imposed in the like condition upon similar companies of any third country.

Citizens, subjects and juridical persons of one Party being admitted on the territory of the other Party are entitled to appear in all courts either as plaintiffs or defendants, subject to the laws of such other Party.

ARTICLE 11.

(Agreed subject to assurance given by Soviet Delegation).

Each of the Contracting Parties undertakes to treat the vessels of the other not less favourably than national vessels or the vessels of the most favoured nation. This equality of treatment shall extend to the rules and regulations governing the

transport ...

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transport of any goods or passengers from and to the ports of the Contracting Parties and to any duties or charges levied on the vessels, their cargoes, and passengers, and also to facilities for the stationing, loading and unloading of vessels in ports, docks, quays, harbours and roadsteads, as well as tonnage or other dues, charges and payments of all kinds levied on ships, such as sanitary, port, quay, harbour, pilotage, quarantine, lighthouse, and other similar dues levied in the name of or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind.

The Contracting Parties undertake that imported or exported goods shall not be subjected in their ports or in their railways, rivers, or canals, to any differential due, surtax, charge or disability of any kind based on the flag of the ship by which the goods are imported or exported and to the detriment of the flags of either party.

ARTICLE 11 A.

(Agreed).

The provisions of the present treaty shall not extend to:-

(a) the application of special laws for the safe-guarding, renewal and development of the national merchant fleet, so long as such laws do not discriminate in favour of the carriage of goods or passengers by national ships or provide for reductions in the dues levied in the

ports ...

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ports of either contracting party on national ships;

(b) the privileges granted to marine sports societies;

(c) employment in port services, including pilotage, towage and marine salvage aid;

(d) facilities granted to national ships engaged in the coasting trade;

(e) , privileges which are or may be conferred upon countries situated in the Arctic Ocean or in the White Sea in respect of fishing and the sale of the catch in ports of the U.S.S.R. situated on those seas;

(f) navigation on inland waters closed to foreign vessels in general, even though such navigation might be open to the vessels of limotrophe States.

To be included in the Protocol of Signature.

(Agreed except 1).

1. [The right of any vessel to participate in the transport of emigrants and immigrants is granted only to ships or lines which have entered into a corresponding agreement with the Government of the U.S.S.R. On its part the Government of the U.S.S.R. undertakes in the conclusion of such agreements not to discriminate against British ships on the basis of their flag.x]

2. The ...

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x. Final proposal of the Soviet Delegation not yet accepted by the British Delegation.

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2. The provisions of paragraph 2 of Article 2 shall not be regarded as preventing either of the Contracting Parties from entering into contracts with any persons or companies for the purpose of establishing through rates.

3. The British Government recognises the right of the Soviet Government in reserving the coasting trade to national ships, to include in that reservation the carrying of goods and passengers between Soviet ports whether situated on the same coast or on different coasts.

ARTICLE 12.

(See note below).

Nothing in the preceding Article shall prevent either Party from reserving its Coasting Trade in whole or in part to national vessels, provided that:

(a) The Party so reserving in whole or in part its Coasting Trade cannot claim in virtue of this Treaty that its vessels shall be admitted to the Coasting Trade of the other Party.

(b) Notwithstanding such reservation vessels of the other Party may proceed from one port to another either for the purpose of landing the whole or part of their cargoes or passengers brought from abroad or of taking on board the whole or part of their cargoes or passengers for a foreign destination, or of carrying between the two ports goods consigned on through Bills of Lading or passengers holding through tickets to or from a ....

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from a foreign country. While so engaged these vessels and their passengers and cargoes shall enjoy the full privileges of this Treaty.

(Note.- The Soviet Delegation regard Most-Favoured-Nation treatment in the coasting trade as conditional. The two Delegations disagree here).

ARTICLE 13.

(Subjoot to Declaration not yet agreed).

All vessels which, under the law of either Contracting Party are national vessels, shall for the purposes of this Treaty be deemed to be vessels of that party.

ARTICLE 14 (British draft).

Each of the Contracting Parties agrees, on condition of reciprocity, to provide effective protection in its territories to industrial, literary or artistic property belonging to the subjects or citizens of the other Party, and further, agrees that such protection should be accorded in accordance with the principles of the International Convention of

Paris ....

ARTICLE 14 (Soviet draft).

The regulation of the mutual protection of the rights in industrial, litsrary, and artistic property, especially patents, trade marks, patterns and designs, trade names of the citizens or subjects of the two Contracting Parties shall be arranged for by special conventions which shall be concluded as soon as possible.

Until ....

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Paris of the 20th March, 1883, as revised at Washington in 1911 for the protection of industrial property, and the International Convention of Berne of the 9th September, 1886, revised at Berlin on the 13th November, 1908, and completed by the additional Protocol signed at Berne on the 20th March, 1914, for the protection of literary and artistic work. Where either Party has not adhered to these Conventions, it undertakes to do so within twelve months of the signature of the present Treaty.

Until such conventions are concluded the above-named rights in industrial, literary and artistic property shall be enjoyed from the date of this Treaty on the territory of each of the two Contracting Parties by the citizens or subjects of the other parties, within the limits and according to the conditions provided by the national laws and conventions, agreements or international treaties concluded with the most favoured nations in this respect.

ARTICLE 15.

(Agreed).

Each of the Contracting Parties, on condition of reciprocity, undertakes within its own territories to assure to the subjects or citizens of the other Party effective protection in law against unfair trade competition. In particular, each Party agrees to provide adequate remedies both legal and administrative in respect of goods

bearing ....

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C 41465

Draft submitted by Russia as Initial - G.B. will not accept + discussion + result Redrafted + to be signed in amended form.

CONFIDENTIAL.

[N 6267/6267/85] No. 1.

ANGLO-SOVIET CONFERENCE.

Draft Treaty with the Soviet Union.

GREAT BRITAIN and Northern Ireland, of the one part, and the Union of Soviet Socialist Republics, of the other part,

Being animated with the desire to extend and develop the commercial relations established after the signature of the Trade Agreement of the 16th March, 1921, and to remove all causes of friction and disagreement between the two countries and to place their relations on a firm, just and durable basis,

Have decided to conclude a treaty with this object, and for the conclusion of which they are represented as follows :—

Great Britain and Northern Ireland by

The Union of Soviet Socialist Republics by

These plenipotentiaries, having communicated their full powers, found in good and due form, have agreed as follows :—

ARTICLE 1.

The present treaty constitutes the formal general treaty adumbrated in the preamble to the Trade Agreement between His Britannic Majesty's Government and the Government of the Russian Socialist Federal Soviet Republic signed in London on the 16th March, 1921, and as between Great Britain, including Northern Ireland, and the Union replaces that agreement.

Commercial relations between the two countries will in future be regulated by the Commercial Treaty signed this day by the representatives of the two parties.

ARTICLE 2.

The following treaties are recognised by the two parties as having lost their force :—

(i.) Treaty : Marriage of H.R.H. the Duke of Edinburgh ; St. Petersburg, January 22, 1874.
(ii.) Protocol : Afghan frontier ; London, September 10, 1885.
(iii.) Protocol : North-west frontier of Afghanistan ; St. Petersburg, July 10/22, 1887.
(iv.) Notes : Afghan boundary ; St. Petersburg, May 31/June 12 and June 8/20, 1888.
(v.) Protocol : Water-rights in Kushk Valley ; August 22/September 3, 1893.
(vi.) Note : Surrender of Russian extra-territorial jurisdiction, Zanzibar ; St. Petersburg, July 5, 1907.
(vii.) Notes : Scientific missions to Tibet ; St. Petersburg, September 23, 1910/January 9, 1911.
(viii.) Agreement : Waiver of consular fees, certificates of origin ; Petrograd, July 16, 1915.
(ix.) Agreement : Military service, European war ; Petrograd, July 16, 1917.
(x.) Agreement : Spheres of influence in the region of the Pamirs ; London, March 11, 1895.
(xi.) Agreement : Commercial relations between Russia and Zanzibar ; London, August 12/24, 1896.
(xii.) Notes : Railway interests in China ; St. Petersburg, April 28, 1899.
(xiii.) Exchange of notes : Trade-marks in China ; Peking, October 29/30, 1906.

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(xiv.) Convention : Affairs of Persia, Afghanistan and Tibet; St. Petersburg, August 31, 1907.
(xv.) Agreement : Meshed–Seistan, Meshed–Tehran telegraph lines; St. Petersburg, August 31, 1907.
(xvi.) Exchange of notes : Protection of patents and trade-marks, Morocco; Tangier, October 9/11, 1908.
(xvii.) Notes : Shatt-el-Arab Riverain Commission; St. Petersburg, April 23/29, 1914.

ARTICLE 3.

The following treaties are regarded by the two parties as in force between them. It is agreed, however, that in the existing circumstances these treaties require modification. Negotiations for the purpose of effecting the necessary modifications in these treaties shall be undertaken on the coming into force of the present treaty. Pending the completion of these negotiations the provisions of the treaties shall be applied as between the two parties so far as existing circumstances permit :—

(i.) Declaration : Estates of deceased seamen; London, August 9, 1880.
(ii.) Declaration : Tonnage measurement; London, June 9, 1882.
(iii.) Treaty : Surrender of fugitive criminals; London, November 24, 1886.
(iv.) Agreement : Money orders; London/St. Petersburg, October 17/29, 1904.

ARTICLE 4.

The following multilateral treaties shall in future be applied as between the two parties, there being no obstacle to the observance of the stipulations of these treaties as between the two contracting parties. In the case of such of these treaties as are not in fact being applied at present as between the two parties, the application of their stipulations shall commence at latest on the coming into force of the present treaty :—

(i.) Treaty, &c. : Redemption of Sound dues; Copenhagen, March 14, 1857.
(ii.) Convention : Telegraphs; St. Petersburg, 1875.
(iii.) Convention : Submarine cables; Paris, March 14, 1884.
(iv.) Declaration : Submarine cables; Paris, December 1, 1886.
(v.) Protocol : Submarine cables; Paris, July 7, 1887.
(vi.) Final Act : Marine conference; Washington, December 31, 1889.
(vii.) Agreement : Unification of formulæ for potent drugs; Brussels, November 29, 1906.
(viii.) Regulations : Telegraphic; Lisbon, June 11, 1908.
(xi.) Convention : Circulation of motor vehicles; Paris, October 11, 1909.
(x.) Convention : Rules respecting : (1) collisions, (2) salvage; Brussels, September 23, 1910.
(xi.) Convention : Protection of fur seals, North Pacific Ocean; Washington, July 7, 1911.

Additions to the above list of multilateral treaties may be made by mutual accord between the two contracting parties and shall be effected by exchange of notes.

ARTICLE 5.

The provisions contained in the annex to this article shall regulate as between the contracting parties, the fishery in waters contiguous to the coast of North Russia.

This article shall not be deemed to prejudice the views held by either party as to the limits in international law of territorial waters.

I. The provisions of the present annex, the object of which is to regulate the police of the fisheries in the waters adjacent to the northern coasts of the territory of the Union outside the limits hereinafter defined within which citizens of the Union shall enjoy

exclusive rights of fishing, shall apply to nationals of the contracting parties.

II. Citizens of the Union shall enjoy the exclusive right of fishery within a distance of 3 miles from low water mark along the whole extent of the coasts of the territory of the Union as well as of islands dependent thereon, and in addition, in such waters in the White Sea and the entrance thereto as lie to the southward of the parallel of 67° north latitude.

As regards bays, the distance of 3 miles shall be measured from a straight line drawn across the bay in the part nearest the entrance at the first point where the width does not exceed 10 miles.

The present clause shall not prejudice the right of British fishing vessels to navigate and anchor within the above limits.

III. The miles mentioned in the preceding clause are geographical miles, whereof 60 make a degree of latitude.

IV. The geographical limits for the application of the provisions of the present annex shall be fixed as follows :—

On the south by the limits referred to in Clause II of this annex.
On the west by the meridian of 32° east longitude.
On the north by the parallel of 71° north latitude.
On the east by the meridian of 48° east longitude.

V. The fishing-boats of the contracting parties shall be registered in accordance with the administrative regulations in force in their respective countries.

For each port there shall be a consecutive series of numbers, preceded by one or two initial letters, which shall be specified by the superior competent authority.

Each Government shall draw up a list showing these initial letters.

This list, together with all modifications which may subsequently be made in it, shall be notified to the other Government.

VI. Fishing-boats shall bear the initial letter or letters of the port to which they belong, and the registry number in the series of numbers for that port.

VII. The name of each fishing-boat and that of the port to which she belongs shall be painted in white oil colour on a black ground on the stern of the boat, in letters which shall be at least 8 centimetres in height and 12 millimetres in breadth.

VIII. The letter or letters and numbers which shall have been assigned to a vessel on its registration shall be painted in white oil colour on a black ground, and so as to be clearly visible, on each bow of the vessel, 8 or 10 centimetres below the gunwale, provided the space admit it. The letters and numbers of vessels of 15 tons burden (gross tonnage) and upwards shall be 45 centimetres in height and 6 centimetres in breadth.

For boats of less than 15 tons burden (gross tonnage), the dimensions shall, if possible, be 25 centimetres in height and 4 centimetres in breadth.

The same letters and numbers shall also be painted in oil colour on each side of the mainsail of the boat, immediately above the close reef, and in such a manner as to be plainly visible; they shall be painted on white sails in black, on black sails in white, and on sails of an intermediate shade in black or in white, as may be decided by the authority superintending the marking, in accordance with Clause V of the present annex.

Steam fishing-vessels shall, in addition, bear the above marks on the funnel in a plainly visible manner. These marks should be of the same dimensions as those on the bow.

The letter or letters and numbers on the sails shall be one-third larger in every way than those placed on the bows of the boat.

IX. Fishing-boats may not have, either on their outside, on their sails, or on their funnels any names, letters or numbers other than those prescribed by Clauses VI, VII and VIII of the present annex.

X. The names, letters and numbers placed on the boats and on their sails and funnels shall not be effaced, altered, made illegible, covered or concealed in any manner whatsoever.

XI. All the small boats, buoys and trawl boards shall be marked with the letter or letters and numbers of the boats to which they belong.

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These letters and numbers shall be large enough to be easily distinguished. The owners of the nets or other fishing implements may further distinguish them by any private marks they think proper.

XII. The master of each boat must have with him an official document, issued by the proper authority in his own country, for the purpose of enabling him to establish the nationality of the boat.

This document must always give the letter or letters and number of the boat, as well as her description and the name or names of the owner or the name of the firm or association to which she belongs.

XIII. The nationality of a boat must not be concealed in any manner whatsoever.

XIV. Boats arriving on the fishing grounds shall not either place themselves or shoot their nets in such a way as to injure each other, or as to interfere with fishermen who have already commenced their operations.

XV. No fisherman shall make fast or hold on his boat to the nets, buoys, floats, or any other parts of the fishing tackle of another fisherman.

XVI. When trawl fishermen are in sight of net or of long-line fishermen, they shall not come within a distance of one mile from them, and shall take all necessary steps in order to avoid doing injury to them. Where damage is caused the responsibility shall be on the trawlers, unless they can prove that they were under stress of compulsory circumstances, or that the loss sustained did not result from their fault.

Provided that no vessel shall be responsible for injury to lines or other fixed gear, the position of which is not clearly indicated by lights or buoys or by a vessel standing by them.

XVII. When a boat fishing with long lines entangles her lines in those of another boat, the person who hauls up the lines shall not cut them except under stress of compulsory circumstances, in which case any line which may be cut shall be immediately joined together again.

XVIII. Except in cases of salvage and the cases to which the preceding clause relates, no fisherman shall, under any pretext whatever, cut, hook, or lift up nets, lines, or other gear not belonging to him.

When a fisherman fouls, or otherwise interferes with the fishing gear of another fisherman, he shall take all necessary measures for reducing to a minimum the injuries which may result to the gear or to the boat of the other fisherman.

XIX. The use of any instrument or engine which serves only to cut or destroy nets is forbidden.

The presence of any such engine on board a boat is also forbidden.

The contracting parties engage to take the necessary measures for preventing the embarkation of such engines on board fishing-boats.

XX. Fishing-boats shall conform to the general rules respecting lights and sound signals, as well as those concerning steering and navigation, which have been, or may be, adopted in respect of these boats by mutual arrangement between the contracting parties with the view of preventing collisions at sea.

XXI. All fishing-boats, all their small boats, all rigging, gear, or other appurtenances of fishing-boats, all nets, lines, buoys, floats, or other fishing implements whatsoever found or picked up at sea, whether marked or unmarked, shall, as soon as possible, be delivered to the competent authority of the first port to which the salving boat returns or puts in.

Such authority shall inform the consul or consular agent of the country to which the boat of the salvor belongs, and of the nation of the owners of the articles found. They (the same authority) shall restore the articles to the owners thereof or to their representatives, as soon as such articles are claimed, and the interests of the salvors have been properly guaranteed.

The administrative or judicial authorities, according as the laws of the respective countries may provide, shall fix the amount which the owner shall pay to the salvors. It is, however, agreed that the contracting parties reserve the right of regulating, by special arrangements between themselves, the amount of salvage at a fixed rate per article salved.

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Fishing implements of any kind found unmarked shall be treated as wreck.

XXII. The superintendence of the fisheries shall be exercised in such manner as may hereafter be agreed by the contracting parties by vessels hereinafter referred to as the superintending vessels.

XXIII. The superintending vessels shall be competent to authenticate all infractions of the regulations prescribed by the present annex and all offences relating to fishing operations, whichever may be the nation to which the fishermen guilty of such infractions may belong.

Provided, however, that if it is agreed under clause XXII of the present annex that separate vessels shall be appointed by each of the contracting parties, the execution of the regulations respecting the documents establishing the nationality, the marking and numbering of boats, &c., and of fishing implements, as well as the presence on board of instruments which are forbidden [clauses VI, IX, X, XII, XIII and XIX (second paragraph)] shall be placed under the exclusive superintendence of the superintending vessels of the nation of each fishing boat. Nevertheless, the commanders of superintending vessels shall acquaint each other with any infractions of the above-mentioned regulations committed by the fishermen of the other nation.

XXIV. When the commanders of superintending vessels have reason to believe that an infraction of the provisions of the present annex has been committed, they may require the master of the boat inculpated to exhibit the official document establishing her nationality. The fact of such document having been exhibited shall then be endorsed upon it immediately. The commanders of superintending vessels shall not pursue further their visit or search on board a fishing-boat which is not of their own nationality unless it should be necessary for the purpose of obtaining proof of an offence, or of a contravention of regulations respecting the police of the fisheries.

XXV. The commanders of the superintending vessels of the contracting parties shall exercise their judgment as to the gravity of facts brought to their knowledge, and of which they are empowered to take cognisance, and shall verify the damage, from whatever cause arising, which may be sustained by fishing-boats of the nationalities of the contracting parties.

They shall draw up, if there is occasion for it, a formal statement of the verification of the facts, as elicited both from the declaration of the parties interested and from the testimony of those present.

XXVI. The formal statement referred to in the preceding clause shall be drawn up in the language of the commander of the superintending vessel, and according to the forms in use in his country. The accused and the witnesses shall be entitled to add, or to have added, to such statement, in their own language, any observations or evidence which they may think desirable. Such declaration must be duly signed by the commander of the superintending vessel, and shall be *primâ facie* evidence in the courts of law of both countries of the facts which it contains.

XXVII. Resistance to the direction of commanders of superintending vessels charged with the police of the fisheries, or of those who act under their orders, shall, without taking into account the nationality of the superintending vessel, be considered as resistance to the authority of the nation of the fishing-boat.

XXVIII. When the act alleged is not of a serious character, but has nevertheless caused damage to any fishermen, the commanders of superintending vessels shall be at liberty, should the parties concerned agree to it, to arbitrate at sea between them, and to fix the compensation to be paid. Where one of the parties is not in a position to settle the matter at once, the commander shall cause the parties concerned to sign in duplicate a formal document specifying the compensation to be paid.

One copy of this document shall remain on board the superintending vessel, and the other shall be handed to the master of the boat to which the compensation is due, in order that he may, if necessary, be able to make use of it before the courts of the country to which the debtor belongs.

Where, on the contrary, the parties do not consent to arbitration, the commanders shall act in accordance with the provisions of clause XXVI.

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XXIX. The prosecution for offences against, or contraventions of, the provisions of the present annex and proceedings for the recovery of compensation for injury due thereto, shall be instituted by or in the name of the State.

XXX. The contracting parties engage to propose to their respective Legislatures any measures which may be necessary for ensuring the execution of the provisions of the present annex, and particularly for the punishment, by either fine or imprisonment, or by both, of persons who may contravene the provisions of clauses VI to XIX, and for the recovery of compensation by persons injured by such contravention, and for the enforcement of any award made under clause XXIX of the present annex.

XXXI. In all cases of assault committed, or of wilful damage or loss inflicted by fishermen of one of the contracting parties upon fishermen of the other nationality, the courts of the country to which the boats of the offenders belong shall be empowered to try them.

XXXII. The proceedings and trial in cases of infraction of the provisions of the present annex shall take place as summarily as the laws and regulations in force will permit.

XXXIII. The contracting parties agree, as and when circumstances permit, to co-operate in the scientific investigation of the biology of the plaice and other fish in the waters in the region defined by clause IV of the present annex with the object of ascertaining whether any measures can usefully be put into force for the conservation of the stocks of fish in that region.

XXXIV. The provisions of the present annex shall come into operation from and after a day to be fixed upon by the two contracting parties, and shall continue in force until the expiration of one year from notice by either party of their termination.

The contracting parties, however, reserve to themselves the power to make by mutual consent any modification in the present annex which experience shall have shown to be desirable, provided it is not inconsistent with the principles upon which the annex is based.

ARTICLE 6.

The contracting parties, being anxious to make provision for the settlement by arbitration of certain classes of disputes which may arise between them, have agreed to the provisions contained in the annex to this article :—

I. Disputes as to the interpretation of a treaty, as to questions of international law, as to the existence of any fact which if established would constitute a breach of an international obligation, or as to the extent and nature of the reparation to be made for any such breach, which may arise between the Government of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics out of incidents occurring after the date of the signature of the present treaty, shall be referred to arbitration or to judicial settlement.

II. Pending the accession of the Union of Soviet Socialist Republics to the protocol establishing the Permanent Court of International Justice, disputes which fall within the provisions of clause (I) shall be referred to a tribunal of arbitration consisting of five persons appointed as follows :—

Each party appoints two arbitrators of whom one only can be its national. Unless the two Governments have already agreed upon the umpire, the four arbitrators so appointed together choose the umpire. If the votes for the election of the umpire are equally divided, the choice of the umpire is entrusted to the Governing Body of the University of Leiden.

III. The procedure to be followed in the submission of disputes to arbitration shall be regulated in accordance with articles 31, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 57 of the Convention for the Pacific Settlement of International Disputes, signed at The Hague on the 29th July, 1899. Nevertheless, the special Act ("compromis") to be

entered into shall determine the form, order and time in which the cases, counter-cases and, if necessary, the replies on either side shall be delivered and also the language or languages to be employed.

ARTICLE 7.

For the purpose of giving effect in part to the declaration annexed to the Trade Agreement of the 16th March, 1921, the Government of the Union declares that it recognises that British holdings in loans issued or taken over or guaranteed by the former Imperial and Provisional Russian Governments or by the municipalities of towns in the territory now included in the Union constitute obligations which are binding upon it.

ARTICLE 8.

The Government of His Britannic Majesty recognises that the existing financial and economic position of the Union renders impracticable at the present time the full resumption of the service of the British holdings of the loans referred to in article 7.

ARTICLE 9.

The Government of the Union undertakes to initiate on the coming into force of the present treaty negotiations with the British holders of bonds referred to in article 7 with a view to arranging acceptable terms for the resumption of the service of the said loans.

The Government of the Union agree to resume the service of such loans in respect of holdings by British subjects or companies, other than holdings which were acquired by purchase since the 16th March, 1921, and are proved to have been in other than British ownership on that date, in accordance with the terms arranged as the result of the negotiations referred to above, provided that the terms have been accepted by the holders of not less than one-half of the capital values of such British holdings in these loans.

ARTICLE 10.

All questions connected with the claims of the Government of the U.S.S.R. against the Government of His Britannic Majesty, or with the claims of the Government of His Britannic Majesty against the Government of the U.S.S.R., arising out of events which took place between the 4th August, 1914, and the 1st February, 1924, are reserved for discussion at a later date. This provision includes claims in respect of :—

(*a.*) War loans advanced by the Government of His Britannic Majesty to the former Russian Imperial or Provisional Governments;

(*b.*) Gold belonging to the former Russian Imperial or Provisional Governments, and handed over to the Government of His Britannic Majesty by either of those Governments;

(*c.*) The financial convention supplementary to the Treaty of Brest Litovsk of the 3rd March, 1918;

(*d.*) Sums owed by the former Russian Imperial or Provisional Governments to British Government Departments, or *vice versâ*;

(*e.*) Loss or damage from warlike operations or hostile measures;

and also any adjustments made, or to be made, in the accounts relating to such claims on either side.

There shall similarly be reserved all questions connected with claims by the nationals of either party against the other party, in respect of loss or damage suffered in the territory of the party whose national the claimant is, and resulting from warlike operations or hostile measures during the above-mentioned period.

ARTICLE 11.

Claims by nationals (including juridical persons) of the one party against the other party in respect of loss or injury due to events

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which took place between the 1st August, 1914, and the coming into force of the present treaty, other than (1) claims covered by other articles of this treaty, and (2) claims arising since the 1st April, 1918, out of trading relations between any Government exercising authority in the territories of the Union or its agent and British nationals or between the Government of His Britannic Majesty and citizens of the Union, shall, in view of the admitted preponderance of the claims of British nationals, be finally settled as between the contracting States by the payment of a lump sum by the Government of the Union to the Government of His Britannic Majesty.

The distribution of this sum shall be effected by the Government of His Britannic Majesty in such manner as they shall consider just. The Government of the Union undertake to furnish the Government of His Britannic Majesty with any relevant papers or information in their possession which may facilitate the just distribution of such sum.

ARTICLE 12.

Each of the contracting parties shall appoint three properly qualified persons to examine the claims of which the settlement is to be effected by the payment of the lump sum provided for in article 11. These six persons shall make a joint examination of the claims, and shall report to the two contracting parties the amount at which they consider the lump sum should be fixed. If they are unable to agree as to the amount of the lump sum, they shall present separate reports. They will arrange their own procedure, and shall, in particular, be entitled by agreement between themselves to refer the examination of any particular category of claims to two of their number.

Each of the contracting parties shall defray the remuneration and expenses of the persons appointed by it, together with one-half of the expenses incurred jointly.

ARTICLE 13.

In order to facilitate the grant of adequate compensation to British nationals (including juridical persons) in respect of industrial businesses or concessions which have been nationalised or cancelled by the Government of the Union, a board of experts shall be appointed who shall investigate and report as to the extent of the losses suffered by these claimants in respect of such properties.

Each of the contracting parties agrees to assist the board so far as possible with regard to supplying or collecting papers or information required for the proper accomplishment of its task.

If the members of the board are unable to agree on a joint report in respect of any particular property, they may present separate reports.

Where an agreement as to the compensation to be given to an individual claimant is come to between the Government of the Union and the claimant in respect of a claim falling within the scope of this article, particulars of the agreement shall be communicated to the board in order that it may be taken into account in the general report of the board.

The board shall consist of six persons possessing the necessary qualifications for their task, three being appointed by the Government of His Britannic Majesty and three by the Government of the Union.

The board shall settle its own procedure and may sit at any place which it may consider convenient. Each of the contracting parties shall defray the remuneration and pay the expenses of the persons appointed by it, together with one half of the expenses incurred jointly.

ARTICLE 14.

The terms agreed upon between the Government of the U.S.S.R. and the British holders of bonds in accordance with the provisions of article 9 and the amount and method of payment of the compensation to be paid by the Government of the Union in respect of claims preferred by British nationals (including juridical persons) under articles 12 and 13 shall form the subject of a further treaty to be concluded between the parties when the reports to be made under articles 12 and 13 have been received.

ARTICLE 15.

Upon the signature of the treaty referred to in article 14 His Britannic Majesty's Government will recommend Parliament to enable them to guarantee the interest and sinking fund of a loan to be issued by the Soviet Government.

The amount, terms and conditions of the said loan and the purposes to which it shall be applied shall be defined in the treaty provided for in article 14, which will not come into force until the necessary parliamentary authority for the guarantee of the said loan has been given.

ARTICLE 16.

Pending the conclusion of the treaty referred to in article 14, article 10 of the Trade Agreement of the 16th March, 1921, is provisionally maintained in force.

ARTICLE 17.

Documents, papers and securities of every kind, belonging on the 1st November, 1917, to British subjects, which were in the territories of the Union on that date, shall if they have not been returned and if they are now in existence and under the control of the Government or public institutions of the Union, be handed over to the British representative at Moscow by the Soviet Government within two months from the date of the coming into force of this treaty.

ARTICLE 18.

The conventions contemplated in article 15 of the Treaty of Commerce and Navigation signed this day shall make suitable provision for the reciprocal restoration and protection of rights in industrial, literary or artistic property belonging to the subjects or citizens of either party in the territories of the other which would now be in force in those territories but for any exceptional legislative or administrative action taken in consequence of war or revolution between the 1st August, 1914, and the coming into force of the conventions.

ARTICLE 19.

The Government of the U.S.S.R. will not institute, nor cause or encourage any person to institute, any proceedings in the courts of either contracting party, for the purpose of questioning any transaction entered into in British territory before the coming into force of the present treaty on the ground that such transaction was invalid by reason of an act of nationalisation effected by the said Government.

ARTICLE 20.

If by reason of an act of nationalisation the Government of the Union shall be or become possessed of any assets of a person or corporation in Great Britain or Northern Ireland, they shall at once discharge out of such assets any liabilities of that person or corporation to persons resident or carrying on business in Great Britain or Northern Ireland which have not been discharged, and which but for such act of nationalisation could have been discharged out of such assets.

ARTICLE 21.

Questions relating to contracts entered into before the 7th November, 1917, (*a*) between persons resident at the date of the contract in Great Britain or Northern Ireland, on the one hand, and persons resident at the said date in the territories of the Union, on the other hand; (*b*) between His Britannic Majesty's Government, on the one hand, and persons resident at the date of the contract in the territories of the Union, on the other hand; or (*c*) between persons resident at the date of the contract in Great Britain or Northern Ireland, on the one hand, and the former Russian Imperial or Provisional Governments, on the other hand, for the delivery of goods or the performance of services (other than personal services), shall be dealt with in the treaty referred to in article 14.

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Pending the coming into force of the said treaty, neither of the Governments of the contracting parties will advance any claim or support its nationals in the advancement of any claim arising out of any such contract.

ARTICLE 22.

The Union undertakes that, in regard to any of the matters dealt with in this treaty, it will extend to the Government of His Britannic Majesty and to British nationals, including juridical persons, all exemptions, rights, and privileges which, directly or indirectly, have been or may hereafter be granted by it to any third State or to its nationals.

ARTICLE 23.

The contracting parties solemnly affirm their desire and intention to live in peace and amity with each other, scrupulously to respect the undoubted right of a State to order its own life within its own jurisdiction in its own way, to refrain and to restrain all persons and organisations under their direct or indirect control, including organisations in receipt of any financial assistance from them, from any act overt or covert liable in any way whatsoever to endanger the tranquillity or prosperity of any part of the territory of the British Empire or the U.S.S.R. or to affect unfavourably the relations of the British Empire or the U.S.S.R. with third parties.

ARTICLE 24.

The present treaty is drawn up and signed in the English language. A translation shall be made into the Russian language as soon as possible and agreed between the parties. Both texts shall then be considered authentic for all purposes.

ARTICLE 25.

The present treaty shall be ratified and the ratifications shall be exchanged in London as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereto their seals.

Done at London

CONFIDENTIAL.

[N 6267/6267/85]

No. 1.

ANGLO-SOVIET CONFERENCE.

Draft Commercial Treaty with the Soviet Union.

GREAT BRITAIN and Northern Ireland, of the one part, and the Union of Soviet Socialist Republics, of the other part,

Being animated with the desire to extend and develop the commercial relations established after the signature of the Trade Agreement of the 16th March, 1921,

Have decided to conclude a treaty of commerce and navigation with this object and for the conclusion of which they are represented as follows :—

Great Britain and Northern Ireland by

The Union of Soviet Socialist Republics by

These plenipotentiaries, having communicated their full powers, found in good and due form, have agreed as follows :—

ARTICLE 1.

For the purpose of developing and strengthening the commercial relations between their respective territories, the contracting parties agree that, without prejudice to any more favourable provisions contained in the present treaty, all facilities, rights, and privileges which in the territories of either of the contracting parties shall be accorded in matters of commerce to the nationals or juridical persons of any other foreign State established in the territories of that State or to their property shall be extended, on condition of full reciprocity, to the nationals of the other party, to juridical persons established in the territories of that party and to their property. Each of the contracting parties shall accord to goods, the produce or manufacture of the territories of the other, all facilities, rights and privileges which are or may hereafter be accorded in the territories of the other to goods, the produce or manufacture of the territories of any third foreign country in all that relates to prohibitions and restrictions on importation or exportation, customs duties and charges, transport, warehousing, drawback and excise. The provisions of this paragraph shall extend to the treatment of commercial travellers' samples.

With the same purpose in view His Majesty's Government, on its part, agrees to extend the facilities of the Export Credits Scheme as laid down in "The Overseas Trade (Credits and Insurance) Act, 1920," as amended by subsequent enactments to trade between Great Britain and Northern Ireland and the U.S.S.R., and further agrees that in respect of these and any similar facilities the said trade shall be placed on the same footing as trade with any other foreign country.

Nothing, however, in the present treaty shall oblige the U.S.S.R. to extend to the other party—

(*a.*) The special provisions relating to commerce contained in the treaties which the Union may have concluded or may conclude in the future with those States the territory of which on the 1st August, 1914, constituted in all respects an integral part of the former Russian Empire, or with continental border States in Asia.

(*b.*) The rights which are or may be accorded to any third country forming part of a customs union with the U.S.S.R.

(*c.*) The facilities which the U.S.S.R. has or may have accorded to border States in respect of local exchange of goods between the inhabitants of the frontier zones.

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ARTICLE 2.

Taking into account that the monopoly of foreign trade in the U.S.S.R. belongs to the Government, and that this Government may engage in trading operations either directly through the trade representative of the U.S.S.R. or through any body or authority under its control, or otherwise, both parties agree on the following :—

1. The trade representative and his assistants (members of the Council of the Trade Representation), the number of which shall be determined at a later date by mutual agreement of both parties, shall be members of the Union Embassy in London and shall, as such, enjoy all the privileges and immunities appertaining thereto, including extra-territoriality for their offices in the Embassy. For this purpose the existing offices of the Trade Delegation and such other offices as may form the subject of future agreement shall form part of the Embassy.
2. The Union Government assumes the responsibility for all transactions conducted by or on behalf of the Union trade representative in Great Britain and Northern Ireland, and agrees that all such commercial transactions shall be subject to the laws and courts of Great Britain and Northern Ireland, but in view of the responsibility for these transactions which is assumed by the Union Government, neither it nor its representative will be called upon to give security for complying with the orders of the court.
3. This trade, as well as the trade of the above-mentioned bodies, including the trade of any companies organised by the trade representative in conformity with the laws existing in Great Britain and Northern Ireland, shall enjoy the same privileges and facilities and be conducted on the same footing in Great Britain and Northern Ireland as the trade of private persons.

ARTICLE 3.

Goods, the produce or manufacture of the territories of either of the contracting parties, passing in transit across the territories of the other by routes open to transit under the general legislation of the country, shall be free in those territories from all transit duties.

ARTICLE 4.

Juridical persons (including limited liability and other companies and associations) formed for the purpose of commerce, insurance, finance, industry, transport or any other business and established in the territories of either party shall, provided that they have been duly constituted in accordance with the laws in force in such territories, be recognised as having a legal status in the territories of the other, and in particular shall have there the right of appearing before the tribunals, for the purpose of bringing or of defending an action.

In any case the said juridical persons shall enjoy, in the territories of the other party, the same general rights as are or shall be accorded to similar juridical persons of any other foreign country.

It is understood that the foregoing provision does not affect the question of determining whether any such juridical person constituted in the territories of one party shall or shall not be permitted to carry on its business in the territories of the other party, this matter remaining always subject to the existing regulations on this point in the last-named territories.

It is understood that the foregoing provisions are applicable to juridical persons constituted before the signature of the present agreement, as well as to those which may be constituted subsequently.

This article shall replace the agreement signed at St. Petersburgh on the 16/29th December, 1904, which shall cease to have effect.

ARTICLE 5.

Each of the contracting parties undertakes to grant to the subjects or citizens of the other the right to enter its territories on

conditions not less favourable than those applicable to the subjects or citizens of the most favoured nation.

The subjects or citizens of one of the contracting parties who have been permitted to enter the territories of the other, may reside there and exercise their trades, industries or professions on condition that they comply with the regulations in force for the citizens of the most favoured nation in the territories to which they have been admitted, and they shall be at complete liberty to leave the territories to which they have been admitted whensoever they please.

The subjects or citizens of each of the contracting parties in the territories of the other shall have free access to the Courts of Justice for the prosecution and defence of their rights without other conditions or taxes beyond those imposed on nationals or on subjects or citizens of the most favoured foreign State, and shall, like them, be at liberty to employ in all causes their advocates, attorneys or agents from among the persons admitted to the exercise of those professions according to the laws of the country.

ARTICLE 6.

The subjects or citizens of each of the contracting parties shall in the territories of the other be exempt from all forms of compulsory military service whatsoever, whether in the army, fleet, air forces, national guard or militia. They can only be subject to military exactions, requisitions and compulsory contributions in kind on payment of compensation. They shall be exempt from all money contributions, compulsory loans and pecuniary taxes for war purposes and from compulsory billeting, except in so far as such contributions, loans, taxes and billeting are imposed by the law of the country on all the inhabitants.

The subjects or citizens of each of the contracting parties shall in the territories of the other likewise be exempt from all judicial, administrative, and municipal functions whatsoever, other than those imposed by the law relating to juries, as well as from all compulsory services, except in cases of sudden and unexpected occurrences involving great public danger, and from all contributions, whether pecuniary or in kind, imposed as an equivalent for personal service. They shall be subject only to such taxes and charges as are imposed upon the inhabitants generally by the law of the country.

In all matters covered by this article the treatment accorded to the subjects or citizens of each of the contracting parties in the territories of the other shall not be less favourable than that which is or may be accorded to subjects or citizens of the most favoured nation.

ARTICLE 7.

The subjects or citizens of one of the contracting parties admitted into the territories of the other shall be at liberty to communicate freely by post and by telegraph and to make use of telegraphic codes provided that they specify beforehand the code being used and under the conditions and subject to the regulations laid down in the International Telegraph Convention of St. Petersburg of 1875, as revised at Lisbon in 1908.

ARTICLE 8.

Each of the contracting parties guarantees national treatment to the subjects or citizens of the other party and to juridical persons (including limited liability and other companies and associations) established in the territories of that other party in all that concerns the possession, inviolability and right to dispose of property, whether imported into the territories of the former party or acquired in those territories in conformity with the provisions of the present treaty and with the laws and regulations there in force.

ARTICLE 9.

The contracting parties undertake to recognise arbitration clauses inserted in contracts between persons in the territories of one party and persons in the territories of the other, such persons

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being subjects or citizens of either of the contracting parties or juridical persons established in their territories.

They equally undertake to execute the awards of the arbitral tribunals appointed in conformity with the above contracts, subject however to the following conditions:—

1. That the award is not rendered incapable of execution by the existence of a previous judgment given on another point by the judicial tribunals of the country where the award would be carried into effect.
2. That the award does not contain provisions contrary to the laws of the country where it is to be carried out.

The contracting parties agree within three months of the coming into force of the present treaty to enter into a convention laying down the procedure to be followed for the botter observance of the provisions of this article.

ARTICLE 10.

The subjects or citizens of one of the contracting parties admitted into the territories of the other shall not be subjected personally or with regard to their property or to their activities to any other or higher taxes, imposts or obligations than those which are or may be imposed in the like conditions upon subjects or citizens of the last-named party, with the exception of special cases provided for by the laws in regard to all foreigners. Such special laws shall not impose taxation on the subjects or citizens of one party in the territories of the other in respect of their industry, trade, occupation or business, and in regard to all forms of taxation such subjects or citizens shall not be placed in a less favourable condition than the subjects or citizens of the most favoured nation.

Juridical persons (including limited liability and other companies and associations) established in the territories of one party and admitted to carry on operations in the territories of the other party, shall not be subject in the territories of the second party to any other or higher taxes, imposts or obligations than those which are or may be imposed in the like conditions upon similar juridical persons there established or upon similar juridical persons of any third State which are admitted to carry on operations in the territories of the second party.

ARTICLE 11.

Each of the contracting parties undertakes to treat the vessels of the other not less favourably than national vessels or the vessels of the most favoured nation. This equality of treatment shall extend to the rules and regulations governing the transport of goods or passengers from and to the ports of the contracting parties and to any duties or charges levied on the vessels, their cargoes, or passengers, and also to facilities for the stationing, loading and unloading of vessels in ports, docks, quays, harbours and roadsteads, as well as tonnage or other dues, charges and payments of all kinds levied on ships, such as sanitary port, quay, harbour, pilotage, quarantine, lighthouse, and other similar dues levied in the name of or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind.

The contracting parties undertake that imported or exported goods shall not be subjected in their ports or on their railways, rivers, or canals, to any differential due, surtax, charge, or disability of any kind based on the flag of the ship by which the goods are imported or exported and to the detriment of the flag of either party. This provision shall not, however, be regarded as preventing either of the contracting parties from entering into contracts with any persons or companies for the purpose of establishing through rates.

ARTICLE 12.

The provisions of the present Treaty shall not extend to—

(*a.*) The application of special laws for the safeguarding, renewal and development of the national merchant fleet, so long as such laws do not discriminate in favour of the carriage

of goods or passengers by national ships or provide for reductions in the dues levied in the ports of either contracting party on national ships.

(*b.*) Privileges granted to marine sports societies.

(*c.*) Port services, including pilotage towage and life saving and maritime assistance.

(*d.*) Facilities granted to national ships engaged in the coasting trade.

(*e.*) Privileges which are or may be conferred upon countries situated on the Arctic Ocean in respect of fishing and the sale of the catch in ports of the U.S.S.R. situated on that ocean.

(*f.*) Navigation on inland waters closed to foreign vessels in general, even though such navigation may be open to the vessels of limitrophe States.

ARTICLE 13.

Nothing in the preceding article shall prevent either party from reserving its coasting trade in whole or in part to national vessels, provided that—

(*a.*) The party so reserving in whole or in part its coasting trade cannot claim, in virtue of this treaty, that its vessels shall be admitted to the coasting trade of the other party.

(*b.*) Notwithstanding such reservation, vessels of the other party may proceed from one port to another either for the purpose of landing the whole or part of their cargoes or passengers brought from abroad, or of taking on board the whole or part of their cargoes or passengers for a foreign destination, or of carrying between the two ports goods consigned on through bills of lading or passengers holding through tickets to or from a foreign country. While so engaged, these vessels and their passengers and cargoes shall enjoy the full privileges of this treaty.

So long as the coasting trade of Great Britain and Northern Ireland is thrown open to vessels of the Union, it is agreed between the parties that if at any time any part of the coasting trade of the Union is thrown open to the vessels of any other foreign country it shall at the same time and under the like conditions be thrown open to British vessels.

ARTICLE 14.

All vessels which, under the law of either contracting party, are national vessels shall for the purposes of this treaty be deemed to be vessels of that party.

ARTICLE 15.

The regulation of the mutual protection of rights in industrial, literary and artistic property of the citizens or subjects of the contracting parties shall be arranged for by special conventions, which shall be concluded within six months from the coming into force of the present treaty. Such conventions shall, so far as possible, embody the principles contained in the international conventions relating to these matters.

ARTICLE 16.

Each of the contracting parties, on condition of reciprocity, undertakes within its own territories to assure to the subjects or citizens of the other party effective protection in law against unfair trade competition. In particular, each party agrees to provide adequate remedies, both legal and administrative, in respect of goods bearing trade marks or trade names to which they have no right, or marks, devices, names, inscriptions or wrappings which convey, directly or indirectly, false indications of the geographical or commercial origin of such goods.

ARTICLE 17.

The stipulations of the present treaty may, subject to any modifications mutually agreed upon, be extended to any of His Britannic Majesty's self-governing Dominions or to India by an exchange of

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notes to be effected between the Government of the Union and the Government of the Dominion concerned, or of India.

In the event of the treaty not being extended to any particular Dominion or to India, goods produced or manufactured in such Dominion or in India shall enjoy, in the territories of the Union, complete and unconditional most-favoured-nation treatment so long as goods manufactured or produced in the territories of the Union are accorded, in such Dominion or in India, treatment as favourable as that accorded to goods manufactured or produced in any other foreign country, but liberty is reserved by the Government of the Union to denounce this paragraph at any time in respect of any particular Dominion or of India.

ARTICLE 18.

The stipulations of the present treaty shall apply to any British colony, possession or protectorate, and to any territory oversea which is subject to the control of His Britannic Majesty, if notice is given by His Britannic Majesty's representative at Moscow in respect of any such colony, possession, protectorate or territory, of the desire of His Majesty that the treaty should apply thereto.

Nevertheless, goods produced or manufactured in any such colony, possession, protectorate or territory to which the present treaty does not apply shall enjoy, in the territory of the Union, complete and unconditional most-favoured-nation treatment so long as goods produced or manufactured in the territories of the Union are accorded in such colony, possession, protectorate or territory, treatment as favourable as that accorded to goods produced or manufactured in any other foreign country.

ARTICLE 19.

The present treaty shall be ratified and the ratifications shall be exchanged in London as soon as possible. It shall come into force immediately upon ratification, and shall remain in force for a period of three years from the exchange of ratifications and thereafter until the expiration of twelve months from the date on which either of the contracting parties shall have given notice to the other of its intention to terminate the treaty.

In the event of the treaty being extended to any self-governing Dominion or to India by an exchange of notes under article 17, the application of the treaty to such Dominion or to India, may be terminated by twelve months' notice on either side.

As regards any colony, possession, protectorate or territory to which the present treaty has been applied under article 18, either of the contracting parties shall be entitled to terminate its application to such colony, possession, protectorate or territory at any time on giving twelve months' notice to that effect.

ARTICLE 20.

The present treaty is drawn up and signed in the English language. A translation shall be made into the Russian language as soon as possible and agreed between the parties. Both texts shall then be considered authentic for all purposes.

Protocol of Signature.

Ad ARTICLE 1.

Nothing in article 1 of the treaty signed this day shall prejudice the right of either party to enforce special sanitary or other provisions for the purpose of securing the safety of persons or of animals or of plants useful to agriculture, of regulating the trade in arms and ammunition under general provisions of law or the trade in any particular article under the provisions of any general international convention which is binding on either party.

Declaration by His Majesty's Government with regard to Article 18.

His Majesty's Government recognises the right of the Soviet Government in reserving the coasting trade to national ships, to

include in that reservation the carrying of goods and passengers between Soviet ports whether situated on the coast of the same or of different seas.

Declaration by the Government of the U.S.S.R. with regard to Article 14.

At the moment of signing the Commercial Treaty between the Soviet Union and Great Britain and Northern Ireland I am instructed by the Government of the Union of Socialist Soviet Republics to make the following declaration:—

"The Union Government maintain their right of property over all the ships of the former Russian navy as well as over the ships of the Russian commercial fleet, nationalised by the decree on the nationalisation of the commercial fleet dated the 26th January, 1918, which have not been sold by the Soviet Government or with its consent.

"The Union Government on several occasions had the opportunity to make similar declarations to all foreign Powers and protested in the notes addressed to their Governments against any kind of commercial transactions with these ships, presenting the full lists of names of such vessels.

"The Union Government maintain their right to claim the restitution of these vessels as the indisputable property of the peoples of the U.S.S.R. Therefore the Union Government will never recognise as British any of these ships found in possession of British nationals or firms and will treat them as the property of the peoples of the U.S.S.R."

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CONFIDENTIAL.

[N 6267/6267/85] No. 1.

Mr. MacDonald to Mr. Hodgson (Moscow).

(No. 218.)
(Telegraphic.) R. *Foreign Office, July* 30, 1924.

PLEASE make the following communication to M. Rakovski:—

"Cabinet have decided that provided the general treaty, of which the text is given in my immediately succeeding telegram, and the commercial treaty, are signed in their present form before 6th August, and are faithfully executed, His Majesty's Government will be prepared as soon as the treaty contemplated in article 14 has been signed to recommend Parliament to guarantee a loan to be issued by the Government of the U.S.S.R. A provision to this effect has been inserted in article 15 of the treaty."

CONFIDENTIAL.

[N 6267/6267/85] No. 1.

Mr. MacDonald to Mr. Hodgson (Moscow).

(No. 219.)
(Telegraphic.) *En clair.* *Foreign Office, July* 30, 1924.

FOLLOWING is text of treaty, omitting parts already in M. Rakovski's possession which have not been amended. Full and complete text has been communicated to M. Ioffe:—

"Great Britain and Northern Ireland, of the one part, and the Union of Soviet Socialist Republics, of the other part,

"Being animated with the desire to extend and develop the commercial relations established after the signature of the Trade Agreement of the 16th March, 1921, and to remove all causes of friction and disagreement between the two countries and to place their relations on a firm, just and durable basis,

"Have decided to conclude a treaty with this object, and for the conclusion of which they are represented as follows:—

"Great Britain and Northern Ireland, by

"The Union of Soviet Socialist Republics, by

"These plenipotentiaries, having communicated their full powers, found in good and due form, have agreed as follows:—

"ARTICLE 1.

"The present treaty constitutes the formal general treaty adumbrated in the preamble to the Trade Agreement between His Britannic Majesty's Government and the Government of the Russian Socialist Federal Soviet Republic signed in London on the 16th March, 1921, and as between Great Britain, including Northern Ireland, and the Union replaces that agreement.

"Commercial relations between the two countries will in future be regulated by the commercial treaty signed this day by the representatives of the two parties. [The text of this commercial treaty is not being telegraphed, as only trifling drafting alterations have been made in the text accepted by British delegation at seventeenth meeting of the second committee on the 22nd July. Full and complete text has been communicated to M. Ioffe.]

"ARTICLE 2.

[This article and articles 3 and 4 deal with treaties, and are as accepted by Treaty Committee.]

"ARTICLE 5.

"The provisions contained in the annex to this article shall regulate, as between the contracting parties, the fishery in waters contiguous to the coast of North Russia.

"This article shall not be deemed to prejudice the views held by either party as to the limits in international law of territorial waters.

[Here follows Fishery Convention as agreed, with exception that lacuna in agreed text of clause II is filled by following words: "to the southward of the parallel of 67° north latitude."]

"ARTICLE 6.

[Here follows British counter-draft of Arbitration Treaty.]

"ARTICLE 7.

"For the purpose of giving effect in part to the declaration annexed to the Trade Agreement of the 16th March, 1921, the Government of the Union declares that it

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recognises that British holdings in loans issued or taken over or guaranteed by the former Imperial and Provisional Russian Governments, or by the municipalities of towns in the territory now included in the Union, constitute obligations which are binding upon it.

"ARTICLE 8.

"The Government of His Britannic Majesty recognises that the existing financial and economic position of the Union renders impracticable at the present time the full resumption of the service of the British holdings of the loans referred to in article 7.

"ARTICLE 9.

"The Government of the Union undertakes to initiate, on the coming into force of the present treaty, negotiations with the British holders of bonds referred to in article 7, with a view to arranging acceptable terms for the resumption of the service of the said loans.

"The Government of the Union agree to resume the service of such loans in respect of holdings by British subjects or companies, other than holdings which were acquired by purchase since the 16th March, 1921, and are proved to have been in other than British ownership on that date, in accordance with the terms arranged as the result of the negotiations referred to above, provided that the terms have been accepted by the holders of not less than one-half of the capital values of such British holdings in these loans.

"ARTICLE 10.

"All questions connected with the claims of the Government of the U.S.S.R. against the Government of His Britannic Majesty, or with the claims of the Government of His Britannic Majesty against the Government of the U.S.S.R., arising out of events which took place between the 4th August, 1914, and the 1st February, 1924, are reserved for discussion at a later date. This provision includes claims in respect of:—

"(*a.*) War loans advanced by the Government of His Britannic Majesty to the former Russian Imperial or Provisional Governments;

"(*b.*) Gold belonging to the former Russian Imperial or Provisional Governments and handed over to the Government of His Britannic Majesty by either of those Governments;

"(*c.*) The financial convention supplementary to the Treaty of Brest-Litovsk of the 3rd March, 1918;

"(*d.*) Sums owed by the former Russian Imperial or Provisional Governments to British Government Departments or *vice versâ;*

"(*e.*) Loss or damage from warlike operations or hostile measures;

and also any adjustments made, or to be made, in the accounts relating to such claims on either side.

"There shall similarly be reserved all questions connected with claims by the nationals of either party against the other party in respect of loss or damage suffered in the territory of the party whose national the claimant is and resulting from warlike operations or hostile measures during the above-mentioned period.

"ARTICLE 11.

"Claims by nationals (including juridical persons) of the one party against the other party in respect of loss or injury due to events which took place between the 1st August, 1914, and the coming into force of the present treaty, other than (1) claims covered by other articles of this treaty and (2) claims arising since the 1st April, 1918, out of trading relations between any Government exercising authority in the territories of the Union or its agent and British nationals or between the Government of His Britannic Majesty and citizens of the Union, shall in view of the admitted preponderance of the claims of British nationals be finally settled as between the contracting States by the payment of a lump sum by the Government of the Union to the Government of His Britannic Majesty.

"Distribution of this sum shall be effected by the Government of His Britannic Majesty in such manner as they shall consider just. The Government of the Union undertake to furnish the Government of His Britannic Majesty with any relevant papers or information in their possession which may facilitate the just distribution of such sum.

"ARTICLE 12.

"Each of the contracting parties shall appoint three properly qualified persons to examine the claims of which the settlement is to be effected by the payment of the lump sum provided for in article 11. These six persons shall make a joint examination of the claims and shall report to the two contracting parties the amount at which they consider the lump sum should be fixed. If they are unable to agree as to the amount of the lump sum, they shall present separate reports. They will arrange their own procedure, and shall in particular be entitled by agreement between themselves to refer the examination of any particular category of claims to two of their number.

"Each of the contracting parties shall defray the remuneration and expenses of the persons appointed by it, together with one-half of the expenses incurred jointly.

"ARTICLE 13.

"In order to facilitate the grant of adequate compensation to British nationals (including juridical persons) in respect of industrial businesses or concessions which have been nationalised or cancelled by the Government of the Union, a board of experts shall be appointed, who shall investigate and report as to the extent of the losses suffered by these claimants in respect of such properties.

"Each of the contracting parties agrees to assist the board so far as possible with regard to supplying or collecting papers or information required for the proper accomplishment of its task.

"If the members of the board are unable to agree on a joint report in respect of any particular property, they may present separate reports.

"Where an agreement as to the compensation to be given to an individual claimant is come to between the Government of the Union and the claimant in respect of a claim falling within the scope of this article, particulars of the agreement shall be communicated to the board in order that it may be taken into account in the general report of the board.

"The board shall consist of six persons possessing the necessary qualifications for their task, three being appointed by the Government of His Britannic Majesty and three by the Government of the Union.

"The board shall settle its own procedure and may sit at any place which it may consider convenient. Each of the contracting parties shall defray the remuneration and pay the expenses of the persons appointed by it, together with one-half of the expenses incurred jointly.

"ARTICLE 14.

"The terms agreed upon between the Government of the U.S.S.R. and the British holders of bonds in accordance with the provisions of article 9 and the amount and method of payment of the compensation to be paid by the Government of the Union in respect of claims preferred by British nationals (including juridical persons) under articles 12 and 13 shall form the subject of a further treaty to be concluded between the parties when the reports to be made under articles 12 and 13 have been received.

"ARTICLE 15.

"Upon the signature of the treaty referred to in article 14, His Britannic Majesty's Government will recommend Parliament to enable them to guarantee the interest and sinking fund of a loan to be issued by the Soviet Government.

"The amount, terms and conditions of the said loan and the purposes to which it shall be applied shall be defined in the treaty provided for in article 14, which will not come into force until the necessary parliamentary authority for the guarantee of the said loan has been given.

"ARTICLE 16.

"Pending the conclusion of the treaty referred to in article 14, article 10 of the Trade Agreement of the 16th March, 1921, is provisionally maintained in force.

"ARTICLE 17.

"Documents, papers and securities of every kind, belonging on the 1st November, 1917, to British subjects, which were in the territories of the Union on that date, shall, if they have not been returned and if they are now in existence and under the control of the Government or public institutions of the Union, be handed over to the British representative at Moscow by the Soviet Government within two months from the date of the coming into force of this treaty.

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"ARTICLE 18.

"The conventions contemplated in article 15 of the Treaty of Commerce and Navigation signed this day shall make suitable provision for the reciprocal restoration and protection of rights in industrial, literary or artistic property belonging to the subjects or citizens of either party in the territories of the other which would now be in force in those territories but for any exceptional legislative or administrative action taken in consequence of war or revolution between the 1st August, 1914, and the coming into force of the conventions.

"ARTICLE 19.

"The Government of the U.S.S.R. will not institute, nor cause or encourage any person to institute, any proceedings in the courts of either contracting party, for the purpose of questioning any transaction entered into in British territory before the coming into force of the present treaty on the ground that such transaction was invalid by reason of an act of nationalisation effected by the said Government.

"ARTICLE 20.

"If by reason of an act of nationalisation the Government of the Union shall be or become possessed of any assets of a person or corporation in Great Britain or Northern Ireland, they shall at once discharge out of such assets any liabilities of that person or corporation to persons resident or carrying on business in Great Britain or Northern Ireland which have not been discharged, and which but for such act of nationalisation could have been discharged out of such assets.

"ARTICLE 21.

"Questions relating to contracts entered into before the 7th November, 1917, (*a*) between persons resident at the date of the contract in Great Britain or Northern Ireland, on the one hand, and persons resident at the said date in the territories of the Union, on the other hand; (*b*) between His Britannic Majesty's Government, on the one hand, and persons resident at the date of the contract in the territories of the Union, on the other hand; or (*c*) between persons resident at the date of the contract in Great Britain or Northern Ireland, on the one hand, and the former Russian Imperial or Provisional Governments, on the other hand, for the delivery of goods or the performance of services (other than personal services), shall be dealt with in the treaty referred to in article 14.

"Pending the coming into force of the said treaty, neither of the Governments of the contracting parties will advance any claim or support its nationals in the advancement of any claim arising out of any such contract.

"ARTICLE 22.

"The Union undertakes that, in regard to any of the matters dealt with in this treaty, it will extend to the Government of His Britannic Majesty and to British nationals, including juridical persons, all exemptions, rights, and privileges which, directly or indirectly, have been or may hereafter be granted by it to any third State or to its nationals.

"ARTICLE 23.

"The contracting parties solemnly affirm their desire and intention to live in peace and amity with each other, scrupulously to respect the undoubted right of a State to order its own life within its own jurisdiction in its own way, to refrain and to restrain all persons and organisations under their direct or indirect control, including organisations in receipt of any financial assistance from them, from any act, overt or covert, liable in any way whatsoever to endanger the tranquillity or prosperity of any part of the territory of the British Empire or the U.S.S.R. or to affect unfavourably the relations of the British Empire or the U.S.S.R. with third parties.

"ARTICLE 24.

"The present treaty is drawn up and signed in the English language. A translation shall be made into the Russian language as soon as possible and agreed between the parties. Both texts shall then be considered authentic for all purposes.

"ARTICLE 25.

"The present treaty shall be ratified and the ratifications shall be exchanged in London as soon as possible."

A.S.C. 12.

ANGLO-SOVIET CONFERENCE.

Eighth Meeting at Foreign Office, at 11·30 A.M. *on August* 4, 1924.

In the Chair: Mr. A. PONSONBY.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. J. D. Gregory.	C. G. Rakovski.
Mr. O. StC. O'Malley.	A. A. Ioffe.
Mr. F. Phillips.	M. P. Tomski.
Sir S. J. Chapman.	A. L. Scheinmann.
Sir W. H. Clark.	A. M. Radchenko.
	Y. D. Janson.
Experts.	*Experts.*
Mr. H. W. Malkin.	G. N. Lashkevich.
Mr. S. D. Waley.	A. V. Bitner.
Mr. H. J. Hutchinson.	S. V. Averintsev.
Mr. H. S. Moss-Blundell.	
Secretariat.	*Secretariat.*
Mr. P. M. Roberts.	A. F. Rothstein.
Mr. W. Strang.	
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

MR. PONSONBY: We have not had a plenary session for some time, but in the interval the committees have been at work and M. Rakovski and I have had many conversations. The result of all these labours is embodied in the treaty which is now placed by us before the Soviet delegation. I should like to emphasise the very great importance of the meeting to-day. Owing to the parliamentary situation, we have been obliged to consent to make a statement with regard to our negotiations in the House of Commons to-morrow at 4 o'clock. We have got to settle to-day what that statement is to be. Either it will be that we have come to an agreement, which I very much hope may be the case, or that the negotiations have broken down. I am afraid there is no other alternative. But I have every hope that this treaty, which is the result of very careful discussion and exploration of all the subjects that have been before us, will meet with the approval of the Soviet delegation. Since our former plenary meetings, His Majesty's Government have seen their way to make a very great concession. At the earlier meetings, I repeated more than once that the Government could not undertake to guarantee a loan. That decision has been reversed, and consequent changes have had to be made in the treaty. That concession on the part of the Government, in view of the opposition that is likely to show itself both in Parliament and the country, can hardly be over-estimated, and I hope the Soviet delegation will bear that in mind because, in the unhappy event of our not coming to an agreement to-day, I do not think that any blame can be attached to the attitude adopted by His Majesty's Government in view of all the circumstances. Not only in the matter of agreeing to guarantee a loan, but in other provisions in the treaty, we have done our utmost to meet the views of the Soviet delegation. While fully admitting the very special and difficult circumstances in which they are working, we feel that there is nothing in the treaty as it stands which is in any way harsh or unjust to them. On the contrary, we believe that this treaty, were they to agree to it, would do a great deal to rehabilitate their position and their credit not only in this country but throughout Europe, and their signature of it would be welcomed throughout the world.

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I will, in conclusion, only emphasise once more that it rests with us here to-day to decide this vital question whether an agreement between us is to be reached. Delay, postponement and further discussion will be entirely useless. It rests with us to make this important decision in the conference to-day.

M. RAKOVSKI: During the period when there have been no plenary meetings of the conference, there has been done what, without doubt, is a gigantic work. The general opinion of the Soviet delegation is that, after the important concessions which we have made, the conference must end successfully. If there exist any doubts as to the ultimate success of the conference, we consider that the responsibility for a failure cannot be laid upon us. From the proposals which have been made, it is quite clear that as regards those questions which were most disputed, viz., (1) pre-war debts, (2) miscellaneous claims, and (3) private property, we have made great concessions, sufficient fully to satisfy these classes of British claimants, though there may be delay caused by the discussion of the formulæ. The position of the two delegations in this respect is quite different, and I will proceed to explain why. I quite understand Mr. Ponsonby when he refers to British public opinion and to the opinion of Parliament, and I fully take into consideration all the difficulties which the British Government have had to meet in carrying out these negotiations with the Soviet Union. At the same time, it must not be forgotten that there is such a thing as public opinion not only in England, but also in the Soviet Union. We also have our Parliament to take into consideration, and although our delegation is a fully-empowered delegation, none the less we are obliged to consider these powers at an end when we are faced with terms which conflict with Soviet public opinion. We do not ask that the British Government should accept anything which involves contradiction with British legislation. At the same time, we expect the British delegation not to insist upon the adoption of formulæ which are inconsistent with the conscience and the laws of the Russian people. Even if we accept such terms, this would give rise to feelings which would be far from leading to permanent friendly relations. This does not mean that we do not appreciate the concessions which have been made by the British delegation. We have no desire to belittle the guarantee of a loan. I understand from what Mr. Ponsonby says that he regards the loan as a concession made only in the interest of the Soviet Union. This is not the case. The loan, it is true, is in the interests of Russia, but also goes primarily to satisfy British interests. Why? Because by receiving the loan, the Soviet Government can liquidate pre-war debts; by receiving the loan, it can satisfy miscellaneous claimants; by receiving the loan, it can take steps towards the settlement of the question of nationalised property. Furthermore, the loan received will be used partly in order to place orders with British industry, thus assisting the development of trade between Russia and Great Britain and helping to some extent to reduce unemployment in England. The loan is not only of economic but also of political importance; it will help to strengthen the friendly relations which have been to some extent destroyed by the war, and will help to strengthen the foundations of peace. All these results of a loan will help not only the Soviet Union but to an equal extent Great Britain and the Soviet Union. It must not be forgotten that if the British Government recommend a guarantee, this guarantee is met, as it were, by a counter-guarantee from the Soviet Government. All these loan operations must be considered as being not only in the interests of the Soviet Union, but in the interests of both countries.

I regret that many essential points have been brought forward only during the last few days, and we are now faced with a series of new demands which a week or so ago before our visit to Moscow had not been brought forward. These demands arose in connection with, and as a result of, the guarantee, but it must be made clear that they are not acceptable to us. Furthermore, many of the propositions and considerations which were put forward before the British delegation agreed to a guarantee clause have unfortunately not been taken into consideration by the British delegation. None the less, the Soviet delegation considers that the British delegation will take corresponding steps to meet us in the wording of those obligations which we have decided to accept, and that the labours of both delegations will result in the benefit of both countries. Before proceeding to the discussion of the essential details, I suggest that the following order of discussion be adopted:—

1. To examine and accept the Commercial Treaty.
2. To examine the British draft of the proposed General Treaty and determine those points which are already agreed upon, and those on which agreement has not yet been reached.

I think that if this programme is accepted, it will be a considerable help in the task before us.

MR. PONSONBY: I am quite ready to accept M. Rakovski's suggested method of dealing with these treaties this morning, and I would say that in order that we may get through our business as rapidly as possible we should pass over the points where there is agreement as quickly as we can, and if there is any question where an alteration of words is necessary, we can leave it for a drafting committee to examine this afternoon.

M. RAKOVSKI: I accept the proposition. A drafting committee is the more essential to us as, although some of the agreed points have been worked out, we have really had insufficient time to consider them properly. Therefore, the formation of a drafting committee is most expedient.

MR. PONSONBY: With regard to the Commercial Treaty: I think the only clause about which there is any dispute is article 15, and I think we decided at our preliminary meeting yesterday that article 18 of the General Treaty should be omitted, and that the substance of it should be put at the end of article 15. The period of six months mentioned in the fourth line of article 15 should be twelve months. Sir S. Chapman has a form of words covering this article, which I suggest might be left to the Drafting Committee.

M. RAKOVSKI: On our part we have no objection.

MR. PONSONBY: I think that disposes of the Commercial Treaty.

M. RAKOVSKI: There are still two points. The first is a question of the wording of article 2, which is only a question of drafting, and was agreed upon yesterday. The second point is an alteration in wording which does not refer to the treaty, but to the protocol of signature. The protocol states that the Soviet Union is not excluded from the benefits of the Trade Facilities Act. We consider that this should be put in a positive form, viz., that the Trade Facilities Act extends also to the Soviet Union.

At a sitting of the Commercial Treaty Committee agreement was arrived at as to including in the minutes an agreed declaration by both parties. This was included in the minutes of the Commercial Treaty Committee, but I consider that it should also be inserted in the minutes of to-day's conference.

MR. PONSONBY: We are prepared to record that in the minutes of to-day's conference, and I can give an assurance that the Trade Facilities Act applies to Soviet Russia as to every other country.

M. RAKOVSKI: Only one question remains, viz., to receive a reply to the proposed amendment to the last words of article 2, where agreement was almost reached yesterday.

MR. PONSONBY: We considered that point, but we think the meaning is quite clear as it stands, and we know of no form of words that would convey precisely the same meaning.

I would say that there are certain other declarations in addition to those mentioned by M. Rakovski drawn up by the Second (Commercial Treaty) Committee which we should like to have embodied also in the record of the proceedings to-day. (See Annex I.)

M. RAKOVSKI: Mr. Ponsonby's second statement agrees with our intentions, but, as regards the wording at the end of article 2, the question is not one of any alteration of the intention, the intention of the article is quite agreed upon; the question is purely one of wording. Yesterday the Soviet delegation put forward a new wording, and, if this is unacceptable, another can be agreed upon, and this would not take more than five minutes to settle. The question is purely one of style, and the matter could perhaps be settled by the Drafting Committee.

MR. PONSONBY: We are prepared to try and find other words, and we will leave that to the Drafting Committee.

Now we get to the main treaty. With regard to the treaties, the Treaty Committee may, perhaps, have something to say (article 2). There is a declaration

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to be made on the subject of treaties, which has been drawn up by the two sides; and it is unnecessary to read it out here, but it will be embodied in our minutes. (See Annex II.) That comprises articles 3 and 4. I do not know whether the Soviet delegation has anything to say on article 5, that is to say, the fisheries agreement.

M. RAKOVSKI: With regard to the Fishing Convention: at yesterday's meeting the Soviet delegation indicated that agreement had not yet been reached with regard to the clause 2, viz., the latitude below which fishing in the White Sea is not allowed. There are two propositions for consideration, (1) the British proposition, fixing the latitude at 67°, and (2) the Soviet proposal of 69°. In order to arrive at an agreement, the Soviet delegation proposes 68° as a middle line, which, moreover, corresponds to what may be described as the customary practice, since in actual fact British trawlers never pass this line. I propose that this line should be accepted as the ultimate limit of the fishing in the White Sea.

MR. PONSONBY: This is a very technical question, not suitable for discussion here. We have made it clear that we could not accept the 69° line, and our objection to the 68° line is that it is very long, very indefinite, and might be the cause of frequent disputes, and our main object is to avoid disputes in the future. I would suggest that, with a view to arriving at some suitable terms that will be satisfactory to both parties, the experts of both parties should talk this matter over, to see whether there is not some line which might be inserted in the treaty which would be satisfactory.

M. RAKOVSKI: I suggest that two experts should be nominated from either party, one, an expert on fishing, and one on general legal questions. Furthermore, it will be necessary to instruct this committee to consider the wording of clauses 31 and 33, where it appears that agreement has not been quite reached, and also to consider the order of some of the clauses in the treaty. There may have to be some alteration in the relative position of one clause to another.

MR. PONSONBY: I agree to that, and I think that the committee had better get to work as soon as it can.

M. RAKOVSKI: It can start right away if it likes.
On our side the committee will consist of M. Lashkevich and M. Averintsev.

MR. PONSONBY: On our side, Mr. Roberts and Mr. Moss-Blundell.

(The Committee here retired.)

Article 6.—We are quite prepared in the second paragraph of the second clause to drop "the governing body of the University of Leyden" and put "some body hereafter to be decided." This form of arbitration treaty is the form that we always have now in making arbitration treaties, and we do not think that it would be advisable to depart from it in dealing with the Soviet Government.

M. RAKOVSKI: I would point out that on the question of arbitration both delegations in turn put forward a proposition, and agreement was not reached; but now, in the final draft, the British delegation have again put forward their own proposition. Our objections are not only to the second part of article 6, but also to the first part. This is the first arbitration treaty which the Soviet Government are entering into, and here we have to try and harmonise the different legal systems of the two countries. Our proposal is that the British delegation should accept the first clause of our proposition, and that an arbitration treaty should be concluded in a very short time. If this is not acceptable, I consider that it will be necessary merely to state that both parties are animated by the desire to conclude an arbitration treaty, and that a definite period should be settled within which such a treaty should be concluded.

MR. PONSONBY: The article as it stands is not our original proposal, but is a compromise made with a view to meeting the objections of the Soviet delegation. But I do not at all want to press it, and I would suggest that article 6 be dropped out of the treaty, and I am prepared to say here in conference that we shall be glad at an early date to conclude an arbitration treaty with the Soviet Government, although I regret that we have not been able to embody so important a matter in the present treaty.

M. RAKOVSKI: I would also express the regret of the Soviet delegation that shortage of time has prevented a proper consideration of this matter, which has only been put forward during the last two days, when many other and more important questions have been under discussion. I note that the British proposition has been modified, but I regret that the alterations are insufficient to meet our views. In view of its being impossible to accept this wording, I agree that it is necessary to withdraw the article entirely from the treaty, and I declare, on behalf of the Soviet delegation, that it is our desire to conclude in the shortest possible time a special convention dealing with this question.

MR. PONSONBY: As we shall shortly be having an adjournment, I should like to deal with articles 7, 8 and 9. On 10 and 11 there are amendments on which I think there is no particular difficulty. We then come to articles 13 and 14, and as these are the most important articles of the treaty, I think, perhaps, it will be as well for us to confront them at once. The Cabinet, in deciding to give a guarantee for the loan, made it a condition that these articles should remain substantially as they are. Since that time, having heard the counter-proposals of the Soviet delegation, which M. Rakovski has made known to me, I have had an opportunity of consulting the Prime Minister, who adheres to the Cabinet decision on this point as of the greatest importance. At the same time, of course, as we said yesterday, we are ready to make any small drafting amendments, but these articles do deal largely with principle, and are really the most important section of the treaty. I would point out, with regard to article 7 (and the two other articles are consequential), that the declaration which we ask the Soviet delegation to make therein is one that will very greatly raise their prestige and improve their credit, not only in this country but in Europe, and it is fully understood that in making such a declaration, and, in fact, in coming to the agreement as a whole, they are depending on the carrying out of the Government's promise to guarantee a loan. We are prepared in article 7 in the third line, to insert, after the word "that," the words "notwithstanding its decree of the 28th January, 1918," and in article 13 to omit after the word "board" the words "of experts." But after very careful investigation of the whole subject I cannot hold out hope, except in these smaller matters of drafting, of any substantial change in these particular articles.

May I just add that as it is now 1·20, I would ask M. Rakovski not to give me his answer until after the adjournment, so that he may have full time for consideration, as this is the most important matter.

M. RAKOVSKI: The proposition is, therefore, now postponed for the moment?

MR. PONSONBY: Yes.

M. RAKOVSKI: I agree to an adjournment.

MR. PONSONBY: Then we meet at 2·30.

(The meeting resumed at 2·30 P.M.)

M. RAKOVSKI: I will return to article 7, which undoubtedly is the basis of disagreement, but we have attempted to find a formula which will meet the desires of the British delegation. Our starting point was to put in our formulæ all the factors which, in reality, are required to satisfy British subjects and to avoid using those extremely general expressions which were the cause of the breakdown of negotiations at Genoa and The Hague. I think that this formula has now been found and, in view of the great concessions which it includes, I consider that the British delegation will find it acceptable. I will now read the text of our formula, which is as follows:—

"Confirming the declaration of recognition of mutual claims annexed to the Trade Agreement of the 16th March, 1921, the Union Government declares that, as an exception to the Law of the 28th January, 1918, concerning the annulment of the loans of the former Tsarist Government, it is ready to satisfy the claims of British citizens and juridical persons arising out of their holding of bonds of loans issued or taken over or guaranteed by the former Tsarist Government or by Russian towns situated in the territory of the U.S.S.R., and stated in foreign, not Russian, currency. For this purpose the Government of the U.S.S.R. shall fix, in accord with the Government of His Britannic Majesty, a corresponding sum."

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MR. PONSONBY: The draft proposed by M. Rakovski is too great a change from the one that we have printed in the treaty, but as we are anxious to do all we can on this point to come to an agreement, we would make the following suggestion, which, while practically preserving the opening words in M. Rakovski's draft, continues in the same words as those printed, but makes certain concessions on our part. The proposed draft which we submit would read thus:—

"In pursuance of the declaration of recognition of mutual claims annexed to the Trade Agreement of the 16th March, 1921, the Government of the Union declares that it will satisfy the claims of British holders of loans issued or taken over or guaranteed by the former Imperial and Provisional Russian Governments, or by the municipalities of all towns in the territory included in the Union."

M. RAKOVSKI: I fear that for one step forward we take two steps backward, because the British delegation has already agreed that in some way or other mention shall be made of the law regarding the cancellation of foreign debt. I will not at this moment repeat the very important reasons for this being mentioned in the article. I outlined them yesterday and, if necessary, I can repeat them now. Unless reference is made to this law, then, according to Soviet law, the article would have no meaning. It is necessary to make reference to the law and to establish an exception to it. Unless this is done, the thing would have no legal force *vis-à-vis* Soviet law. Therefore, it is necessary to return to what was agreed upon yesterday, and the problem is to find suitable words. The British delegation proposed this morning to say "in spite of the law." This we find unacceptable, as it would, so to speak, show lack of respect on our part to our own law. If something is wanted such as "in exception to the law" or some other wording (or "without prejudice to the law") I suggest that the task of finding the words is a question which can well be left to the Drafting Committee. The second factor is that we only make reference to loans issued in foreign currency—either abroad or in Russia, but in foreign currency. These have been the only subject of discussion with the bondholders up to the present. In the British draft there is no distinction of this sort made. The distinction is glossed over, and I cannot agree to anything more than loans in foreign currency or issued abroad. The third factor is our proposition that both Governments must agree to fix a sum to meet these claims. This is also omitted from the British proposition. We consider it is necessary to restore into the article these factors, some of which have already been agreed upon by the British delegation, and the remainder of which, although not yet agreed upon, are of vital importance to us. Furthermore, in the English text, instead of the phrase "prepared to satisfy" the expression is used "will satisfy," that is to say, in a definite form. If this latter wording be adopted, it would be necessary to add "on the conditions stated below" or "on the conditions following." If these words are added then it is possible to accept this definite wording "will satisfy."

MR. PONSONBY: I am glad that the criticisms that M. Rakovski makes of our proposed draft do not seem to present insuperable obstacles to its eventual acceptance, and I am sure he has noted that even since this morning we have been anxious to put up a form of words to meet him. With regard to his three points: we are ready to put "notwithstanding its decree of the 28th January, 1918," as we proposed yesterday. The word "notwithstanding" is not the same as "in spite of," and implies nothing in any way derogatory to the decree in question. The second point, with regard to the bonds issued in foreign currency, has never appeared in any of the British drafts of this article, and could not be accepted by us. With regard to the third point, as to the total sum, payment is dealt with in a later article, viz., in article 14. M. Rakovski's last point about "will satisfy" appears to me a point of drafting, and if we can now conclude that, in principle, we have come to an agreement on this clause we might ask the draftsmen on either side to retire and put it into satisfactory form. Article 8, I understand, is to be dropped; and we might dispose of article 9 at the same time, so that the draftsmen can have these two articles (articles 7 and 9) to deal with.

Would M. Rakovski like me to state the alterations we are prepared to make in article 9?

M. RAKOVSKI: I would first like to state my views in regard to Mr. Ponsonby's reply. There are several matters which were brought forward in

Mr. Ponsonby's reply which are of the highest importance. The most important is the new interpretation now put forward of the Soviet debt obligations. The new British interpretation covers not only foreign loans but Russian internal loans, which is quite a new demand. Up to the present we have discussed with the Council of Foreign Bondholders definite classes of foreign bonds. No suggestion whatever was made of discussing the question of purely internal loans, and this was the case not only in London, but also in Genoa. I have before me the memorandum of the Allied experts, dated the 22nd March, 1922, from which I will read the following statement:—

"The Russian Soviet Government shall accept the financial obligations of its predecessors, viz., the former Imperial Russian Government and the Russian Provisional Government, towards foreign Powers and their nationals."*

From this it will be seen that no reference whatever was made to internal loans. I would repeat that this is a new demand which is absolutely unacceptable; it is quite excluded. As regards the reference in the article to our decree, the question whether the words used should be "without prejudice" or "notwithstanding" is merely one of wording, which can quite well be left to the Drafting Committee to settle; but the question of the loans must be clearly and definitely settled here in conference.

MR. PONSONBY: With regard to the word "notwithstanding," I think that the draftsmen will find that it is quite a satisfactory term. As to the question of the loans, I will ask Sir Sydney Chapman to deal with that point.

SIR SYDNEY CHAPMAN: The distinction that we have always drawn here, and which it is very important that we should draw, from the point of view of our nationals, between whom we cannot discriminate, is the distinction between bonds, whether rouble or foreign currency bonds, held by our nationals and any such bonds held by other persons. It is impossible for us to say that one group of British nationals holding a particular class of bonds shall have their claims met, and that another class of British nationals shall not have their claims met. Discussions, it is true, have taken place with the bondholders about the debt in foreign currencies, because it is about this that there are special difficulties.

We have understood that there is no special difficulty in meeting the claims of the holders of rouble bonds. What we have insisted upon for British nationals is the fulfilment of contracts entered into with them. The rouble bonds represent contracts in roubles, and presumably there is no difficulty in discharging these rouble contracts in roubles. If, however, the Soviet Government should pass a law valorising the rouble for the purpose of paying their own nationals at a higher rate, then we assume that British nationals holding similar bonds would also be paid at that higher rate, in accordance with the law.

I should like to add, as M. Rakovski has referred to it, that in article 1 of the Genoa document there is no exclusion of the rouble bonds. The article reads:—

"The Russian Soviet Government shall accept the financial obligations of its predecessors, viz., the Imperial Russian Government and the Russian Provisional Government, towards foreign Powers and their nationals."

It does not say "financial obligations in foreign currencies." These obligations might equally be expressed in roubles.

M. RAKOVSKI: Here one of the most important questions is raised, and one where there can be no question of concession. I would point out that here in this connection in relation to the Soviet Government the ordinary standards of international relations have not been applied. When did Great Britain ask the German Government to pay for the drop in the value of the mark? I am aware that England and America have bought 10 milliards of German marks, but, when the exchange of the mark rose to astronomic figures, and their value became practically nothing, the British Government presented no claim to the German Government for these loans or for the loss of bonds, yet such a claim is made on us. There is a difference in essence between internal and external loans. Anybody who invests in the internal loans of the country must accept the risks which attach thereto, and all the consequences of internal affairs or war, since internal loans are issued on the basis of the laws applying inside the country. The demand cannot really be that these loans

* Part I. Section I, Chapter I, article 1.

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should be met in Russian currency, as, after all, a sovereign would be sufficient to cover in roubles not only the loans to Great Britain, but the loans to the whole world. I cannot believe that this is the proposition which is suggested. I think that it is an interference with the Soviet Government's internal affairs. If the question is asked: "Why has the rouble dropped?" the answer is: "War and intervention." Although Germany was in another camp during the war, none the less, no demand has been made on her to make good losses caused by the drop in the value of her currency or her bonds. This question is a matter of the greatest political importance, and is one in which we can make no concession. Any such concession would cause an explosion of protests from the Russian people.

SIR SYDNEY CHAPMAN: I am inclined to think that there has been a misunderstanding. I am sorry that, in speaking before, I did not make the point quite clear. The demand is simply that a contract to pay so many roubles shall be met by paying so many roubles. If the bond is for 1,000 roubles, all we ask is that 1,000 roubles shall be paid, and, as M. Rakovski says, the cost of doing this is practically nothing to the Soviet Government. With us it is a matter of not discriminating between the holders of different securities here, although it gives nothing of value to the holder of the rouble bond. It may be that under article 11 certain holders of rouble bonds will put forward pleas for some compensation, if they were in a special position which rendered it impossible for them to realise their bonds. However, that is a case which we need not consider. The persons appointed will have to consider whether that is admissible. It does not come up now. All we ask is that where there is a contract for 1,000 roubles, 1,000 roubles (which is worth about a halfpenny, I suppose) will be paid.

M. RAKOVSKI: I consider the question is not one of amount, but one of principle. If the question was merely one of amount, after all, I could invite the British bondholders to come round to my office or my flat and settle with them, and I should probably get quite a lot of change out of £1. I might even ask the British delegation whether they were prepared to put in a word laying down that these Russian loans were to be payable in roubles at their nominal value. I think, however, that the question is one of principle, and, if we accepted the principle, then, as the result of further discussion, the demand would be made not for the payment in roubles, but for payment of their original value in sterling. This proposition is quite unacceptable, as it contradicts all our legislation and the whole policy followed here during the discussions. If the purchase of internal bonds constituted such an international act as the purchase of a foreign issue of bonds, then, I suggest, there would have to be special registration of these issues in the foreign countries. There are quite definitely two classes of holders, of internal and of foreign bonds, and the holder of the internal bond cannot demand the same treatment as the holder of the foreign bond, and, in so far as this difference exists, there can be no question of discrimination. The British Government has never undertaken to guarantee Russian internal loans or the internal loans of any other country.

MR. PONSONBY: As I am anxious to get on to the further articles and time is getting on, may I make this suggestion with regard to this technical discussion?—that we shall be prepared to consider this matter at a later stage if, in the further articles of the treaty, we can make substantial progress.

Article 8, I understand, drops out.

M. RAKOVSKI: Article 8 includes what is, from the Soviet point of view, a very important factor, in that it indicates that payment of the claims in full is impossible. In our original proposition reference was made to the necessity for reducing the amount of the loan owing to our diminished territory and other causes. If article 8 is excluded and nothing is put in its place, then the appearance would be given that we had accepted responsibility for paying pre-war debts in full. This, of course, we have never agreed to, and even the Council of Foreign Bondholders themselves stated that they did not expect it. It is, therefore, either necessary to retain article 8, making such alterations as are rendered necessary by the alteration in the wording of article 7, or, if it is excluded, then our proposition must be included regarding the reduction of the amount of the loan.

MR. PONSONBY: I only made the suggestion that article 8 should be dropped in deference to what I understood were M. Rakovski's wishes as he expressed them yesterday. If he wants it to be put in, we are quite ready to put it in, and we suggest

that the wording of it then should be: "The Government of His Britannic Majesty recognise that the present financial and economic position of the Union renders impracticable the normal service of the British holdings of the loans referred to in article 7."

M. RAKOVSKI: I suggest that this article should be drafted following the drafting of article 7.

MR. PONSONBY: Yes.

If we can get article 9 done as well, we can then ask the Drafting Committee to retire and look at these. The changes in article 9 are also consequential.

In article 10 we made suggestions yesterday which I think were acceptable and which can be put in. Under (*c*), instead of the words which exist now, substitute "Russian gold handed over to Germany under the Supplementary Agreement to the Treaty of Brest-Litovsk," and under (*e*), substitute "the claims advanced by the Soviet Government on the ground of intervention between the 7th November, 1917, and the 16th March, 1921."

M. RAKOVSKI: In principle we agree.

MR. PONSONBY: In article 11 I think we also arrived at an agreement yesterday: "(2) Claims arising out of normal trade relations between the Government of the U.S.S.R. and Governments allied to, or federated with, it."

M. RAKOVSKI: Yes.

MR. PONSONBY: Now we get to article 13. With regard to this article, in the first line we propose to put the word "just" instead of "adequate," and (in the fourth line) to do away with the word "experts." Further, since this morning, we have agreed at the end of article 14 to put "or when the British Government are satisfied that substantial progress has been made."

M. RAKOVSKI: I consider that, as regards these two articles, there is no essential disagreement. The question is entirely one of wording. As regards article 13, we propose in the introduction to insert words referring to our law of nationalisation; secondly, we should like to make provision for the negotiations to be carried out with the interested persons; and, thirdly, we desire that the functions of the committee should be defined in more general phrases, as otherwise we are setting up a second Dawes committee, which we are not entirely in favour of. It would be better to give the committee more definite and narrower functions. As regards article 14, this should be divided into two articles, or possibly set out in two paragraphs. The first paragraph would remain more or less as at present worded; it would refer merely to articles 9 and 12, and a separate paragraph would be added which would embody the declaration made by the British delegation. I think that these are all the questions which arise out of these two articles, and that they are only questions of drafting.

MR. PONSONBY: Yes, I am very glad to hear M. Rakovski's suggestions, and I think some of them can be met by the draftsmen. The only one which I think perhaps unnecessary is that the functions of these particular persons should be more precisely defined and narrowed. I am not sure that, as it stands, they would not be able to render more useful service and get over the ground quicker than if we confined them to narrower limits. In article 13 we shall be prepared to put in something with regard to your law of nationalisation. I think that it is a matter for the draftsmen to consider how article 14, now that it has this additional line or two, can best be dealt with, whether it is to be divided up or kept as it is. I think we might ask the draftsmen to take the decisions we have come to on articles 7, 8, 9, 10, 11, 12, 13 and 14, and deliberate upon them, and, as soon as they can, report.

M. RAKOVSKI: I was alluding, of course, to the committee referred to in article 13. Although it is true the word "experts" has been excluded, it does appear from the wording that the intention is to make this committee a committee of valuers or experts, and I think it essential that some general wording should be agreed upon to define their duties. Of course, the actual details of their duties can be settled after the conference, but some general ruling should be provided as to what they are to do.

MR. PONSONBY: The only words used in the article are "investigate and report," and I think those are very inoffensive words, and the committee themselves will settle their own procedure when they meet.

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From what M. Rakovski has said, and from what I have said, our draftsmen can perhaps arrive at some decision with regard to the drafting of the articles.

M. RAKOVSKI: On our part the drafting committee will be M. Ioffe, M. Scheinmann and M. Lashkevich.

MR. PONSONBY: And on our part Mr. Waley, Mr. Hutchinson and Mr. Malkin.

M. RAKOVSKI: As regards article 17 we desire to exclude the word "securities," as this does not sufficiently clearly define what is meant.

SIR SYDNEY CHAPMAN: We have considered this matter and we are perfectly ready to make the article reciprocal, but I am afraid it will be impossible to exclude the word "securities," as these are documents indicating claims, which may be anywhere in the world, and the possessors are very much prejudiced if they are deprived of such certificates.

M. RAKOVSKI: I consider it is necessary to proceed from the following point of view. The conference now approaches agreement on various questions regarding claims, and undoubtedly the Soviet Government will meet all the demands of the British Government, even if such provision is not made in the treaty. The question is what is meant by the word "securities." Does this include titles to property? The question arises: if we are to pay compensation, why should we return the titles? We therefore propose that the British delegation should accept the Soviet proposition that this article should be mutual, but that it might be recorded in the minutes of the conference that the Soviet Government will give a wide interpretation to the words "documents and papers."

M. TOMSKI: If the securities referred to are securities regarding property outside Russia, they will, of course, be handed over; but we object to handing over securities referring to Russian property.

M. RAKOVSKI: Another point is that in another article of the treaty the Soviet Government undertakes to give all the information at its disposal, *i.e.*, for distributing the general sum which is to be allotted for meeting miscellaneous claims. We can undertake to provide this information not only in this one connection but in other connections also.

SIR SYDNEY CHAPMAN: I am afraid there will be very great difficulty if the securities are not returned. The possessor requires these securities, even when they relate to property in Russia and Russian loans, in order to establish his claim; but, of course, it goes without saying, that before he receives compensation he will have to hand the title-deeds back. A number of claimants, of course, possess their securities. Some have been deprived of them and they feel that they are placed in a position of disadvantage in having been deprived of them. Of course, it is understood that returning securities does not mean returning the property. There is no implication of that kind at all.

M. RAKOVSKI: We understand this point of view, and we are prepared to accept the meaning of this article. We are prepared to give all the information, papers and documents in our possession, to assist the two Governments, the committees and private persons in carrying out the conditions of the present treaty on the basis of reciprocity. I think this is a question of drafting.

SIR SYDNEY CHAPMAN: I am afraid it is a question of substance. I do not think our claimants will be satisfied if the relevant information that is to be given to the Board considering the claims is given by a third party—*i.e.*, is supplied by the Soviet Government. They will say that they are not in a position to make the best of their case if they have not got access themselves to their papers.

M. RAKOVSKI: I think that the Soviet delegation has already satisfied these requirements. I would point out that we do not talk merely of information but we say that we will give all papers and documents, and we will give these not only to the committees but also to the Governments and to interested individuals. We wish to exclude the word "securities," the meaning of which we do not understand. If it is a question of documents proving that such and such a person had the right to such and such a property, provision for bringing forward such documents is made. But we must take into consideration the fact that in our national psychology the word "securities" has an additional meaning. It is, so to speak, joined up with

the question of the restoration of property. I would ask the British delegation to appreciate this psychological factor and to agree to accept a more general form of words. We are ready to add a phrase that we will provide all documents necessary to assist in the execution of the provisions of the present treaty.

MR. PONSONBY: Perhaps this difficulty might be met by omitting article 17 and putting in a new article in which the Soviet Government undertakes, in general terms, to return all papers and documents, and then in article 14 to put another sentence stating that the second treaty that comes out of this treaty will be conditional upon the satisfactory fulfilment of the undertaking to produce all papers and documents.

M. RAKOVSKI: This is not better, but worse. After all, the British delegation can ask for a certain document to be provided, which document may not exist—after twenty evacuations it is quite possible that this document might be missing—and then they can say that as such a document has not been put forward the treaty has not been fulfilled, and therefore the second treaty will not be entered into. This is quite an unacceptable proposition.

MR. O'MALLEY: The article which we would propose to substitute for 17 would differ from 17 in this respect: that it would be in much more general terms. It would, in fact, express the intention which M. Rakovski stated to be the intention of the Soviet Government, but it would not go any further than 17, which says documents which "are now in existence and under the control of the Soviet Government." These words meet both the objections which M. Rakovski has just raised.

M. RAKOVSKI: My suggestion is that the clause should be left as it is, but that the words "documents, papers and securities" should be put in a more general form. I would suggest further that all documents and information under the control of the Soviet Government shall be placed at the disposal either of the British representative in Moscow or of the Soviet representative in London, the arrangement being made reciprocal for the purpose of assisting the execution of the treaty.

MR. PONSONBY: All documents, papers and information of every kind. . . . .

M. RAKOVSKI: All information, documents and papers of any kind.

MR. PONSONBY: All documents and papers of every kind.

M. RAKOVSKI: I understand that this is on the basis of reciprocity, and it is therefore necessary to make the requisite corrections to make it reciprocal.

MR. PONSONBY: Yes.

M. RAKOVSKI: And then add "in order to assist the execution of the present treaty."

MR. PONSONBY: I do not think this is needed.

SIR SYDNEY CHAPMAN: That comes in article 13, in relation to information.

M. RAKOVSKI: I think article 13 is one-sided, as it simply says that we shall supply information, but no suggestion is made that the British Government shall supply the Soviet Government with information at their disposal.

SIR SYDNEY CHAPMAN: In article 13 it says: "Each of the contracting parties agrees to assist the Board so far as possible"—*each*, that is, the British Government and the Soviet Government. I only suggested that in article 17 these words are not necessary because they have no reference for instance to a man's will, or his love letters, that is, to papers of a purely sentimental value.

MR. PONSONBY: I think Sir Sydney Chapman has a statement to make with regard to articles 19, 20 and 21. We have been trying very hard to find some method of covering these three articles and making them clear.

SIR SYDNEY CHAPMAN: We have carefully considered the points put by the Soviet delegation and our new proposal is this: that article 20 should stand, but that the debts that have to be met should be only debts contracted before the date of the Act of Nationalisation referred to, and that as regards any other debts and the substance of articles 19 and 21, the Soviet delegation should make a declaration,

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either in a note or verbally—at the plenary meeting—that in any questions of this kind that may arise it is their intention to act reasonably.

I may add that now that this date is put in, the bulk of such debts will naturally already have been discharged, but there may be certain debts which remain undischarged, and with reference to them there may be the technical difficulty that I referred to this morning, viz., that the new possessor of the property being a Government there are difficulties about legal procedure.

M. RAKOVSKI: The British delegation are asking the Soviet delegation to shut their eyes, and sign something the meaning of which they do not know. If the British delegation were to say "you have such and such property in this country, and against that are such and such claims," we could consider the problem; but in spite of all our requests for information we have received none. We are now again requested to agree to waive certain rights, but no information is given as to what this means. We are now requested to establish a new category of privileged claims and to accept new liabilities. We are obliged, therefore, to return to the proposition we made this morning: that the ideas underlying articles 19 to 21 should be the subject of a special convention which is to be concluded in one or two months, at any rate before the second general treaty regarding the loan; and during this time the position should be accepted that the property of the Soviet Government or of nationalised undertakings in Great Britain should be untouched, which might be put in such a form as the following: "The British Government will not assist on its territory, by legal or other process, any steps taken towards putting forward any claims against property belonging to the former Russian Government or to undertakings nationalised in Russia." Another point is that at the same time the British Government must be prepared to provide information as to the status of this property. If we have this information then we shall be able to examine the situation, and see how far we can agree to establish this new class of privileged claims.

SIR SYDNEY CHAPMAN: We have already considered the proposed convention, and we do not think it meets the case. Moreover, from our point of view, as regards the subjects dealt with in articles 19 and 21, we are quite prepared to trust the Soviet Government and to be satisfied with a declaration on their part that it is their intention to act in a reasonable way. The matter, however, dealt with in article 20, as regards the discharge of debts contracted before the date of nationalisation, is a matter to which Ministers attach a good deal of importance, and since this morning we have taken the opportunity of consulting about it. All that the proposal in article 20 comes to is this: that when, by virtue of an act of nationalisation you take over any particular business as a going concern, you take it over free from its just debts. It is only a case of simple equity. If there is any difficulty in the wording we could consider it so as to make it quite plain what is intended; but I do not think the Soviet delegation would maintain that they wanted to act otherwise. The business may be a business which buys and sells certain things, and has a stock. You acquire the stock and realise it: some of the stock is not paid for. All that the article says is that at the moment of nationalisation, if there is any stock which is not paid for, that debt shall be discharged before the assets are removed. It does not create any new class of privileged claimants. These people are not people who have suffered any loss from events that took place in Russia, but people who have had owing to them a debt contracted by a particular business which the Soviet Government acquires, and it is assumed that the Soviet Government will pay the just debts before taking over the remainder of the assets, in so far as those debts existed at the time that, by the act of nationalisation, they acquired possession. The fear of Ministers is that there will be very grave complaint if any removal of assets is allowed without the previous discharge of these debts that have a claim on the assets.

M. RAKOVSKI: I would point out that all these questions remain open if our proposition is adopted. Our proposition does not involve the settlement of any of these questions. We do not suggest that any person should abandon his claims. We will leave all the questions open until the convention is concluded, and no interests will be infringed. We are not clear if the question is one of debts arising from one source or of debts of an undertaking arising from another source. Our proposition does not settle any question; it does not deprive any claimant of his just rights; it leaves time and a free hand to discuss and settle the whole question with the British Government. We do demand that during this time the property shall not be dissipated or stolen; otherwise we shall be obliged to deduct any loss of property from the amount we are to pay in compensation for claims; this is therefore in the

interests of the British Government. Furthermore, I will conclude by saying that at the present moment the courts are not sitting, so that at any rate no decision can be taken in the immediate future. May I add that we are requested to adopt an algebraical formula without knowing the arithmetical basis. We would prefer to agree upon an algebraic formula, *i.e.*, the convention, after we have got the arithmetic clear. It is necessary that we should know what these claims really amount to, and I would point out that four months ago the British delegation were asked to supply this information. We cannot with shut eyes sign an undertaking without knowing what we are signing.

SIR SYDNEY CHAPMAN: I think, in view of what M. Rakovski has said, that it is possible to adopt his proposal on the understanding that he has given, that no action shall be taken in cases of this kind until the convention is completed. I think that would satisfy Ministers.

M. RAKOVSKI: We agree that no action should be taken in this connection before the convention is concluded. This is the meaning of the wording that we put forward which says that no assistance shall be given to claims brought against property, and we understand that this is to be a bilateral undertaking binding on both parties. I think that all that is necessary is to fix the time for the conclusion of this convention.

There is a further question: Can the British delegation give an undertaking that, pending the signature or the conclusion of this convention, no action will be brought against property of the former Russian Government or of nationalised undertakings? Otherwise we may tie our hands by agreeing to waive our claims, while private persons will be in a position to bring actions in order to get payment out of this property. I should like to get a reply to this question: Can the British Government undertake to hold up actions which may be brought by private persons against the property of the former Imperial Government or of nationalised undertakings?

SIR SYDNEY CHAPMAN: I am afraid we could not do it without legislation, but the course of the law is very slow. If we hurry up with the convention we cannot get judgment for months.

M. RAKOVSKI: This is what I am afraid of. Thus it appears that we should bind ourselves and be unable to protect our interests, while we cannot prevent actions being brought by other people. I think that the question is serious enough to warrant the British Government's introducing the necessary Bill to secure the interests of all. The property is in the nature of a guarantee, and the property of the Imperial Government is now protected by the British Government. Article 10 of the Trade Agreement states that the British Government is to protect the property of the former Russian Government, and now all that is necessary is to extend this protection to the property of nationalised undertakings. This cannot be impossible, as otherwise it would have been impossible to carry out article 10 of the Trade Agreement.

SIR SYDNEY CHAPMAN: As far as I can see, looking at this request, there is no action which any British subject could take which could prejudice the Soviet Government. The only thing which could cause prejudice is action by the Soviet Government. Perhaps the best thing at this stage would be to refer this to the draftsmen, and see if some clause could not be incorporated if it is necessary to protect the Soviet Government.

M. RAKOVSKI: I am in agreement with this.

MR. PONSONBY: I think all that remains is article 23, about which I believe we came to an agreement yesterday.

M. RAKOVSKI: Article 22 partakes of the nature of a general British mortgage on the whole of the Soviet Union, and is something that is quite new.

MR. PONSONBY: I did not understand yesterday that M. Rakovski had any objection to article 22, which merely extends most-favoured-nation treatment to individuals. I would remind M. Rakovski that it is in the Italian treaty.

M. RAKOVSKI: There is obviously a misunderstanding, as the day before yesterday I expressed to Mr. Ponsonby my objections to this article, and I have even noted in my copy of the treaty that this article has been dropped. As regards most-favoured-nation treatment, the Soviet Government gives this in definite cases,

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and in all cases where most-favoured-nation treatment is foreseen in the Commercial Treaty it will be given to British citizens.

MR. PONSONBY: It occurs in the second part of article 2 of the Italian treaty, and I am sure M. Rakovski does not desire to make our treaty less favourable to us than the treaty made by the Soviet Government with the Italians. M. Rakovski's objections to this article makes it seem as if they wish to treat British nationals less favourably than the nationals of other countries, which I do not think can be his intention. If that is not so, I do not see why any exception should be taken to the statement that they are ready to treat British nationals on an equal footing with those of the most favoured nation.

M. RAKOVSKI: In my opinion we have here the greatest possible misunderstanding. The Italian treaty refers to two matters: first navigation and secondly debts and claims. As regards navigation, the Soviet Government has given more favourable treatment to Great Britain than to Italy, as we have given you absolute most-favoured-nation treatment, but we are not obliged to give Italy any better treatment that we may subsequently extend to any other State; but we should be obliged to give this to Great Britain since, as already stated, we have given you absolute most-favoured-nation treatment. Italy's rights in the matter of navigation are limited to coastal trade in the Black Sea. In regard to the second point respecting debts and claims, the Soviet Government has given Italy nothing. We have told Italy that we are going to take up discussions with Great Britain, but that we cannot give Italy what we give Great Britain, with whom we propose to conclude a special agreement. I repeat that up to the present we have concluded with no other country an undertaking to pay claims or compensation for property. Great Britain is the first country with whom such a treaty has been signed. Moreover, the possibility is precluded of our concluding a treaty on more favourable terms than that which we are completing with her. If Great Britain fears this possibility, then the thing for her to do is to adopt the attitude of Italy and leave the matter open, and then when any other country comes to an agreement we are prepared to give them most-favoured-nation treatment, and they can come in on the same terms as any other nation.

SIR WILLIAM CLARK: I think it is clear that there has been a misunderstanding about this, but I do not think it is really on our side. The Italian treaty is a treaty of commerce and navigation. The question of claims is not dealt with there, but is covered by the single clause which promises to Italy the best treatment which can be given.

In our case we have made a detailed treaty dealing with claims, but it does not follow that the Soviet Union Government is not going to make a series of agreements with other countries also dealing with claims. If that happens, it seems only fair that we should have the advantage of provisions more favourable than those which we have secured in our own treaty. M. Rakovski said such a contingency could not possibly arise, and that our treaty is bound to be more favourable than any other. If this is so, he is clearly taking no risks in accepting this most-favoured-nation provision. It safeguards us and it cannot do the Union Government any harm.

M. RAKOVSKI: In my opinion the proposition put forward is an infringement of all legal standards. If a creditor pays his debts once he cannot be expected to pay them a second time. If this principle is not accepted no legal decision could ever stand, as it would always be subject to revision at a subsequent date. This suggestion is opposed to all jurisprudence and the codes of law of all countries. There are two possibilities before Great Britain: either the British Government comes to an agreement for liquidating all claims or leaving them to be settled later on, or, secondly, the British Government fears that some other country will get a more favourable settlement later. Then all that we can do is to suggest that the British Government should adopt the Italian formula. But for the Soviet delegation to agree to-day to one settlement and to leave it open that a year later there should be a review of the situation and further payment demanded is quite unacceptable. This is the position from the legal and formal point of view. As regards the practical point of view, a commercial treaty has been concluded for three years, and if there is any change in the situation then it will be possible for Great Britain, in discussing a new treaty, to ask for and obtain new and more favourable treatment. In view of the fact that Great Britain is the one country which has free trade, we have given her most-favoured-nation treatment, and it is impossible to conceive of our giving any other country better terms.

MR. PONSONBY: I will consider what M. Rakovski has said. We might return to that, and I will tell him our decision when we are examining the whole treaty again. In the next article, what we decided on yesterday was in the last line to put the words "or intended to embitter the relations of the British Empire or the Union with their neighbours or any other countries."

M. RAKOVSKI: I have a proposal for an addition after article 23: this is, that articles 7–22 constitute a whole, united together.

MR. PONSONBY: We will consider M. Rakovski's proposal, which is new to us. As the Drafting Committee seem not to have arrived at their conclusions, M. Rakovski and I will go up to them and work with them and return here later.

M. RAKOVSKI: On territorial waters we accept the conclusions of the experts.

(*The conference adjourned and met again at* 12·30 A.M. *on the* 5*th August*.)

MR. PONSONBY: The Drafting Committee has decided on articles 8, 9, 10, 11, 12, 15, 16 and 17. I think I am right. Outstanding articles still under discussion are, therefore, 7, 13 and 14. The question of the exchange of notes we will come to later. Therefore, article 7 is the one we have to deal with now. We have submitted a proposal to the Soviet delegation on article 7 and we shall be glad to hear what they have to say.

M. RAKOVSKI: As regards article 7, we, on our part, have proposed a correction to the second paragraph whereby it is indicated that the agreement is to be concluded with the British Government and that this agreement with the British Government will be included in the treaty referred to in article 14.

MR. PHILLIPS: I do not exactly know what the Soviet delegation conceives by this agreement—do they propose to negotiate solely with His Majesty's Government?

M. RAKOVSKI: In connection with our older proposition on this question, the matter has frequently been explained. It is proposed to negotiate with the British Government. We have no objection to carrying on negotiations semi-officially with the bondholders in order to assist negotiations with the British Government, but the legal and juridical party to the negotiations and the party with whom the treaty is to be concluded is the British Government.

MR. PONSONBY: At the outset of the negotiations the Government did undertake to act as an intermediary with the bondholders on the understanding that a settlement could be reached of a method of payment and of a sum of money which would be referred to in the treaty. As soon as that was found to be impossible, and at a further stage when His Majesty's Government were prepared to guarantee the loan, they found that that method of procedure would be inadvisable and they are, therefore, only ready to sanction, in agreement with the Soviet Government, any arrangement which they may come to with the bondholders. This is what is expressed in the article that we propose, which I may say is a further attempt on our part to meet the Soviet delegation, in spite of our desire to maintain the article as originally printed in the draft as presented to the delegation this morning.

I would further point out with regard to this article, that, since this morning we have made three concessions. We have brought in the Soviet decree of the 28th January; we have introduced a sentence saying that these loans are payable in foreign non-Russian currency, and, in addition, we have brought in a further reference to an agreement with His Majesty's Government. Considering these three concessions in one article which we intended to abide by as it stood, I really think that we have reached the limits of what we can do in the matter.

M. RAKOVSKI: In reply to Mr. Ponsonby's remarks, I would state that, if the British delegation had accepted our wording, then it would only have been necessary for them to make one concession, but, as they desired to follow a certain definite procedure, it may be necessary to make several. Our position is that we are entering into a contract with the British Government, and we think the British Government will be disposed to accept this as a result of the unsatisfactory experience of the past. Negotiations were started with the British Government and then we commenced to negotiate with the bondholders. The negotiations with the bondholders have given rise only to regrets: a month was lost as a result of the fact that the British Government gave us permission to negotiate with the bond-

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holders. If this programme is repeated again, time will be lost on a discussion which will lead to no result. This is then a technical advantage of negotiating with the British Government in addition to the various political reasons which the Soviet delegation has already put forward. If we state that the contract is with the British Government, this does not mean that, at their request, we will not discuss the agreement with the bondholders. We are ready to meet the British Government in this way, but this is purely a technical detail.

MR. PONSONBY: The fact that we mention in this new paragraph that the agreement will be included in the treaty by His Majesty's Government is, in itself, an admission that the final negotiations must be with His Majesty's Government. I quite understand M. Rakovski's point, but it appears to me that the article, as we have now drafted it, covers that point, and brings in His Majesty's Government as the authority who will decide whether the agreement is to be included in the further treaty or not.

M. SCHEINMANN: It is apparently agreed that the question as to the acceptability or otherwise of an agreement would be settled by the decision of the British Government to include such agreement in the new treaty or not, Therefore, as regards the facts of the matter, agreement has been reached; but Mr. Ponsonby admits the importance of those considerations which have led us to ask for the alteration which we require, and, on our part, we understand why the British delegation hesitates to take the responsibility for the agreement with the bondholders, and we therefore suggest that this difficulty could be met by adding to the words in our suggested modification of article 7: "Will form the subject of an agreement with His Britannic Majesty's Government with the participation of the bondholders."

M. RAKOVSKI: I suggest that the latter might perhaps be put in the form of a separate phrase to prevent the sentence becoming too complicated.

MR. PONSONBY: May I make this alternative suggestion. I am very anxious to meet you on this point: "The terms arrived at with the bondholders"—and, after all, the bondholders have got to consent to the terms, whether they do it with us or whether they do it with the Soviet delegates—" on which the claims referred to in the preceding paragraph shall be satisfied, will form the subject of an agreement with His Majesty's Government which will be included in the treaty referred to."

M. RAKOVSKI: I fail to understand why the British delegation refuses to accept what is really its own formula, and I can hardly understand why the introduction of the guarantee makes it necessary for the British Government to abandon their first position. I quite understand that it was necessary to talk with the bondholders when it was a question of getting a loan in the City, and even from the bondholders themselves, but now, when the City has, so to speak, retired, there can be no reason for negotiations with the bondholders in the first instance. Mr. Ponsonby's present proposition is less acceptable than the previous wording, as it, in a way, underlines that the negotiations are, in the first instance, to be with the bondholders. We must insist on our proposed text, which is the British formula, with the addition of the words suggested: "with the participation of the bondholders."

MR. PONSONBY: One might suppose from M. Rakovski's argument that an agreement with the bondholders was something that he despaired of reaching, and therefore he wanted the intervention of His Majesty's Government. As a matter of fact, M. Rakovski will find no difficulty whatever, as he well knows, in reaching an agreement with the majority of the bondholders. What he is insisting on, therefore, now, is a pure matter of phraseology, and what we suggest in no way interferes with the successful conclusion of the negotiations which he has already initiated with the bondholders.

M. RAKOVSKI: We understand the difference between the two propositions, and this, to us, is a matter of importance. If the difference does not appear essential to the British delegation, I would request them to make this concession to us.

MR. PONSONBY: M. Rakovski misunderstands me if he thinks that the difference between us is not important to us. It is. The Government have no intention of acting as an intermediary between the Soviet delegation and the bondholders. On the contrary, they think that a settlement can be arrived at much more

rapidly by negotiations between the Soviet Government and the bondholders, which can be confirmed by the Government subsequently. That is the attitude of the Government, which I am not in a position to alter.

M. IOFFE: I would refer to Mr. Ponsonby's last proposition, where reference is made to the agreement to be reached with the bondholders. This, I suggest, points to a complete agreement with the bondholders, and is itself perhaps a contradiction of the latter part of the same paragraph, where agreement with one half of the bondholders is mentioned. Possibly the following wording might be used as an introduction instead of the first words in Mr. Ponsonby's last proposition, namely, to substitute the words "after preliminary negotiations with the bondholders."

MR. PONSONBY: We accept that, if you put in "after negotiations between the Soviet Government and the bondholders."

M. RAKOVSKI: This is obvious; it is naturally understood that there would be no negotiations between the British Government and the bondholders. This will further be made clear from the minutes of the conference. The negotiations will, of course, take place between the representatives of the Soviet Government and the bondholders, and I suggest that this should be recorded in the minutes. I would point out that up to the present, when we have desired that any point should be made quite clear, we have always been told that this follows from the text, and is self-understood. Now, when a case is absolutely clear, as there is no question that it is we who are the debtors of the bondholders, and not the British Government, we are asked unnecessarily to underline a matter which is quite obvious. In addition, if there are any misunderstandings, we have the shorthand reports of to-day's meeting.

MR. PONSONBY: I should have been prepared to accept that at the beginning of the discussion, but since we have had this discussion there seems a disposition on the part of M. Rakovski that we should act as intermediary, and therefore "negotiations with the bondholders" might quite well be taken to mean that we should conduct those negotiations. It is not at all clear when you say "negotiations with the bondholders" that it does not mean that those negotiations shall be carried on by the British Government on behalf of the Soviet Government, and, if M. Rakovski thinks that it should be made clear, it seems to me that there is no objection at all to our putting in "negotiations between the Soviet Government and the bondholders."

M. RAKOVSKI: I declare that the Soviet Government will itself carry out negotiations with the bondholders, but I would point out that the British Government is interested that an agreement should be reached, in so far as the British Government is interested in the execution of the treaty as a whole. Furthermore, later on in the paragraph the British Government accept the proposition that the decision of 50 per cent. of the bondholders should be sufficient to make the agreement legal, *i.e.*, the British Government act as representing the whole British nation, and, in the interests of the whole British nation and of the development of Russo-British relations, the British Government will assist in these negotiations between the Soviet Government and the bondholders. If I were to understand from Mr. Ponsonby's words that the British Government will not be disposed to assist in the future as they have in the past, I should be obliged to insist on the entire exclusion from this article of reference to negotiations with the bondholders, but I am convinced that in the future the British Government will give the same assistance in these negotiations as they have in the past.

MR. PONSONBY: Perhaps I can curtail the discussion, and perhaps M. Rakovski will agree to the words "after negotiations between the parties concerned."

M. RAKOVSKI: I accept this. I have still one question to raise in connection with article 7, and, if I am obliged to return to these points, it is because on very careful examination it appears that the British delegation in their new wording have included points which have never been brought up before—the use of the words "taken over" by the former Russian Governments. I want to know what is to be understood by these words, in addition to loans issued or guaranteed by the former Governments. What is to be understood by the words "taken over"?

MR. HUTCHINSON: There were certain loans originally issued by private companies which were afterwards taken over by the Russian Government and made a part of the State debt, and therefore they form part of the ordinary Russian Stat-

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debt; for instance, loans of certain railway companies which were originally issued as bonds of the particular companies, and afterwards the Russian Government, I suppose, took over the railway, and thereupon took over also these bonds and cancelled them and put in their place State debt, so that they were loans taken over by the Russian Government.

M. RAKOVSKI: I suggest that a note should be put in the minutes to the effect that the question refers merely to railway loans.

MR. HUTCHINSON: As far as I recollect, they only referred to railway loans, but I cannot say definitely. There were also some bonds of the Crédit foncier, which I was referring to this afternoon, which were taken over in the same way by the State. We could certainly say in the minutes that it refers to loans originally issued by private persons or institutions which were afterwards made part of the State debt by the Russian Government, if that would satisfy M. Rakovski.

M. RAKOVSKI: Can Mr. Hutchinson give any figures as to the amount of these loans which were taken over by the Russian State?

MR. HUTCHINSON: I think I can.

M. RAKOVSKI: And are they included in the total figure which was put forward by the Board of Trade?

MR. HUTCHINSON: Yes, in the £39 million.

M. RAKOVSKI: It is necessary to include in the minutes a statement that these loans were included in the memorandum of the Board of Trade. I would ask whether there are here included no loans of other States which were taken over by the Soviet Government.

MR. HUTCHINSON: There are none.

M. RAKOVSKI: This also should be recorded in the minutes.

MR. PONSONBY: Now article 7 is finished with. We now pass to article 13.

M. RAKOVSKI: As regards the introduction to article 13, agreement has been reached, and I will read the agreed text:—

> "The Government of the Union by way of exception to the decrees of the nationalisation of industrial businesses and land will negotiate with British nationals."

MR. PONSONBY: This is all right.

M. RAKOVSKI: We further propose instead of using the word "furthermore" to put in the words "for the purpose of facilitating this task a commission shall be appointed which shall employ itself in the investigation of the claims put forward."

MR. PONSONBY: This does not express what we mean at all.

M. RAKOVSKI: I understand; but we, on our part, cannot agree to the wording put forward. This form, if adopted, would mean that the commission would start from the fantastic claims amounting to a total of £180,000,000, which are what the owners consider are their losses.

MR. PONSONBY: I would point out to M. Rakovski that the very fact that we put in losses together with investigation shows that we desire to sift these claims, and to reject any of those where there is either an exaggerated claim or a claim that has no basis in fact at all, and unless we put in the word "losses" we cannot achieve this purpose.

M. IOFFE: None the less, this proposition does not in fact satisfy conditions which may actually arise. The use of the word "losses" suggests that nationalisation has essentially caused loss in all cases, whereas, if an undertaking was at the time of nationalisation in debt to the State Bank to a greater extent than the value of the undertaking, there would be no loss. The acceptance of the word "losses" suggests that nationalisation has in all cases caused loss to be suffered, whereas examination of the claims may show that such was not actually the case.

MR. PONSONBY: I am afraid I really do not quite appreciate M. Ioffe's argument, because it seems to me that, however legitimate nationalisation may be considered to be, the person whose property is nationalised, from his point of view,

must undergo some loss, quite apart from the fact whether he should receive any compensation or not. But before we continue to labour through this article line by line I must repeat what I have said upstairs, that this article was the article which the Cabinet considered to be absolutely essential when they were ready to grant a guarantee, and, although I have conceded that the preface which we have passed should be put in, I must repeat that I am not prepared—I have no power—to accept any substantial amendment to it. But I have a suggestion to make on article 14 which I have framed after hearing M. Rakovski's arguments and the arguments of other members of the delegation upstairs, which I think may perhaps help them to accept article 13.

M. SCHEINMANN: I suggest that we are faced with a discussion really of the terms, and not of the essence, of the article. It is a question of the difference of the meaning of the expression "to examine *claims*" or "to examine *losses*." In actual material effect these two phrases have equal meaning, but they have not the same legal meaning. The Soviet Government is prepared to make payment of compensation not because British subjects suffered losses, but because British subjects made claims which were recognised to a certain extent in 1921. This is the essential difference between the two phrases. If Mr. Ponsonby states that this clause is essential to the British Government, he understands that it is essential as regards its material effect, that is to say, that British subjects should receive a certain satisfaction of their claims; but if put in the other form, that the Soviet Government will make compensation for losses, this is quite unacceptable to the Soviet delegation. If this idea of settlement or compensation for losses were adopted, then such claims could be presented not only by British but by all other nationals, whereas we regard the British as having the right to certain compensation in view of our acceptance of their claims in 1921. In conclusion I would state that our proposed wording, while still satisfying British claims, makes the treaty still acceptable to the Soviet delegation; but the use of the expression "losses" instead of "claims" makes the fate of the treaty in the eyes of the Soviet delegation more than doubtful.

MR. PONSONBY: I should like to make a proposal, although I cannot believe, in spite of the last sentence of M. Scheinmann's statement, that the whole of this extremely valuable treaty is to be wrecked on a small point of this sort. As I have said, I have not the power to take words out of this article, but I think it will meet the point of view which has been put forward by the Soviet delegation if I suggest the following words:—

> "A commission shall be appointed who shall investigate the claims put before them in respect of the properties and shall report . . . . as to the extent of the losses suffered by these claimants in respect of such properties."

The point of this is that the committee is not appointed to investigate and report the extent of the losses, but will investigate the claims put before them in respect of such properties, and will report, and naturally their report will be about the losses.

M. RAKOVSKI: Unfortunately Mr. Ponsonby's proposition does not meet the essence of the case. I must return to the reasons put forward by M. Scheinmann. The Soviet delegation does not accept the principle that losses can be regarded to have been incurred as a result of the application of laws, just as no British subject or foreign citizen resident in Great Britain could put forward claims for losses incurred under the Excess Profits Act, which took away 80 per cent. of a man's profits. If any foreigner were to apply to his Government and this in its turn were to apply to the British Government for relief, the latter would reply that the British Government is sovereign in its own territory and that anyone who desires to live and work there must submit to its laws. No State would accept responsibility for such losses. From our point of view, nationalisation without compensation is a fundamental law of the Soviet Government, and we must avoid anything which would establish liability to meet losses caused by our legislation. We are under no obligation to pay losses, but we are prepared to pay compensation. This being prepared to pay compensation is not based on any juridical idea of international relations. We know of cases where the property of British subjects was confiscated in Czechoslovakia, and when they complained to their Government they received a reply from the Home Office that there were no grounds for intervention on this account in the internal legislation of another country.

The reasons why the Soviet Government is prepared to give compensation are of a utilitarian and social character. We are prepared to give concessions to former

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owners of property because we believe the concessionnaires will be valuable workers in Russia. We are also prepared to give compensation because in certain cases people have been entirely ruined, and this would therefore be a measure of social justice. Furthermore, we desire in every possible way to assist in the development of Russo-British relations, friendship and trade, and the conclusion of the present agreement. The fact is that the British delegation gets what it wants, but the Soviet delegation cannot accept the wording, which would give to our voluntary formula a legally binding character. If we did, this would embody the suggestion that our fundamental laws were arbitrary, whereas we believe that our laws are as just and as well founded as those of any other country. I therefore suggest that the British delegation should accept our proposed wording where reference is made only to claims and not to losses. I suggest further that in the minutes reference might be made to the examination of these claims, and not only of these claims but of all matters connected with the claims, but the treaty must not contain any provisions conflicting with our laws.

MR. PONSONBY: If it were not 3 o'clock in the morning, I might be tempted to enter into a discussion with M. Rakovski on the subject of nationalisation which, in principle, happens to be a policy of which I approve. But I should dispute with him the fact that under any form of nationalisation certain individuals might not have the right to put in claims for losses. In any case, we are not disputing the laws of the Soviet Government; we are not controverting in any way any principle to which they adhere. We merely want to protect people who have suffered losses—people who have been ruined—and in order to do that we are obliged to have some method of investigating their claims and assessing the losses that they have suffered. If from the start M. Rakovski had declared that the Soviet Government refused in any case and on any account to grant compensation for properties that have been nationalised, we might have disputed his attitude, but we should have had to admit that it was perfectly logical. As it is, he has been quite prepared to meet the property claimants, but in doing so he has been obliged to fall back on an entirely arbitrary arrangement, selecting certain properties and rejecting others. Such an arrangement cannot find a place in a treaty. We are not asking that all the property owners shall necessarily be satisfied. We are only asking in this article that their claims should be investigated and the losses assessed, not by our nominees alone but by an equal number of nominees appointed by the Soviet Government. If M. Rakovski will allow me to make my suggestion on article 14 I think many of his objections to article 13 are likely to be dissipated.

M. RAKOVSKI: I request that Mr. Ponsonby will read his proposition, but I must say in advance that I cannot understand how the wording of article 14 can get rid of the word "losses" if it is left in the text.

MR. PONSONBY: With regard to article 14 we are quite ready to adopt the principle which M. Rakovski asks of dividing it into two portions, and here is the text:—

> "When terms of settlement have been agreed upon under article 9 and when the report or reports to be made under article 12 have been received, a further treaty shall be made embodying the terms of settlement agreed upon under article 9, and fixing the lump sum to be paid by the Government of the Union under article 12.
>
> "This treaty shall not be made until substantial progress has been made in the settlement of claims under article 13, and shall also fix the terms of settlement of all the valid claims under article 13 so far as these shall not already have been settled directly between the Government of the Union and the claimants. In fixing these terms consideration shall be given to such report or reports as have been received from the commission appointed under article 13."

M. RAKOVSKI: The first impression of the Soviet delegation with regard to this article is that it provides an acceptable basis, but it is necessary for us to give some little time to its consideration. I therefore propose that it should be put on one side and that we should return to the discussion of article 13, as, if agreement is arrived at on article 13, the danger which hangs over the conference can undoubtedly be removed.

MR. PONSONBY: If M. Rakovski and the Soviet delegation are prepared to consider favourably this article 14, I should be quite ready instead of the word "losses" to put the word "damage."

M. RAKOVSKI: As regards article 13 I propose that the word "losses" should be replaced by the word "claims"; but I think this point might be left open, and we might proceed to the examination of the other matters which we have to bring forward in connection with this article, because, if agreement is reached on these, then a settlement might be reached on the other point in ten or fifteen minutes.

We propose in the sixth paragraph the wording: "The commission shall settle its own procedure, approved by the Governments." Further, we propose to omit the words "and may sit at any place which it may consider convenient." We do not wish to give the commission the status of an autonomous body.

MR. PONSONBY: We accept "approved by the Governments"; but we consider it essential for the commission to be able to visit Russia.

M. RAKOVSKI: This will be a concession on the part of the Government, but we cannot make it a binding obligation.

MR. PONSONBY: If the Soviet Government protests against the commission going to Russia, then the commission will not be able to go. It will show that the Soviet Government is concealing something. If it is subject to the approval of the Governments, surely they will not be able to go to Russia unless the Soviet Government approves.

M. RAKOVSKI: It is for that reason I think that this point should not be included, as there may be other reasons which make the visit to Russia impossible and this might give rise to the impression to which Mr. Ponsonby refers, that the Soviet Government had something to hide.

MR. PONSONBY: I can see no harm at all in the phrase as it stands; I am afraid we cannot drop that, but we are ready to put in "approved by the Governments."

M. RAKOVSKI: I request the British delegation to take into consideration the impression which would be created if mixed commissions were to go from works to works in Russia and examine what is left. Such an act would be such a challenge to our working masses that it is impossible to consider it. There may be cases when it would be necessary to examine the properties, but as a general rule, taking into consideration the attitude of the working population of Russia to the former owners, such a proposition is quite impossible. If a mixed commission were to go into Russia and examine and investigate the factories and mines this would be a challenge.

MR. PONSONBY: They would not do anything so foolish and the Governments could prevent them. Their procedure is to be settled by the Governments, and if they want, and if they can, and if it is advisable that they should investigate any property in Russia, they ought to be able to do so, and it is very important that we should say so in this article.

(The meeting was adjourned for ten minutes.)

[The meeting resumed at 4·40 A.M.]

M. RAKOVSKI: We return to articles 13 and 14. With regard to article 13, we propose to insert the following phrase after the words "a commission shall be appointed"—

> "which shall verify from all sides the genuineness and the actual amount of the claims in respect of such properties."

I would perhaps suggest "examine" rather than "verify," as the word "examine" is possibly a somewhat wider word.

MR. PONSONBY: "Which shall examine the validity and verify the amount of the claims"—we are prepared to accept it in those words.

M. RAKOVSKI: That is accepted by the Soviet Government. I have already explained the motives which led us to insist on the exclusion of the words referring to giving the commission the right to sit in any place which they might consider convenient. We find this still unacceptable.

MR. PONSONBY: Very well, we will have the words out, then.

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M. RAKOVSKI: I consider paragraph 4 quite superfluous. If the Soviet Government came to any agreement with any individual claimant this would, in fact, become known to the commission, since the Soviet Government would probably supply the information; but I do not wish it to be understood that the Soviet Government is in any way subordinate to this commission.

M. Scheinmann has made a reference to another matter of importance. It is in fact, from a commercial point of view quite possible that a former owner would not desire to have the details of his agreement with the Soviet Government communicated to the commission. Of course, it would be a different matter to inform the British Government that his claim had been settled. I suggest that this paragraph should be entirely cut out as being quite superfluous.

MR. PONSONBY: I am very reluctant to make any further changes in this article, and I do think that there is a certain purpose in this paragraph, because it undoubtedly will be useful for the commission to be informed when any settlement has been reached by the Soviet Government with any particular claimant. There is nothing to induce them—the claimant or the Government—to inform the commission unless something of this sort is put in.

M. RAKOVSKI: Our attitude is that we cannot allow the proposition that the Soviet Government is to be in any way under the control of the commission, even a commission of which half the members are appointed by the Soviet Government; and if agreement is reached with any particular claimant this fact can be communicated by the Soviet Government through its members on the commission, if the information is of value to the commission. The proposition that the Soviet Government should report to the commission is quite unacceptable; I think the British Government will appreciate how entirely incompatible this is with the sovereignty of a Government.

MR. PONSONBY: I cannot take it upon myself to make any further concessions. I have given in to two concessions in this article. I should be altering the article considerably if I were to take this paragraph out, and I can only do it on the understanding that when we get to article 14 there will not be another host of amendments and changes, and that M. Rakovski will see his way to accept the draft as we submitted it to him just now.

M. RAKOVSKI: I suggest that we should now proceed to the consideration of article 14, and, after agreement on article 14, we should return to this point, on which I shall have a suggestion to make.

MR. PONSONBY: Very well, I agree.

M. RAKOVSKI: As regards article 14: we have proposed an alteration in the last part. With the first part we agree. We also agree with the beginning of the second part, but we consider it necessary to make a change at the end. Our revised wording of the second part is as follows: "This treaty will be concluded when the British Government is satisfied that substantial progress has been made in the settlement of claims under article 13, and shall fix the terms of settlement of such claims. In fixing these terms consideration shall be given to such report or reports as have been received from the commission appointed under article 13."

MR. PONSONBY: I should like to be quite clear, if M. Rakovski would explain to us, what class of claims he means by the words "such claims." Are they only the claims about which a settlement has been made or are they all property claims?

M. RAKOVSKI: The expression "such claims" refers to the claims as to the liquidation of which agreement has been reached and which have been found by the British Government to be sufficient in number for them to decide that considerable progress has been made. It is a question of reading the two points together. The number of claims settled is to be sufficient to satisfy the British Government that considerable progress has been made, but only those claims where settlement has been arrived at are to be included in the treaty.

MR. PONSONBY: I understand perfectly, but I am afraid that form of wording would not be acceptable to us.

M. RAKOVSKI: I desire to remind the conference that the British delegation has one point which makes the British Government absolutely the master of the situation as regards the interpretation of this clause, viz., the words "when progress is found sufficient."

MR. PONSONBY: Yes, but this article, which is one of the important articles that I have often mentioned, and which was very particularly considered by the Cabinet, covered in its original wording all claims, and the amendment put forward by the Soviet delegation only refers to a certain class of claim, viz., claims on which a settlement has been arrived at. I am afraid we could not accept those words. But as a compromise between the two, the article that we brought forward to-night, separating as it does property claims from miscellaneous claims and those of the bondholders, we hoped would meet the arguments that had been brought forward earlier in the day by the Soviet delegation. I still hope that they will see their way even now to accept this as we have seen our way to accept so many concessions earlier this evening.

M. RAKOVSKI: In substance the Soviet delegation accepts the proposition of the British delegation. The dispute is only a question of form. As regards owners of nationalised property, the Soviet delegation cannot enter into such a categorical obligation now, as they cannot say if all the claims are acceptable or not. This will be shown in the future. Some, of course, I know will be acceptable, and possibly all. Our wording, however, gives the British Government the means of forcing a settlement. Nothing to the contrary is laid down by the Soviet wording. I repeat that the question is purely one of form which cannot have the importance to the British Government which it has to the Soviet Government.

MR. PHILLIPS: May I ask what the Soviet delegation means to convey by the words "some of the claims will be acceptable and some not"? I am not quite clear on that point.

M. RAKOVSKI: I have already explained that there may be claims for property where the indebtedness to the Russian State Bank or to the Russian Government exceeds its value. Furthermore, there may be undertakings which were bankrupt, or which, for natural reasons, have lost all revenue-bearing capacity. I cannot attempt to describe all these possible cases, but provision must be made for them.

MR. PONSONBY: Yes, well, I am afraid the suggestion M. Rakovski makes is not acceptable to us. Personally, I prefer our original draft with the part added, but I am quite ready to put forward the alternative, and I cannot see that in any way it is detrimental to the interests of the Soviet Government.

M. SCHEINMANN: It appears that the categorical form in which the British delegation insists upon the satisfaction of all claims does not in fact give the British delegation any rights, but merely imposes obligations. I put forward the case where the Soviet Government produces evidence as to the absence of value of certain claims, and the British Government accepts this evidence. None the less, the treaty as it were lays down that satisfaction is to be given for all claims, and this would prevent the British Government from accepting a position which they themselves considered reasonable. This is an example of the bad results which would follow from such a provision; these difficulties would prevent the British Government from putting into motion the machinery for concluding the second treaty referred to. As the British Government alone has the right to determine when the necessary rate of progress has been made, they can at any time point out that no results have been obtained with regard to such and such a category of claims and therefore they can refuse to enter into the treaty referred to. I will conclude by stating that the attitude of the Soviet delegation is of the greatest importance, as we cannot agree to an undertaking to satisfy all claims; and at the same time I would point out that the adoption of our proposition would free the British Government from the burdensome right to insist upon the satisfaction of all claims, which would not be a privilege, but an obligation.

MR. PONSONBY: I think this misunderstanding has arisen because in the copy M. Rakovski has the word "valid" has been crossed out. "Valid" should be standing, and the phrase should run: "It shall fix the terms of settlement of all the valid claims under article 13." There is no question of all the claims being settled. It is a matter of those which have been found to be valid, and then the amounts will be fixed. I think that this makes a considerable difference to all the remarks passed on this question.

M. RAKOVSKI: After listening to Mr. Ponsonby's explanation, we can meet the British delegation by adding to the article, after the word "claims," the words "assumed by the Soviet delegation under article 13."

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MR. PONSONBY: *Valid* claims—you would not have assumed the claims unless they were valid.

M. RAKOVSKI: It is clear that it will be by agreement between the two Governments, because anything that is decided upon by the Soviet Government will have to be accepted by the British Government.

MR. PONSONBY: The Governments would not consent to anything that was not valid.

M. RAKOVSKI: Hence there arises the necessity of determining the question of who shall settle what is valid and what is not. The British Government has, in fact, the right to decide what is valid by the right given to them to say when sufficient progress has been reached. This additional suggestion of mine gives the Soviet Government also the right of saying whether a claim is valid or not.

MR. PONSONBY: That is the difficulty which we have foreseen all along from the fact that M. Rakovski was unable to accept arbitration. We shall therefore get in some cases probably two contradictory reports from the two sides of the commission, and it will always, therefore, remain in dispute between the two Governments in doubtful cases as to what is valid and what is not; but we cannot admit here that the Soviet delegation has the right to decide that question, and we therefore put the word "valid," which will naturally be acceptable to both sides.

M. RAKOVSKI: In reply to Mr. Ponsonby's remarks, we propose the words "valid and accepted by the Soviet Government." The matter, of course, will involve discussion before the loan is concluded in the autumn, and, after all, it is necessary to admit that the loan will depend upon a settlement being reached. On the other hand, the settlement gives possibilities to all classes of claimant of receiving some satisfaction, and I am sure that the British bondholders and other property owners will prefer this treaty to the present position. The question of nationalised property is of the greatest importance. It is much more difficult than the question of bonds. As regards the latter, there is the argument to be put forward that these bonds were issued on foreign territory, but this does not apply in the case of nationalised property. For us to accept all claims for nationalised property would be in contradiction with our whole legislation and against the general public opinion of the Soviet Union.

MR. PONSONBY: As I have already explained, I am not asking for all claims. The word "valid" entirely safeguards the Soviet Government and meets all the points M. Rakovski has raised, and I am afraid that on this part of the article we are quite unable to accept the suggestion which M. Rakovski makes.

M. RAKOVSKI: I would point out that this gives us no participation in the settlement of the application of the word "valid," as, if we were allowed to take part in the settlement of the validity of claims, then you would accept our amendment.

MR. PONSONBY: But your own nominees on the commission will participate in the settlement of the question whether a claim is valid or not.

M. RAKOVSKI: This will be material as a basis for the decision of the two Governments afterwards.

MR. PONSONBY: Then the two Governments will decide whether the claim is valid. But, as long as the word "valid" appears, it does not make them liable for claims that are not valid.

M. RAKOVSKI: We are trying to find a solution, but we are also in a position which does not lead anywhere. All the time we are trying to find a practical solution, but every time the British delegation tries to transform it into a question of principle.

MR. PONSONBY: M. Rakovski has just recently asked that this commission should examine the validity of the claim. Therefore, if the commission considers the claim valid you will be protected by your own members on the commission. They will not be called upon at all to consider claims of which they disapprove or which they desire to reject.

M. RAKOVSKI: We consider that the decision is taken in the last instance by the Governments on the basis of the reports presented by the commission. The decisions of the commission can certainly not be regarded as being final.

MR. PONSONBY: It will rest with the Governments—I quite admit that. Therefore, the question of validity will rest with the two Governments. After all, the question of the settlement of validity is a question of a settlement of fact, and that can easily be ascertained by the commission.

M. SCHEINMANN: I desire to return to an example such as I have already given. There are cases where a claim may be perfectly valid, but for political or other reasons the Soviet Government will not wish to satisfy such claim. Then, if our wording is adopted, the British Government can decide whether it will sacrifice the interests of this one claimant for the benefit of the settlement of all other claims, or whether it will insist on the satisfaction of this one claimant and declare that insufficient progress has been made. If the British wording is adopted, refusal on the part of the Soviet Government to give satisfaction in one instance only would make it necessary for the British Government to sacrifice all parties until the settlement of this case is reached. I repeat that there is nothing we are trying to hide in putting forward our wording, and, although I have not had a proper discussion with my colleagues, I suggest that, if a compromise is sought, some words of the following nature might be adopted, *i.e.*, instead of "valid claims," "claims the justice of which has been agreed upon by both Governments." I consider, however, that any such clause is far more binding upon the British Government than on the Soviet Government.

MR. PONSONBY: I quite appreciate the difficulty with which we are confronted, because it is clear from what M. Scheinmann has said and also from what M. Rakovski has explained to me very often, that the Soviet Government desires to deal with these claims according to no particular principle, but in a more or less arbitrary way, and it is quite impossible to get any formula which will cover any capricious method of dealing with claimants. That is why, by merely requiring that the fact that the claim is a valid one should be established by the commissioners, we avoid the difficulties which must arise if we go further into the subject and try to meet the extremely difficult position which the Soviet method of dealing with these claims seems to involve. It really would be impossible for us to accept the words suggested because we think that "valid" claims is a perfectly fair way of establishing what, after all, is only a mere fact.

M. RAKOVSKI: I understand that the question is extremely difficult, and it is on this account that we have agreed to the provision that Great Britain shall have the right to settle to what extent private claims shall be met before the loan is guaranteed. We give the British Government this discretionary right, but we must settle what claims shall be met. We are trying to establish some kind of equilibrium, retaining, however, discretionary power for ourselves as well. You, Mr. Ponsonby, and those present, are witnesses of the difficulties which we have had to meet and the work which we have gone through in order to arrive at an agreement, and will realise what value the Soviet Government attach to this treaty, not only on account of the provision for a loan, but also because it settles the relations between Great Britain and the Soviet Union. None the less, we are prepared to face the sacrifice of all these advantages rather than accept a sweeping admission of general liability, the more so as we do not see the importance or necessity of this provision from the British point of view, and as the British side will receive satisfaction in the formula that we propose. It is perhaps a little contradictory, but in actual fact it is very real.

MR. PONSONBY: I would suggest to M. Rakovski to take into consideration once more our original article, which does not mention the word "validity," and only talks of the reports of these commissions being received, and to that clause we are prepared to add "when His Majesty's Government are satisfied that substantial progress has been made." I am not at all sure that the old form proposed, in view of what he said, would not suit him better, because there is no question there of the validity of the claims. It is true that he objects to article 13 being placed with 12 and 9, but perhaps that is not such a serious objection to him as the one that he is bringing forward against our alternative article.

M. RAKOVSKI: The words in the printed article, "amount and method of payment of the compensation . . . under articles 12 and 13," are open to the same objections in that they introduce one general criterion, which extends to all classes of claim. It was for this reason that we put forward our proposal to separate articles 12 and 13 and attempted to try and find a more acceptable wording. In

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reply to the new proposition put forward by the British Government, we have made two suggestions, either that it should be "claims accepted by the Soviet Government," which is a clause of a very indefinite and general nature, or the second alternative, which has just been suggested, "claims the justice of which is agreed upon by both Governments." It is our desire to give satisfaction to a certain extent to British claimants, and the proposals which we have put forward are made for this purpose. I consider that the formula which we first put forward is, in view of its general character, the most acceptable both to the British delegation and to us.

SIR SYDNEY CHAPMAN: I think as regards the original draft of article 14 there is some misapprehension. It is understood that the amount and method of payment are only to be fixed in the case of claims which have not been already settled direct between the Soviet Government and the claimants. Consequently, there is not necessarily uniformity in the settlement as between those whose claims were satisfied under the treaty and those whose claims were settled direct by the Soviet Government.

M. RAKOVSKI: I have just prepared a new proposition, which may perhaps lead to agreement. It is based on the second British text, and, after referring to article 13, adds the words "this treaty shall lay down the conditions of the liquidation both of those claims referred to in the preceding paragraph of the present article and of those claims regarding which agreement is subsequently arrived at between the two parties concerned."

MR. PONSONBY: I am afraid we could not accept this as it really amounts to the same thing again. I would suggest that our original draft of article 14 is the best, although there are minor objections to this; it avoids the point which M. Rakovski objects to in the other proposal.

M. RAKOVSKI: Unfortunately, this wording does not avoid the difficulty; if it did we should not have raised the question. We considered the article, and read it over time after time. Therefore, it seems necessary to take note that no agreement has been reached on this point.

Furthermore, we have a proposition to make in regard to the fourth paragraph of article 13, which also represents the limit to which we can go, but which I none the less think may be acceptable. It is as follows:—

> "If the Soviet Government concludes an agreement with individual owners it shall communicate this to the commission in order that the claim in question may be withdrawn from the competence of the commission."

This is the most we can give. We also are tied both by our Government and by our public opinion, and, furthermore, by our own convictions.

MR. PONSONBY: We are quite prepared to accept that. Article 14 is therefore the only difficulty left.

M. RAKOVSKI: We have before us a draft of the exchange of notes dealing with the subject-matter of articles 19, 20 and 21, which we have accepted, but Sir Sydney Chapman has not given us sufficient guarantees regarding our property.

[At this point there was an interruption of some minutes.]

M. RAKOVSKI: We propose that after article 19 a statement should be inserted that all the articles from 7 to 19 inclusive form one indivisible whole.

MR. PONSONBY: Yes. M. Rakovski made that suggestion, but we do not quite see how it can be carried out. It is making a block of the whole set of clauses. We do not quite understand the reason for this or how it is to be accomplished.

M. RAKOVSKI: The reason is that the whole question of the acknowledgment of liability and liquidation of debt and the loan form one whole of which it is impossible to take one article and execute it, unless all the rest are executed. Effect can be given to this by adding after article 19 a short paragraph to the effect that all the articles from 7 to 19 are one indivisible whole.

MR. PONSONBY: We consider the whole treaty from article 1 to 25 is one indivisible whole. It may have different sections, divided among the different subjects, that is perfectly true, but that does not prevent it, as a treaty, from hanging together.

M. RAKOVSKI: If the negotiations for the loan fail, then the clauses relating to fishing, propaganda and arbitration none the less remain in force, but the obligations that we have undertaken to pay compensation cease to exist. Of course, as a whole the treaty is one unit, in so far as it represents the General Treaty, but there are some parts which will remain in force even if the articles regarding the loan and regarding the payment of compensation should, for some reason or other, not be carried out, because agreement is not arrived at on some particuiar point. We may otherwise be in the position of having the loan refused, yet of having none the less undertaken to give satisfaction and recognise this liability.

MR. MALKIN: If there is no loan, article 14 will not come into force, and the arrangements made for these various classes of claims will not be carried through. It is automatic. There is no need to insert any special provision.

M. RAKOVSKI: We are in the position of a country which undertakes obligations, and we must have some guarantees. If I had had the drafting of the treaty I should have built it up in sections, one dealing with treaties, another with fishing and the third with liquidation, and should have put the necessary provision in its proper place. Here, however, we have only one document. I think that, regarding articles 7 to 19, if one of these articles falls through, the whole thing falls through, and I do not think the British Government can object.

MR. MALKIN: I should like to know what provision is suggested. If, for instance, the loan were not guaranteed, these articles would not come into force. The suggested addition will not work because some of these articles will come into force and be partly executed before any question of the loan arises. If we could have the text which M. Rakovski suggests, we might be able to consider it. There is no difficulty in dividing the treaty into sections if it is considered more convenient to do so. It is in sections already, and it would be merely a question of putting a heading to each section.

M. RAKOVSKI: I quite understand this and I do not, therefore, propose to insert any provision to the effect that the treaty shall be suspended, but merely a statement to the effect that articles 7 to 19 form one indivisible whole. It is impossible to assume that these clauses have any connection with the first articles about fishing or treaties or the last article about propaganda.

MR. PONSONBY: It would be quite possible in printing to put in headings.

MR. MALKIN: It could be done in this way: Chapter I: Articles 1–4, Treaties. Chapter II: Article 5, Fisheries. Chapter III: Articles 7–15, Finance and Property. The rest of the articles could be headed "Miscellaneous."

M. RAKOVSKI: I suggest that at the end of the particular sub-heading "Finance and Property," a clause should be put in saying that these articles form one indivisible whole. This is in the interests of both parties. We cannot demand a loan if the other articles are not satisfied, and in the same way if the loan is not given our obligations fall to the ground.

MR. PONSONBY: That is clear, because the articles refer to one another. It cannot be one indivisible whole, because there are articles under which action will be taken at once, while there are other articles which cannot come into force until certain reports have been made.

MR. MALKIN: Although the insertion of such a provision would have no particular meaning, it would nevertheless be practicable to insert it.

MR. PONSONBY: Yes, we might undertake to put in a phrase regarding "one indivisible whole."

[At this point there was an interruption of some minutes.]

MR. PONSONBY: As the Soviet delegation have found it impossible to accept the amendments and modifications and concessions which we made in article 14, the treaty therefore, unfortunately, cannot be signed and all the negotiations and the agreement fall to the ground.

(*The meeting rose at* 7·15 A.M.)

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ANNEX I.

THE British and Soviet delegations make the following statements and declarations in connection with the Treaty of Commerce and Navigation :—

(*a.*) *Article* 1, *second paragraph*.—The British delegation makes the following statement :—

" The only existing enactments enabling His Majesty's Government to give financial guarantees in respect of overseas trade are " The Overseas Trade (Credits and Insurance) Act, 1920," as amended by subsequent enactments, and " The Trade Facilities Acts, 1921–1924." So soon as the export credits scheme, as laid down in " The Overseas Trade (Credits and Insurance) Act, 1920," as amended by subsequent enactments, shall have been extended by His Majesty's Government to trade between Great Britain and Northern Ireland and the U.S.S.R., that trade will, in respect of the facilities provided in the above-mentioned Acts, be on the same footing as trade between Great Britain and Northern Ireland and any other foreign country."

(*b.*) With regard to the *final paragraph of article* 1, by virtue of which the provisions of the treaty are not to apply *inter alia* to the special provisions relating to commerce contained in the treaties which the Union may have concluded or may conclude in the future with those States the territories of which, on the 1st August, 1914, constituted in all respects an integral part of the former Russian Empire, the Soviet delegation makes the following declaration :—

" As regards taxation, in so far as the taxes are applied to all foreigners in pursuance of article 10 of the treaty, the Soviet Government will not discriminate against British subjects as compared with nationals of western limitrophe States."

(*c.*) *Article* 7.—The British delegation having raised the question of the use by British banks of secret test words or check numbers in remittance telegrams, the Soviet delegation makes the following declaration :—

" The Soviet delegation will use their best endeavours to secure that, for the purpose of enabling British banks authorised to carry on operations in the U.S.S.R. to make money transfers in connection with their commercial operations, the necessary facilities with regard to the use of secret test words or check numbers for the authentification of the telegrams shall be accorded to such banks."

(*d.*) With regard to Article 11, the British delegation had expressed some apprehension that the system of import and export licences in force in the U.S.S.R. might give rise to discrimination against British vessels in the carriage of goods to and from the territories of the Union. In order to meet these apprehensions the Soviet delegation makes the following declaration :—

" 1. The import and export licences issued by the Narkomvneshtorg Moscow and/or by its provincial branches and/or by the Foreign Commercial Missions of the Narkomvneshtorg are in the nature of a permit for the respective goods to be imported into or exported from Russia as the case may be.

" 2. These licences in no way bind the freedom of action of the buyer or seller of the goods in connection with the transport of the latter, the method of transport being left in each case to the discretion of the buyer or seller."

(*e.*) As regards the provisions of *Article* 11 for equality of treatment in regard to the carrying of passengers, the Soviet delegation makes the following declaration :—

" The right of any vessel to participate in the transport of emigrants and immigrants and pilgrims is granted only to ships or lines which have entered into a corresponding agreement with the Government of the U.S.S.R., but the Government of the U.S.S.R. in the conclusion of such agreements will not discriminate against British ships on the basis of their flag."

(*f.*) In reply to an enquiry by the Soviet delegation, whether the *de jure* recognition of the Soviet Government by His Majesty's Government covered the British self-governing dominions, colonies, possessions, protectorates and territories oversea which were subject to the control of His Britannic Majesty, the British delegation communicates to them the following legal opinion :—

" The British delegation are advised that in view of the terms of the note of the 1st February it is unlikely that the courts in any part of the British Empire would maintain that the Government of the Union of Soviet Socialist Republics had not been recognised. In accordance with the usual British constitutional practice, the various self-governing portions of His Majesty's dominions will make their own arrangements with regard to their future commercial relations with the Union. Any agreement or agreements which may be concluded as the result of the present negotiations will not bind the Dominion Governments."

ANNEX II.

THE British and Soviet delegations declare as follows :—

(*a.*) With regard to article 2 of the general treaty, it is agreed nevertheless that the subject matter of the treaties numbered (x)–(xvii) therein may require further discussion with the view to an appropriate definition of Anglo-Soviet relations in regard thereto.

(*b.*) With regard to article 4 of the general treaty, it is agreed as follows :—

The convention signed at Washington on the 7th July, 1911, between the United Kingdom, the United States of America, Japan and Russia, respecting measures for the preservation and protection of the fur seals in the North Pacific Ocean, has been included in article 4 of the treaty upon the assumption that the Governments of the United States of America and of Japan regard the said convention as still in force and are willing to observe its provisions. His Majesty's Government will, on the coming into force of the general treaty, address communications to the Governments of the United States of America and of Japan with a view to avoiding any misunderstanding as to the position.

In the event of an unfavourable answer being received from those Governments or from either of them, His Majesty's Government and the Government of the Union will concert together as to the further measures which should be taken.

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A.S.C. 13.

ANGLO-SOVIET CONFERENCE.

Ninth Meeting at Foreign Office, at 4·30 P.M. *on August* 6, 1924.

In the Chair : Mr. A. PONSONBY.

Present :

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. J. D. Gregory.	C. G. Rakovski.
Mr. O. StC. O'Malley.	M. P. Tomski.
Sir S. J. Chapman.	A. A. Ioffe.
Sir W. H. Clark.	A. L. Scheinmann.
	A. M. Radchenko.
Experts.	*Experts.*
Mr. H. W. Malkin.	G. N. Lashkevich.
Mr. H. J. Hutchinson.	S. V. Averintsev.
Mr. S. D. Waley.	
Secretariat.	*Secretariat.*
Mr. W. Strang.	A. F. Rothstein.
Mr. P. M. Roberts.	
Mr. O. T. Rayner.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

MR. PONSONBY : I am glad that we should be resuming our work with hopes of a settlement, and I think the only article we need deal with in full conference is article 14, the terms of which I may read out so as to have them recorded in the minutes and which I understand M. Rakovski accepts :—

" A second treaty will be entered into which will contain—

" 1. The conditions accepted in accordance with article 9.
" 2. The amount and method of payment of compensation for claims under article 12.
" 3. An agreed settlement of property claims other than those directly settled by the Government of the Union of Soviet Socialist Republics."

I would then suggest that our draftsmen should retire, and I think the Soviet delegates would find it more comfortable upstairs in the Ambassadors' waiting-room. While the draftsmen are at work they could then communicate with either us or them on any little point, but the draftsmen of the two parties should go through the whole treaty to see that there are no mistakes.

M. RAKOVSKI : Yes, I agree. I confirm that the formula is acceptable and will be put in place of the original text of article 14 in the draft treaty. I also agree with the nomination of a drafting committee, and on our side the members will be M. Ioffe and M. Lashkevich.

MR. PONSONBY : On our part Mr. Malkin and Mr. Strang.

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M. RAKOVSKI: There are certain points I wish to raise with regard to the future meetings of the conference, but I think this can be taken up in the Committee of Organisation.

I would now ask if I might receive a reply regarding Wrangel Island.

MR. PONSONBY: M. Rakovski has spoken to me on several occasions with regard to the Island of Wrangel. On behalf of the British delegation I am prepared to make the following declaration:—

"His Britannic Majesty's Government lay no claim to the Island of Wrangel."

I agree with M. Rakovski that our future final meeting will be decided by the Committee of Organisation.

M. RAKOVSKI: I am glad that one of the points, although a small point, which caused misunderstanding between the Soviet Union and Great Britain, has been removed, and I would suggest that this should be recorded in the minutes of the conference. As regards the other matter, I am quite in agreement with Mr. Ponsonby.

ANGLO-SOVIET CONFERENCE.

Tenth Meeting held at Foreign Office, at 6 P.M., on August 8, 1924.

In the Chair: The PRIME MINISTER.

Present:

BRITISH DELEGATION.	SOVIET DELEGATION.
Mr. A. Ponsonby.	C. G. Rakovski.
Mr. J. D. Gregory.	A. L. Scheinmann.
Sir S. J. Chapman.	M. P. Tomski.
	A. M. Radchenko.
	A. A. Ioffe.
	Y. D. Janson.
Experts.	*Experts.*
Mr. S. D. Waley.	A. V. Bitner.
Mr. H. J. Hutchinson.	A. V. Sabanin.
	M. I. Skobelev.
	G. N. Lashkevich.
	E. A. Behrens.
	S. V. Averintsev.
Secretariat.	*Secretariat.*
Mr. P. M. Roberts.	A. F. Rothstein.
Mr. W. Strang.	
Mr. E. H. S. Marker.	
Mr. H. Broadley.	

THE PRIME MINISTER: Well, I am very glad to find that your labours although prolonged—very prolonged—have come to a successful issue, and that we have met now to sign the treaty. As was explained in the House of Commons yesterday, of course the treaty itself must be approved by Parliament, and all that we are doing to-day is to indicate that, so far as the Government is concerned, it is prepared to support an arrangement such as is embodied in the treaty. You will have seen by the newspapers how some of our leading press do not scruple to tell the most apparent lies and others to misrepresent—one hopes, owing to their ignorance—the most apparent expressions in the treaty; so that I want to prepare you for this, that there will be very considerable opposition to be overcome before we can get the treaty finally settled. Still, so far as the Government is concerned, it will do its best, both on the platforms to explain the treaty and in the House of Commons to persuade Parliament to carry it.

M. RAKOVSKI: I, on my part, desire to express the pleasure of the Soviet delegation at the successful end of the negotiations. The task before us, viz., to strengthen friendly relations between Great Britain and the Soviet Union, has been partly executed, and we consider that it will now be carried to a final conclusion, and that the conference will thus be finally and entirely successful. I understand that the treaty cannot satisfy all parties. This is always natural where, in international treaties, it is necessary to harmonise the interests of two countries, particularly when those two countries differ in their social and State construction. It is also necessary to take into account that in Russia, too, the

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whole population will not be satisfied with the treaty, but I can declare, in the name of the Soviet delegation, that we will do everything in our power to secure confirmation of the treaty by our Parliament, the Central Executive Committee of the Union. I foresee the difficulties which will have to be met in order to arrive at the conclusion of the second treaty foreseen in this treaty. The Soviet Government will, however, use all its authority to hasten the conclusion of this treaty and thus facilitate the task before the British Government.

(The treaties were then signed, and the Prime Minister withdrew.)

M. RAKOVSKI: I wish to refer to certain points which should be the subject of a separate convention. In order not to delay the meeting, I have expressed my opinions on this matter in writing, which I now put forward. Mr. Ponsonby is aware of the contents of this document (see Annex I). I would only request the British delegation to give every assistance in their power to arrive at a settlement of these matters.

MR. PONSONBY: The British delegation will take careful note of what M. Rakovski has stated in this document.

M. RAKOVSKI: Here is further a letter (see Annex II) referring to certain loans amounting in all to 1½ million roubles. This letter I present to the British delegation.

MR. PONSONBY: The British delegation will also take careful note of this letter.

M. RAKOVSKI: The agenda of the subsequent meeting of the conference remains to be determined, and I suggest this should be arranged by the Committee of Organisation.

MR. PONSONBY: M. Rakovski and I have agreed that the last session of the conference shall be held on Tuesday morning.

ANNEX I.

IN the course of negotiations for the conclusion of the treaty between the Union of Soviet Socialist Republics on the one hand, and Great Britain and Northern Ireland on the other, signed to-day, the British delegation pointed out its desire to settle the question of liabilities relating to assets of persons resident, and corporations carrying on business in Great Britain and Northern Ireland, in so far as such assets, by reason of an act of nationalisation, have become property of the Soviet Government, these liabilities having arisen out of contracts entered into before the date of promulgation of the decrees prescribing nationalisation, and which, apart from such nationalisation, could have been discharged out of such assets.

The British delegation, further, was desirous of providing for the settlement of questions which may arise in Great Britain or Northern Ireland in connection with contracts entered into before the 7th November, 1917, for the delivery of goods or the performance of services, or in connection with transactions *bonâ fide* entered into in British territory before the coming into force of the treaty signed this day, and whose validity is in doubt owing to an act of nationalisation effected by the Union of Soviet Socialist Republics, and with any genuine liabilities in connection with the assets referred to in the preceding paragraph and not covered by the said paragraph.

The delegation of the Union of Soviet Socialist Republics expresses its readiness to settle all the above-mentioned questions in a separate convention to be concluded after the amount of the assets in question has been ascertained, provided that certainty exists that on its part His Britannic Majesty's Government will facilitate the steps of the Soviet Government directed towards the establishment of its rights of property to the assets falling within the scope of the above-mentioned convention, and that His Britannic Majesty's Government, for the purposes provided for in its present note, will, within the limits of its powers, assist in the conservation of the above-mentioned assets.

ANNEX II.

Sir, *August* 8, 1924.

I HAVE the honour to state that the Government of the Union of Soviet Socialist Republics has the intention of dealing with the claims of British holders of any bonds of certain loans issued or taken over or guaranteed by the former Imperial Russian Government, which are payable in gold or silver roubles, on the same terms as shall be agreed upon in accordance with article 6 of the treaty which we have this day signed, in the case of bonds of loans payable in foreign currency.

The Government of the Union of Soviet Socialist Republics will come to an agreement with His Majesty's Government as to the loans to which this declaration applies, but they understand that the bonds of loans to which it might apply amount to about 1,500,000 roubles.

I have, &c.
C. RAKOVSKI.

The Right Hon. Ramsay MacDonald, P.C., M.P.,
Secretary of State for Foreign Affairs,
&c., &c., &c.

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ANGLO-SOVIET CONFERENCE.

Eleventh Meeting held at Foreign Office, at 12 *noon, on August* 12, 1924.

In the Chair: Mr. A. Ponsonby.

Present:

British Delegation.	Soviet Delegation.
Mr. J. D. Gregory.	C. G. Rakovski.
Sir W. H. Clark.	A. A. Ioffe.
	A. L. Scheinmann.
	Y. D. Janson.
Experts.	*Experts.*
Mr. H. J. Hutchinson.	A. V. Sabanin.
	M. I. Skobelev.
	G. N. Lashkevich.
	E. A. Behrens.
Secretariat.	*Secretariat.*
Commander F. Maxse.	A. F. Rothstein.
Mr. O. T. Rayner.	

Mr. PONSONBY: I think M. Rakovski desires to make a statement with regard to the translation of the treaty.

M. RAKOVSKI: In order to provide for the quickest possible execution of those provisions of the treaty which have to be fulfilled at an early date, it is necessary that an authentic Russian translation of the treaty should be prepared for presentation to the Soviet Government, as provided for in the treaty. As a translation has already been completed by the Soviet delegation, I would request Mr. Ponsonby to nominate a representative of the Foreign Office, who would examine the treaty in conjunction with the Soviet representative, and then I think that in about a week's time the translation could be definitely authenticated. I nominate M. Ioffe as the representative of the Soviet delegation to examine and agree on the text of the treaty.

Mr. PONSONBY: I quite agree with what M. Rakovski has said. We will nominate on our side Mr. Peters, and he can meet M. Ioffe and examine the translation and go through it, with any further assistance that they may need.

In the course of conversations during negotiations with M. Rakovski, several questions arose which we finally decided were not questions that could be dealt with in the actual treaty; they lay, so to speak, outside the range of an Anglo-Soviet treaty. But we decided that an opportunity would be given for any declarations that M. Rakovski might like to make on these outstanding points, and that is why this last meeting has been called—in order to give M. Rakovski this promised opportunity, of which I hope he will now avail himself.

M. RAKOVSKI: I entirely agree with Mr. Ponsonby's declaration. I desire only to add that there is the question of the old political treaties on which it is agreed that alteration is necessary, but which it is desired should still be continued, and which were to be examined by the conference. I agree that these treaties should be withdrawn from the agenda of the conference and left to be settled by direct negotiations between the two Governments.

Mr. PONSONBY: Yes, I quite agree.

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M. RAKOVSKI: To-day I will read my declarations on other questions which do not come within the scope of the treaty, in that not only Great Britain but also other Powers are concerned in them, but where the opinion of the British Government is of extreme value to the Soviet Government.

The first question is that of disarmament, in which connection I make the following declaration in the name of the Soviet delegation :—

"At the first session of the Soviet British Conference I had the honour to declare, in the name of the Soviet delegation, that the task of the present conference must go further than the settlement of the questions at issue which have arisen between Great Britain and the Soviet Union during the last six years. As the British Premier said, 'The object of the conference is to bring the two peoples together not only in our common interests, but in order—which in a certain sense is higher and more important—to bring about the most general international co-operation.' The task before all Governments is to strengthen international peace. All their efforts must be directed to averting a repetition of those horrors which covered Europe and part of Asia with graves and ruins, cost many millions of young lives, and for tens of years disorganised the economic life of the whole world.

"Expressing the general desire of the labouring masses, on which in the first instance fell the burden of the consequences of the imperialist war, the Soviet delegation is happy to have conducted negotiations with a Government representing the working-class of Great Britain and striving for the consolidation of universal peace. However, the peoples, taught by experience, do not believe in the possibility of the establishment of universal peace while the causes which provoke war are not eliminated. The peoples know that after every war both victors and vanquished talk of peace; the first, because they desire to consolidate the conquests brought them by war, and the second, because they require a period of preparation in order to organise a war of revenge. Only such watchwords of peace are real which are fortified by an intense and methodical striving to eliminate those social and political antagonisms that bring war in their train.

"The situation created by the so-called peace treaties, as the short history of the post-war period has shown us, is pregnant with new conflicts and wars. The striving of the peoples to national independence has remained unachieved. In place of the old empires which were destroyed, new States were set up, whose boundaries were determined not on the basis of the principle of self-determination, but on purely military and strategical considerations. Artificial organisms were created in which great national minorities were included, reckoning only with the desire to give these States as much territory and as great resources as possible, in order that they might prove useful allies in the event of a future war. Only by the intense application of the diplomatic resources of the Governments, and only by the efforts of the peoples themselves, will it be possible to set international relations on such a foundation as would render difficult possible conflicts in the future.

"The Soviet Government is not only ready, but considers it its duty, to use all its influence in order to restore equilibrium to Europe not on the foundation of military alliances, which have always led to war, but on the foundation of respect for the rights of every people to an independent existence.

"One of the problems to which the Soviet Government considers it essential that attention should be drawn—as in the past it was more than once the cause of sanguinary wars and constituted the beginning of the world war—is the problem of the south-east, and, in particular, the Balkan problem. Both the Balkan wars of 1912–13 and the world war not only did not eliminate the causes of new conflicts in the Balkans, but still further increased them. Every observer of Balkan affairs knows that a series of problems exists there, each of which may to-morrow become a cause of war. The questions of Macedonia, Thrace, Montenegro, Croatia, Slovenia, Hungary, and the Dobrudja have already made their appearance before the peoples and the Governments, insistently demanding their solution. Without their solution peace will be in constant peril.

"In the opinion of the Soviet Government, one of the principles which might safeguard the interests of the populations of all these provinces and States, and at the same time build them up into more powerful State organisms,

containing within themselves the necessary conditions for economic and political development, is the principle of federation. The application of the principle of federation in Jugoslavia, with the granting of independence within the limits of federation to Croatia, Slovenia, Montenegro, Macedonia, Dalmatia and Serbia, will eliminate the crisis which has been continuous since the very moment when this State arose, and which cannot be abolished by the use of force. The restoration to Bulgaria of New Dobrudja, seized by the Roumanian Government in 1913, and the granting to Bulgaria of a real outlet to the Ægean Sea, will create the conditions for neighbourly relations between Greece and Roumania on the one hand, and Bulgaria on the other. Similarly, only by the observance of the principle of self-determination and of real equality between all nationalities will it be possible to avert the inevitable future conflicts between Hungary on one side and Czechoslovakia and Roumania on the other.

"The Soviet Government realises that only a policy firmly intent on disarmament can create conditions in which the settlement of national questions will take place not by force, but reckoning with the interests of the mass of the people. In this respect the Soviet Government fully shares the opinion expressed by the British Premier that 'the moral and spiritual claims of nationality cannot be fully recognised in a world under arms. Until they are recognised there can be no peace and no security. In that dilemma the world is to-day.'

"Although the Soviet Government has considerably reduced its Red army, which now numbers in all less than 600,000 men, including in this figure all armed forces whatsoever—the army, fleet and aerial forces—it is ready to go much further still on the road to disarmament if the other States also agree for their part. The Soviet delegation will be glad to hear from the British delegation of the readiness of Great Britain to summon in the most immediate future an international conference on disarmament.

"The Soviet delegation considers that the co-ordination of the efforts of all Governments for the settlement by peaceful means of the disputes arising between them must become one of the customary methods of international political life. If the Soviet Union has objected and continues to object to the League of Nations, the reason for this negative attitude is the circumstance that the League of Nations in its organisation is nothing else than a method of consolidating those unjust treaties which were concluded as a result of the world war. The League of Nations has sanctified the division of the States into victors and vanquished, and to the first it grants the control of world policy. No country has suffered so much from the war as the Union of Soviet Socialist Republics, and not a single country desires peace more than the Soviet Union. It cannot, however, participate in an organisation which has proved powerless and helpless to prevent all those acts of violence which are even yet taking place in the name of the treaties. All questions affecting the vital interests and independence of the peoples and their right to self-determination were decided outside the League of Nations by the so-called Allied Powers at the Ambassadors' Conference or at other meetings, while those few questions concerning nationalities which were raised before the League of Nations received a solution there which corresponded not to the interests of the oppressed, but to the interests of the Governments of the oppressors."

MR. PONSONBY: The British delegation has heard, with great satisfaction, the desire of the Soviet Government for international peace and disarmament. I regret that the Prime Minister, owing to the sessions of the other conference, is not able to be here to-day to reply to the statement which we have just heard, but I think it is clear that the policy of the present Government, as expressed by the Prime Minister on several occasions since he has been in power, is clearly and openly to work towards the ideal which M. Rakovski has expressed in his statement. On more than one occasion in the House of Commons the Prime Minister has referred to disarmament and to the eventual calling of a conference of the nations of the world, but he has also made it clear that the success of such a conference might be very greatly prejudiced were it called before some of the major outstanding differences which still exist between the nations of Europe had been solved and settled. His policy during the last six months has clearly shown

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that it is his desire to prepare the proper atmosphere for such a conference. He has made every effort in all parts of Europe to envisage the outstanding problems as a whole, in such a way as to bring about more friendly relationships between nations. I think we may congratulate ourselves in this conference that, by concluding the treaty that we have concluded, we have contributed greatly towards a better feeling in Europe. Other conferences dealing with other problems are now taking place and are likely to take place in future, and it is the view of His Majesty's Government that, when these differences, which have prevented the nations of Europe from coming together during the last five years, have been dealt with in such a way as to create a more friendly spirit, the time will then be ripe for a conference on disarmament. It is a great satisfaction for us to learn that when that time comes the Soviet Government will be a co-operator and helper in achieving this ideal. The reign of force has thrown the world into confusion, and the British Government believes neither in force between nations nor, indeed, within the nations themselves.

The British delegation has also heard with satisfaction the references made in M. Rakovski's statement to the League of Nations. The Prime Minister has done more than anyone to enhance the authority and the prestige of the League of Nations, but all who believe in it are persuaded that it must be a league comprising all the nations if it is to be eventually successful. I am glad that a reference to it has occurred in M. Rakovski's statement, and I will conclude by asking him whether his Government desires to take the first steps in any way to membership of the League; whether, for instance, it is prepared to appoint an observer on the League of Nations as a first step.

M. RAKOVSKI: The Soviet Government is prepared to nominate an observer, but this step must not be understood as a first step towards membership of the League of Nations. Such nomination of an observer has the advantage that it does not entail the Soviet Government taking responsibility for the decisions of an organisation which, both in its origin and in its objective, contradicts our conceptions of a real society of nations. I consider that all supporters of a real society of nations, on a basis of a real equality of all parties and excluding the application of force to settle disputed international questions, could only be glad that the Soviet Union remained outside the League, and would find in this action of the Soviet Union a support for their hopes for the foundation of such a real society of nations and for radically changing the present League. The nomination of an observer could only be made on condition that those privileges which would attach to such a position, viz., diplomatic immunity, were granted to him, and that the conflict which now exists between the Soviet Union and the Swiss Government should be settled. On behalf of the Soviet delegation, I declare our conviction that the Swiss Government will do everything it can to settle the conflict which arose from the murder of the diplomatic representative of the Soviet Government, Vorovski, at Lausanne, and thus take a step to facilitate the participation of the Soviet Union in the maintenance of peace.

I welcome the suggestion that an international conference should be convoked to carry out the principles indicated both by the Prime Minister in Parliament and by Mr. Ponsonby here, and I hope that such a conference will be called at the earliest possible date. All the peoples of the world are tired of militarism and will welcome the means to maintain peace which will present themselves if the conference is called together as soon as possible.

MR. PONSONBY: I note all that M. Rakovski has said, and I shall be glad to hear anything further he may have to say on other questions.

M. RAKOVSKI: Another question which is of direct and great practical importance to the Soviet Union is that of the seizure by force of Bessarabia. I would like to make the following declaration on this matter:—

"By their signature of the General Treaty on the 8th August, the Soviet and British delegations took a vast step towards eliminating disputed questions of a financial character, and in this way facilitated the restoration of economic co-operation between our two countries. The working masses of the Soviet Union are deliberately making concessions, considering that any sacrifice they are making will be realised at its full value by the British Government and by the British people.

"Nevertheless, during the period of over six years that have elapsed since diplomatic relations between Great Britain and the Soviet Union were

interrupted, the vital interests and dignity of Soviet Russia were infringed by a number of flagrantly unjust acts in which the British Government participated. Only the gradual correction of these acts will give the peoples of the Soviet Union tangible proofs of British friendship.

"Amongst these questions, decided in complete infringement not only of the interests of Russia, but of all standards of international law, must be classed the sanction given by the Allied Powers, amongst them Great Britain, to the violent uniting of Bessarabia with Roumania.

"On the occasion of the Vienna Conference I already had the honour, in my capacity of Chargé d'Affaires of the Soviet Union in London, to present to the British Government an *aide-mémoire* on this question, which I annex to the minutes of the conference (see annex), in order not to give a detailed exposition of the development of this question here. I consider necessary, however, here in the presence of the British delegation, to declare before the British Government and before the whole British people the most decisive protest, in the name of the Soviet Union, against the act of violence committed against the Soviet Union.

"In the treaty signed at Paris on the 28th October, 1919, as a justification for its signature, the plenipotentiaries of the Allied Powers declared that the Allies base themselves on the fact that 'the population of Bessarabia has shown its desire to see Bessarabia united with Roumania.' In making this assertion the Allies relied exclusively on the statements of the Roumanian Government itself, *i.e.*, on the statements of a party interested in concealing the truth. With the least desire to ascertain the latter, the Allies would not have found it difficult to convince themselves that the Roumanian Government occupied Bessarabia by fraud, on the plea of temporary occupation for humanitarian purposes, namely, to ensure the food supply to the Russian and Roumanian troops fighting on the Roumanian front. On the other hand, as the British Government might have convinced itself from the *aide-mémoire* I presented, that the resolutions of the so-called Sfatul-Tsarei, which did not represent the will of the population, being not a Parliament, but a body set up *ad hoc*, were partly forgeries and partly extorted by force under the threat of Roumanian bayonets. The argument adduced by the Allies in this way loses not only all legal, but also all moral force.

"The Allies imagine that they could mask this gross violation of the will of the Bessarabian people by providing in the treaty that 'the Roumanian Government will guarantee liberty and justice, without distinction of race, religion or tongue, to all Bessarabian citizens.' Yet the Allies could not but know that obligations of this kind on the part of a State in which the persecution of national minorities constituted a State doctrine, and in which hundreds of thousands of inhabitants remained for over forty years without civil rights, in spite of the solemn promises of this State at the Berlin Congress to give them rights on an equality with Roumanian citizens, represent a new act of deceit. This is confirmed by the whole policy of the Roumanian Government after the war towards the national minorities, which constitute one-third of the present kingdom of Roumania—a policy which reduces itself to the crushing of their national culture and their national consciousness.

"Side by side with this trampling under foot of the rights of the Bessarabian people, which alone has the right of determining its own fate, the Allies, when they signed the treaty of the 28th October, 1919, committed the most flagrant breach of international law. There is a question which the Allies have not yet been able to answer; by what right did they dispose of the fate of Bessarabia? International law does not know of any case in which one can dispose of the fate of another country without the consent of the latter. Even in respect of territories seized by right of conquest, the Allies applied a plebiscite, as in the case of Upper Silesia and Schleswig-Holstein. Bessarabia, however, belonged to the State which, in order to safeguard the victory of the Allies, gave 3,000,000 victims on the field of battle, and for the defence of Roumania itself against German occupation sent to Roumanian territory 15 corps of infantry, 2 cavalry corps and 7 cavalry divisions—in all, 376,700 bayonets, 33,300 sabres and 1,200 cavalry bayonets (the strength of the Russian army on the Roumanian front on the 24th January, 1917, without reckoning the Danube detachment). The

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sacrifices made by Russia in defence of Roumania during the world war amount approximately to 100,000 killed and wounded. All the vast property of three Russian armies became the booty of the Roumanian Government, together with all the stores on the territory of Bessarabia. In place of this, at first with the help of General Mackensen and German diplomacy after the signature of the Peace of Bucharest and later with the help of Allied diplomacy, the Roumanian Government found a way to enrich itself at the expense both of its old ally Russia and of its enemies.

"The treaty concluded by the Allies also makes reference to the historical rights of Roumania to Bessarabia.

"Yet even if the Roumanian Government had any historical rights to Bessarabia (not to speak of the fact that, if the theory of historical rights be accepted, the whole of Europe should be carved up anew, and with it the map of Roumania itself), it twice renounced its 'historical rights' to those three Bessarabian counties which were annexed to Roumania after the Crimean War. The first occasion was when it received the Dobrudja at the Congress of Berlin in 1878, and the second occasion was in 1913, when it seized a new portion of Bulgarian territory.

"The treaty also makes reference to ethnographic rights. If the population of Roumanian origin in Bessarabia, which constitutes if not the absolute, at least the relative majority of the Bessarabian people, desired to unite with Roumania, it might have said this itself, had it been given the opportunity freely to express its opinion. The stubborn refusal of the Roumanian Government to accept a plebiscite—the sole lawful means of ascertaining the will of the Bessarabian population—proves that the Roumanian Government cannot even reckon with the sympathy of the Roumanian population of Bessarabia, which is entirely opposed to the Roumanian domination.

"More than once the Union of Soviet Socialist Republics has declared, and to-day again declares, that the treaty of the 28th October, 1919, is invalid. Formally, from the point of view of international law, Bessarabia is, and remains, territory belonging to the Union of Soviet Socialist Republics. Only the Bessarabian people can change this historical fact, and it must be guaranteed freedom to express its will, Bessarabia being evacuated by Roumanian troops and the Roumanian administration. The workers and peasants of the Union of Soviet Socialist Republics fought for long years and made unheard of sacrifices in order to guarantee to all peoples national independence. They overthrew the Tsarist régime, and amongst those to whom the Russian revolution brought freedom was the Bessarabian people. But this was not done in order that that freedom of the Bessarabian people might be snatched away by a Government which, in its policy and in its internal relations, is no better than the old Tsarist Government.

"In the name of the Soviet delegation I ask the British delegation what does it intend to do in order to remedy the injustice committed towards the Union of Soviet Socialist Republics and the Bessarabian people?"

MR. PONSONBY: The *aide-mémoire* on the subject of the Bessarabian question, which M. Rakovski forwarded at an earlier date, has been carefully examined, and this further statement of his will be noted; but as this question is one in which other nations are concerned, either as signatories to treaties or as interested parties, it is clear that I can make no pronouncement on it to-day. I repeat that this further declaration on the part of the Soviet Government will be noted.

M. RAKOVSKI: I would state that, in connection with the Bessarabian question, we also wish to raise the question of the Bukovina, and I request that our declaration on this matter should be read:—

"With the help of the Allies, and of Great Britain in particular, Roumania, under the Treaty of Saint-Germain, seized yet another territory, populated by Ukrainians, namely, the northern part of Bukovina. This act of violence on the part of the Roumanian Government was committed in infringement of the treaty signed between Roumania, on the one hand, and Russia and the other Allies, on the other, on the 4th August, 1916, on the eve of Roumania's entry in the war, just as the annexation of Bessarabia took place in breach of another treaty which Roumania concluded with the Soviet Government in March 1918.

"In the name of the Union Soviet Government, the Soviet delegation makes a decisive protest against this act of violence, committed with the aid of all the Allies, including Great Britain. The population of Bukovina also must be given the right to determine its own fate.

"Protesting against the acts of violence of the Roumanian Government, the Soviet Union is far from intending to make the Roumanian people responsible for the actions of its ruling classes. In the hearts of the Roumanian peasantry there are alive deep feelings of sympathy with revolutionary Russia, which, by overthrowing the yoke of Tsarism and thereby putting an end to the annexationist policy of its Tsarist Government towards Constantinople, destroyed the terrible peril which hung over the Roumanian people as over all the other Balkan peoples. But the Roumanian peasantry is penetrated with profound sympathy to the Russian revolution also, because only thanks to that revolution was its Government obliged to carry out even partially an agrarian reform and to give land to the Roumanian peasants."

MR. PONSONBY: Again I take note of what M. Rakovski has said.

M. RAKOVSKI: Now we will turn to the question of Eastern Galicia, on which I wish to make the following declaration:—

"In spite of the circumstance that 70 per cent. of the population of Eastern Galicia are Ukrainians and only 14 per cent. are Poles, the Conference of Allied Ambassadors in Paris in 1923 decided on the uniting of Eastern Galicia with Poland. This is not merely a violation of the will of the people of Eastern Galicia, but also a violation of repeated promises on the part of the Allied Powers to give the population of Eastern Galicia the right of national self-determination. However, all these promises proved false, and a large country, with a population of 5½ millions, with the assistance of the Allies, was placed under a foreign yoke.

"As a result of the victory of the Allies, which, it was alleged, was to signify the triumph of democracy over militarism, 4½ million Ukrainians inhabiting Eastern Galicia found themselves in a position much worse than that in which they had been under the feudal and clerical Austro-Hungarian monarchy.

"By their declaration of the 24th September, 1921, on the occasion of the signature of the Treaty of Riga, Soviet Russia and Soviet Ukraine solemnly declared that they reserved the right of Eastern Galicia to national self-determination. They repeated their protest also last year, on the occasion of the annexation of Eastern Galicia to Poland. The Soviet delegation repeats this protest to-day. The situation which has arisen in Eastern Galicia threatens complications, and the duty of the British Government, which declares its readiness to place the world on a solid basis, is to assist the Galician population to decide its fate itself; and by this the British Government will fulfil the solemn promises already given to that population."

MR. PONSONBY: I take note of this further declaration.

M. RAKOVSKI: Among the questions directly interesting the Soviet Union, which have been settled in the absence of the Soviet Union, are the questions of the Aland Islands (which formerly belonged to Russia) and Memel, where the Soviet Union has great economic interests in view of the fact that the River Niemen, one of the water arteries of the Soviet Union, passes through Poland and Lithuania to the sea at that port. These two questions having been settled in the absence of the Soviet Union and against our interests, I wish to make a declaration of protest. I consider that in a future consideration of these problems the British Government, in view of their friendly feelings towards the Soviet Union, will give every assistance, and will take into account the interests of the Soviet Union.

In the course of the meetings of the Committee of Organisation between Mr. Ponsonby and myself, I raised the question of the British Government's support of the inclusion of a representative of the Soviet Union on the Danube-European Commission. Before the war Russia was a member of the Danube Commission, and she now insists on her right to participation in view of the fact

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that the Soviet Union is both a Danube riparian Power and also a Black Sea Power, and, further, that the Danube is one of the most important routes for the development of Russia's trade both with the Danube riverain States and with other parts of the world.

MR. PONSONBY: On the subject of Memel, the Aland Islands and the Danube Commission, I have taken careful note of all that M. Rakovski has said.

M. RAKOVSKI: I have the further following declaration to make regarding the Straits Convention:—

"While expressing its consent to sign the convention of the Straits, the Soviet Government pointed out in its note to the Powers who had signed the Treaty of Lausanne that it could not consider this convention as a means of strengthening peace in the East. The situation which existed before the war, as a result of which the Straits were closed for foreign fleets as well as for fleets of the States bordering on the Black Sea, had this immense advantage, that it removed the Black Sea from the field of action in the event of war. The opening of the Straits for warships makes it necessary for the Soviet Union to take measures for the protection of its borders, as well as for the whole territory which adjoins these borders. Thus, instead of diminishing the causes for armaments, the new convention, on the contrary, encourages them.

"That is the reason why the Soviet delegation here repeats that the decision taken on the question of the Straits is directed not only against the Soviet Union, but against peace in general. As the initiative of the new decision of this question emanated chiefly from British diplomacy, the Soviet Government considers that the present Government of Great Britain, which has already given tangible proofs of its desire to preserve peace and eliminate causes of international friction, will take into consideration the view advanced by the Soviet delegation as to the reconsideration of the Lausanne Treaty, in the part relating to the convention of the Straits."

MR. PONSONBY: With regard to the Straits Convention, too, I am interested to hear M. Rakovski's views and will take note of them.

M. RAKOVSKI: Having reached the end of my declarations, it is my pleasant duty, in the name of the Soviet delegation, to express my deep satisfaction that the negotiations which have been carried out during the period of four months have reached a favourable conclusion. Although the treaty which has been signed provides for a new treaty, I have no doubt that it will be carried out, and that it is a gigantic step forward in the settlement of the economic and political relations between the Soviet Union and Great Britain. I consider it my duty to declare that, if these negotiations have attained a favourable result, this is due to the goodwill of the British delegation and to their firm resolve throughout the conference to find a common tongue with the Soviet delegation. I thank the Prime Minister who, although engaged on other affairs and on another conference, has always closely followed our work and has made every endeavour to ensure that a satisfactory result should be attained.

During the last four months all the members of the Soviet delegation, and I myself personally, have very frequently met Mr. Ponsonby, who was entrusted by the Prime Minister with the direction of the conference. I have had the possibility of convincing myself of the genuine goodwill shown by Mr. Ponsonby throughout the negotiations. Not only the members of our delegation, but the public opinion of all Russia, will appreciate his great services in the conclusion of the Anglo-Soviet Agreement. I also wish to thank him for the tact and amiability which he has shown throughout the conference and which have been of such assistance in its work. I would further express thanks to all the British delegates and all the technical staff engaged in the conference, in particular to the collaborators of the Foreign Office and of the Board of Trade, who, by their ingenuity, have more than once saved the situation when it was necessary to find a formula harmonising both points of view. Every international treaty involves concessions by both sides. If each party were obliged to insist on the full satisfaction of all its wishes, there would be no possibility of reaching agreement. Such a treaty could only be imposed as the result of victory, and would not be lasting. The present treaty will endure because it is one where, after four months'

work with complete mutual regard for the views of both parties, a common language has been found to express both the Soviet and the British interests. In conclusion, I would again, in the name of my delegation, express our deepest thanks to the British delegation.

MR. PONSONBY: I am very grateful to M. Rakovski for the kind words he has spoken. These negotiations have entailed a great deal of labour and we have been confronted with many difficult problems, and, unless goodwill had been shown on both sides, there were many occasions when our negotiations might have broken down. Although I myself was in charge of the negotiations, I was able to keep in consultation with the Prime Minister, who was watching our proceedings very closely and was extremely anxious for a successful issue. In this attitude the Prime Minister was only expressing the views of the Cabinet and of the British Government; and the successful termination of our labours is viewed by them with great approval and satisfaction. On our part, I think I may speak on behalf of all my colleagues in expressing our thanks to the Soviet delegation for their help in our work. It has been a source of gratification to have found that personal friendliness has existed throughout between the members of our two delegations. We recognise that the Soviet delegation, so far from their home and their Government, were labouring under some disadvantages, and their work was even more difficult than ours; but throughout the conference they have, without exception, shown a disposition to reach a settlement by means of a friendly and accommodating spirit. I should like personally to thank M. Rakovski, with whom I have been brought into special personal relations. In the many talks we have had together, while we were obliged to argue and while we often differed on the many difficult problems which we were trying to solve, I think we were fundamentally, on the broader principles which must govern international relations, in complete accord, and I am exceedingly obliged to him for the way in which he has lightened our task, and I think the delegation as a whole can be proud of the manner in which it has been able to find the right formula at the right moment. At any rate, we find ourselves now at the conclusion of our labours, having succeeded in taking the first step, which is always the most difficult, in a renewal of completely friendly relations between our two great countries.

ANNEX.

Memorandum communicated by the Soviet Union Chargé d'Affaires.—(*Received in Foreign Office May* 1.)

At the end of March of this year a Soviet-Roumanian Conference took place in Vienna, to which the question of Bessarabia was submitted for discussion. The conference ended in failure as the Roumanian delegation declined to accept the proposal of the Soviet Government for a plebiscite, by means of which the population of Bessarabia were to be allowed to freely express their will. The legal international basis for the possession of Bessarabia by Roumania being the decision of the Supreme Council in Paris and the agreement between the Principal Allied Governments and Roumania of the 28th October, 1920, it is necessary to state that the Soviet Government has at the proper time, by the diplomatic note of the 1st November, 1920, signed by the People's Commissary for Foreign Affairs of the Russian Socialist Federative Soviet Republic, Chicherin, and by the President of the Council of People's Commissaries and People's Commissary for Foreign Affairs of the Ukrainian Socialist Soviet Republic, Rakovski, protested against the above-mentioned agreement and declared in the name of its Governments that they "cannot recognise the validity of the agreement concerning Bessarabia entered into without their participation, and that they cannot consider themselves bound by an agreement entered into by other Governments."

2. This act of the Principal Allied Powers was a glaring violation not only of the standards of international law but also of those obligations, which both the Allied Governments and the Roumanian Government have assumed not only towards the old Russian Government but also towards the Soviet Government.

3. Bessarabia formed an integral part of the Russian Empire. One of the fundamental principles of international law, which has hitherto been observed in regard to all States, is that no alienation of territory may be considered as valid without the consent of the State to which that territory had belonged. This rule was

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applied also to States which were at war. There is no instance in contemporary history of an alienation of territory from any State which should not have required the preliminary sanction of the latter. The Russian Empire, however, not only was not at war with the Allies, but, on the contrary, took part jointly with them in the war against the Central Powers and sacrificed the lives of 2½ million Russian workers and peasants. Under these conditions, the Allies, having decided at the Peace Conference in October 1920 to hand over Bessarabia to Roumania, were disposing of territory to which they could have absolutely no rights whatever either by virtue of treaties or by right of war. Therefore, besides the Soviet Government, against this act of violence has protested also the Government of the United States, which not only refused to join in the decision of the Supreme Council, but also emphasised that the latter was an infringement of the rights of Russia.

4. The decision in question was at the same time also a violation of the solemn obligations which the Allied Governments have undertaken towards the Soviet Government.

5. By a telegram of the 8th/21st November, 1918, signed by the Italian Minister in Jassy, Count Fasciotti, on behalf of all the Allied envoys, in his capacity as their doyen, and transmitted with a covering letter signed by all the Allied consuls in Odessa, and, in particular, by the British consul, the Soviet authorities were informed that the occupation of Bessarabia by Roumanian troops was "a military operation which has no political character, undertaken in full agreement with the Allies and with the Bessarabian authorities, and having apparently the humanitarian object of assuring the supplies of the Russian and Roumanian armies as well as of the civil population."

6. Similar statements were made in proclamations addressed to the Bessarabian population by the commanders of the Roumanian army, Generals Pressan and Skino. Immediately upon receipt of the Allied Ministers' telegram from Jassy, the Allied representatives in Odessa offered their mediation between the Soviet authorities and the Roumanian Government to settle the dispute which had arisen in connection with the occupation of Bessarabia between Roumania and Soviet Russia. This mediation resulted in the Russo-Roumanian Agreement, signed on the one hand by General Averesco, President of the Council of Ministers and Minister for Foreign Affairs of Roumania, and, on the other hand, by the representatives of the Soviet authority in Odessa. By this agreement of the 5th/18th March, 1918, Roumania undertook to evacuate within two months its troops from the territory of Bessarabia, which, as it was to be evacuated, was to be occupied by Russian troops.

7. The Roumanian Government refers to the fact of an alleged expression by the population of Bessarabia of a desire for union with Roumania. Although this argument does not in the least diminish the formal right of Russia to consider Bessarabia as its territory and does not in any way justify the actions of the Allied Governments, who are disposing of the territory of Russia without her knowledge or consent, at the same time this is merely an unsupported assertion. There are no documents to show that the Allies have really convinced themselves that the wishes of the Bessarabian population are in accordance with the above-mentioned assertion. The Allies have evidently accepted as truth what was only a one-sided interested statement by the Roumanian Government, which has concealed from them the real feeling of the population of Bessarabia in the same way as it has undoubtedly concealed from them also the agreement entered into with the Soviet authority, by which Roumania was bound to evacuate Bessarabia within a period of two months.

8. There could not and there cannot be any talk of an expression of the will of the people of Bessarabia under the conditions which were created there from the moment of the Roumanian occupation. The first business of the Roumanian authorities was to shoot or expel from Bessarabia all the popular leaders of the Bessarabian people. The whole presidium of the congress of Bessarabian peasants was arrested and shot. Courts-martial were established in all parts of Bessarabia, but over the courts was also in operation complete administrative and military arbitrary rule.

9. The statement of the Roumanian Government to the effect that the annexation of Bessarabia to Roumania was decided upon by the so-called Sfatul-Ceri (the council of the country) likewise does not either formally or really agree with the actual facts. Sfatul-Ceri is not an elective body, and did not in the least degree represent the will of the Bessarabian people. Sfatul-Ceri was a temporary body, consisting of representatives of various public organisations in no way whatever elected by the people. Apart from this, in the draft constitution prepared by Sfatul-Ceri, a clause

was provided by which territorial changes in Bessarabia, *i.e.*, the disposal of its fate, was reserved to a referendum of the people. Lastly, Sfatul-Ceri, possessing no legal right to decide the fate of Bessarabia, has in fact been acting under the terror of the Roumanian authorities On the day when the question of the union of Bessarabia with Roumania with retention of its autonomy was decided, not only was the whole town of Kishinev in a state of war and the streets leading to Sfatul-Ceri were filled with troops, but in the building itself of Sfatul-Ceri, under the guise of a guard of honour, were large detachments of Roumanian troops, whilst over the town were flying Roumanian aeroplanes. Of the 162 Deputies forming Sfatul-Ceri 86 persons voted for the union of Bessarabia with Roumania (27th March, 1918). By a fresh decision on the 25th November Sfatul-Ceri resolved to abolish the autonomy of Bessarabia. Out of the 162 Deputies only 46 persons attended this meeting. Thus Sfatul-Ceri has not even had the necessary quorum, whilst out of those present the final union was voted for by 38, *i.e.*, by one-fifth of the total number of Deputies. Besides, the question was placed on the agenda quite suddenly at half-past one at night without any warning to the Deputies, and immediately after the voting the discussion was closed and Sfatul-Ceri was dissolved.

10. Thus, the voting on the 25th November was distinctly in the nature of a fraud, which is borne out by the photograph of the original act attached to this memorandum,* signed by the most influential representatives of the people of Bessarabia without distinction of nationality or religion.

11. The people of Bessarabia have never ceased to protest in the most determined manner against the Roumanian occupation of Bessarabia. Numerous risings bear witness to this ; the biggest of them took place in 1919 in the northern part of Bessarabia, in the Hotin district. Another proof of the terror and violence, which were practised in Bessarabia, is the memorandum by forty-six Deputies of Sfatul-Ceri, a photograph of which is likewise attached to this note.* Repeated declarations made in the Roumanian Parliament also testify to the unexampled acts of violence which prevailed in Bessarabia. Amongst other statements particular importance attaches to the statement made by the Bessarabian nationalist Vassili Stroesco, who is highly esteemed throughout Roumania and who declared that the régime established in Bessarabia after the Roumanian occupation was worse than the old Tsarist régime.

12. Under these circumstances one is fully justified in saying that the assertion of the Roumanian Government, accepted by the Allied Ambassadors at the Paris Conference, about the alleged expression of the will of Bessarabian people for union with Roumania is a glaring travesty of the truth.

13. On the other hand, if the Roumanian Government had thought that the people of Bessarabia were in sympathy with it, it should have been the first to propose a plebiscite and not refuse it when it was proposed by the Soviet delegation in Vienna.

14. One cannot conceal the profound indignation aroused amongst all classes of the people of the Soviet Union by the support which the great Powers, the former allies of Russia, have lent to this policy of seizure and violence on the part of Roumania. Apart from the enormous political damage which this act has caused to the Soviet Union, it has had as consequence the further aggravation of the economic disorganisation of the country. Bessarabia, by its riches, by its grain production, was considered the tenth in the order of importance among the sixty European provinces of Russia, its production equalling about 2·75 per cent. of the total grain production of the Russian Empire. Taking into account, besides, the enormous wealth in the form of railway plant and military supplies, from which all the Russian armies on the Roumanian front were supplied, it becomes clear what an incalculable injury has been inflicted on Russia by the Allies.

15. The Soviet Government, therefore, to the present day also considers that the responsibility for the forcible seizure of Bessarabia rests entirely with the Allies, who have approved of the occupation of Bessarabia as a temporary, as it were humanitarian measure, but subsequently broke their pledges and turned it into a permanent one. Attention should be directed to the fact that the annexation of Bessarabia to Roumania took place after the signing of the Treaty of Bucharest, when Roumania again came within the orbit of the policy of the Central Powers, who, to compensate her for the loss of old and new Dobrudja, supported her efforts for the annexation of Bessarabia.

16. It is also necessary to bear in mind that Roumania has already, in exchange for a part of Bessarabia, obtained territory in the Balkan Peninsula. In pursuance of paragraphs 45 and 46 of the Treaty of Berlin, Roumania had returned the three

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districts of Bessarabia torn away from Russia after the Crimean war, and received in exchange the Dobrudja, with an outlet to the Black Sea and with the estuaries of the Danube, an area of 15,000 square kilom. of fertile and rich country. Further, after the period of the Balkan wars, Roumania received from Bulgaria fresh territory of an area of 7,000 square kilom., with new outlets to the sea, and on which there is absolutely no Roumanian population. Without in any way identifying oneself with the acts of the former Russian Government, which has been giving away other people's territories to the Roumanian Government, one cannot, nevertheless, help pointing out that the Roumanian Government has already received the price for Bessarabia several times over. The Soviet Government, whilst entertaining the most friendly feelings towards the Roumanian people, and recognising that its right to self-determination is sacred, at the same time resolutely rejects that policy of the Roumanian Government which, under cover of phrases about self-determination, in reality consists in seizures of lands not belonging to Roumania, seizures effected against the will of the people inhabiting them.

17. At the same time note should be taken of the following decision in article 2 of the agreement of the 28th October, 1920 :—

> " Une commission, composée de trois membres, dont un sera nommé par les principales Puissances alliées, un par la Roumanie et un par le Conseil de la Société des Nations pour le compte de la Russie, sera constituée dans les quinze jours qui suivront la mise en vigueur du présent traité, pour fixer sur place la nouvelle ligne-frontière de la Roumanie."

18. The enlistment, for the carrying into effect of the agreement of the 28th October, 1920, of a representative, appointed on behalf of Russia by the Council of the League of Nations, could hardly be brought into conformity with the *de jure* relations existing between any of the parties to the agreement of the 28th October, 1920, and the present Government of the Soviet Union.

R.

London, April 30, 1920.

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C 41533

From 'Montreal Star', 13th December, 1928.

FAVORS RESUMING SOVIET RELATIONS

Winston Churchill's Secretary to Make Speech in Aberdeen

IS UP TO RUSSIA

Cabinet Members Deny Matter Has Been Discussed Officially.

LONDON, Dec.13.- (B.U.P.)- The question of whether the British Government shall resume relations with the Union of Soviet Republics has once more been brought prominently to the front because Mr. Boothby, Conservative member of East Aberdeenshire, who is parliamentary private secretary to Winston Churchill, is going to make a speech in his constituency tomorrow in favor of the resumption of these relations.

Fishing interests in Aberdeenshire have been badly affected by the break in Anglo-Russian relations and Mr. Boothby has always been favorably inclined towards the Soviet since his visit there three years ago. Obviously, he would not make such a speech without some form of consent from Mr. Churchill and by inference from the Government.

CABINET DENIES MOVE

Members of the Cabinet, however, say that the question of re-establishing relations with Russia has not been discussed by the Cabinet, and they deny a story printed in The Daily Express to the effect that Britain is on the eve of such a move. This is undoubtedly true, but informal interchanges of opinions among members of the Government have taken place.

The official attitude is that it is up to the Soviet to make the first move and provide guarantees that she is going to behave according to international convention and abandon her intrigue against Britain. Officially, the British will not move until they have obtained all this, but unofficially much can be done by way of approach, and several Tory members of Parliament wish to see unofficial moves begin.

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C 41534

Imperial Conference = 1926
Breaking of Relations with Russia = May 1927.

Parliamentary Debates - British House of Commons

Thursday, 4th July, 1929

E. 7050
offered

Russia (Diplomatic Relations)

Mr. THURTLE asked the Secretary of State for Foreign Affairs the nature of the undertaking given to the Dominion Governments relative to the question of the resumption of diplomatic relations with Russia?

Mr. HENDERSON: I fear that I cannot say more at present than that we are in communication with the Dominions. I am not yet in a position to make a statement, but I hope to do so at an early date.

Mr. THURTLE: May I ask whether the question of resuming relations with Russia is subject to the approval of the Dominions or not?

Mr. HENDERSON: I think an undertaking was given at the Imperial Conference that we should not resume negotiations or resume normal relations without acquainting the Dominions. That is what we have done up to now, and we do not feel that we should depart from that undertaking.

Mr. THURTLE: May I ask the right hon. Gentleman specifically whether it is a question of merely notifying the Dominions or of receiving their approval ?

Mr. HENDERSON: I do not think I can go further than the answer I have given.

Commander BELLAIRS asked the Prime Minister whether he can make a statement as to the conditions submitted to the Dominions as the basis for discussion concerning the resumption of diplomatic relations with the Soviet Government in Russia; and whether the subject has been discussed with representatives of the

American

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American Government?

Mr. HENDERSON: I have been asked to reply. No suggestion has yet been made to the Dominion Governments as to the conditions on which diplomatic relations with the Soviet Government should be resumed. The reply to the second part of the question is in the negative.

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Official

PARLIAMENTARY DEBATES - BRITISH HOUSE OF COMMONS

Wednesday 19th February, 1930.

RUSSIA.

Religious Situation.

7. Mr. L'ESTRANGE MALONE asked the Secretary of State for Foreign Affairs whether he has received any Reports from His Majesty's Ambassador at Moscow regarding the religious situation?

13. Captain EDEN asked the Secretary of State for Foreign Affairs whether he has yet received any Report from His Majesty's Ambassador at Moscow as to the religious persecutions within the territory of the Soviet Government?

15. Sir KINGSLEY WOOD asked the Secretary of State for Foreign Affairs whether he has now received the Report from the British Ambassador at Moscow on the religious situation in Russia?

19. Colonel HOWARD-BURY asked the Secretary of State for Foreign Affairs whether he has yet received a Report from the British Ambassador at Moscow with regard to the religious persecution in Russia?

Mr. A. HENDERSON: The Report to which I referred in reply to questions in this House on Monday last has not yet reached me.

Sir K. WOOD: Will the right hon. Gentleman say when he expects that Report?

Mr. HENDERSON: No. I understand--at least, I hope--the Ambassador is doing his best to inform himself of the actual facts.

Sir K. WOOD: Has not the right hon. Gentleman already stated that he has sent in advance a summary of this Report and that he is expecting another one later?

Colonel HOWARD-BURY: Has not the right hon. Gentleman seen the official reports in the Russian Press stating that they have had a very successful week on the anti-God front?

Captain EDEN: In view of the very great concern in this country, cannot the right hon. Gentleman at least give the House the assurance that he will see that there is not a moment of avoidable delay in making public the principal findings of our representative in Moscow?

Mr. HENDERSON: I cannot give that undertaking.

Mr. MALCOLM MacDONALD: Is my right hon. Friend aware that just two months ago I worshipped peacefully with 1,000 other people in the Cathedral of the Redeemer in Moscow?

Mr. HAYCOCK: Is it not true that, ever since the November Revolution, we have had nothing but lie after lie?

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16. Earl WINTERTON asked the Secretary of State for Foreign Affairs whether he is yet in a position to state if the despatch from His Majesty's Minister in Moscow on the subject of the attitude of the Government of Soviet Socialist Republics towards religious observance in Russia is to be published as a White Paper?

Mr. HENDERSON: The despatch I have already received is only of a preliminary character, and I am not prepared to undertake to publish it. It must be obvious that the value of diplomatic correspondence would be prejudiced and the position of His Majesty's Representatives abroad seriously compromised if the impression were encouraged that despatches received from them must necessarily be published. His Majesty's Government are anxious to ascertain the facts and would welcome specific evidence from any quarter concerning the allegations which have been made. As I stated on Monday I am awaiting a report from His Majesty's Representative at Moscow.

Earl WINTERTON: Do we understand from that reply that it is not the right hon. Gentleman's intention at any time to make public what the purport of this despatch is?

Mr. HENDERSON: I think there must be left a discretion with His Majesty's Government, whatever Government is in office, as to the publication of despatches. I have already informed the House that I do not intend to publish this despatch.

Earl WINTERTON: What I asked was whether we were to understand from the right hon. Gentleman's answer that it is not intended at any time to inform the House what the purport is?

Mr. HENDERSON: The trouble is as to who is going to decide what is the purport of the despatch.

Earl WINTERTON: Is not that the job of the Foreign Secretary?

Mr. Henderson: I answered a question on Monday in which I said that if I was to give a summary of the despatch, that would be called in question, because I had already been informed from the Front Bench opposite that I must not quote from documents unless I laid the documents.

Sir K. WOOD: Why does not the right hon. Gentleman give a direct answer? Is he going to give the purport of this despatch?

Mr. COCKS: Is my right hon. Friend aware that these questions on religious topics are put by hon. and right hon. Members who never come in to prayers?

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SIR LOMER GOUIN'S BILL - 1923

Re: Race Track Gambling.

1. Bill No. 102.

2. House of Commons' Proceedings.

3. Senate Proceedings.

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C 41539

102.

Second Session, Fourteenth Parliament, 13-14 George V, 1923

THE HOUSE OF COMMONS OF CANADA

BILL 102.

An Act to amend the Criminal Code.

AS PASSED BY THE HOUSE OF COMMONS,
27th APRIL, 1923.

OTTAWA
F. A. ACLAND
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
57070 1923

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C 41540

2nd Session, 14th Parliament, 13-14 George V, 1923

THE HOUSE OF COMMONS OF CANADA.

BILL 102.

An Act to amend the Criminal Code.

R.S., c. 146; 1909, c. 9; 1910, c. 10.

HIS Majesty, by and with the consent of the Senate and House of Commons of Canada, enacts as follows:—

Definition of "Opium joint" repealed.

1. Section two hundred and twenty-seven A of the *Criminal Code*, Revised Statutes of Canada, 1906, chapter one hundred and forty-six, as enacted by chapter nine of the statutes of 1909, is repealed.

"Opium joint" taken out of penalty clause for keeping disorderly house.

2. Section two hundred and twenty-eight of the said Act, as enacted by chapter nine of the statutes of 1909, is amended by inserting the word "or" after the word "gaming-house" in the third line thereof and striking out the words "or opium joint" in the fourth line thereof.

Amendment to penalty clause in respect to advertising, printing, posting or selling intelligence on horse races.

3. Paragraph *(f)* of section two hundred and thirty-five of the said Act, as enacted by chapter ten of the statutes of 1910, is repealed and the following is substituted therefor:—

"*(f)* advertises, prints, publishes, exhibits, posts up, sells or supplies, or offers to sell or supply (i) other than on the premises of an association lawfully conducting race meetings in Canada, and during the actual progress of a race meeting thereon, any tips, selections, odds, winning money prices, pari-mutuel payments, or any similar intelligence with respect to or applicable to any horse-race, whether such race be held within or without the Dominion of Canada, and whether at the time of advertising, printing, publishing, exhibiting, posting up or applying such news or information such race has or has not taken place; (ii) any information intended to assist in or intended for use in connection with book-making, pool-selling, betting or wagering upon any fight, game, sport or race, other than a horse-race whether at the time of advertising, printing, publishing, exhibiting, posting up or supplying such news or information, such fight, game, sport or race has or has not taken place."

Amendment to penalty clause in respect to information to assist book-making, pool-selling, etc., on fights, games, sports or races.

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Age of consent raised.

4. Section two hundred and ninety-four of the said Act is amended by striking out the word "fourteen" in the second line thereof and substituting therefor the word "sixteen."

Carnally knowing girl between 14 and 16.

5. Subsection two of section three hundred and one of the said Act, as enacted by chapter forty-three of the statutes of 1920, is amended by striking out the words "of previous chaste character" in the third line thereof.

Obtaining passage by fraud.

6. Section four hundred and twelve of the said Act is amended by inserting the word "badge" after the word "ticket" in the second line thereof, and also after the word "ticket" in the third line thereof.

Appeals where judgments of appeal courts conflict.

7. Section ten hundred and twenty-four A of the said Act, as enacted by chapter forty-three of the statutes of 1920, is amended by inserting after the word "conviction" in the fourth line thereof the words "or acquittal."

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House of Commons' Proceedings.

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CANADA

House of Commons Debates

OFFICIAL REPORT—UNREVISED EDITION

Vol. LVIII **Monday, March 26, 1923** **No.**

TO MEMBERS

The Unrevised Edition of each Day's Debates is issued at 10 a.m. on the day following.

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A. C. CAMPBELL,
Editor of Debates.

GEORGE SIMPSON,
Associate Editor.

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Easter Adjournment. Right Hon. Mr. Mackenzie King.

International Labour Conference, papers laid on the Table by Hon. Mr. Murdock.

Betting Information. Bill No. 102 to amend the Criminal Code. Sir Lomer Gouin, first reading.

The Budget, time of bringing down. Sir Henry Drayton, Hon. Mr. Fielding.

Canadian National Railways. Retiring Officers' Bonuses. Mr. Ward, Hon. Mr. Graham.

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38—1923—1

HOUSE OF COMMONS

Speaker:
The Honourable RODOLPHE LEMIEUX.

Monday, March 26, 1923.

The House met at three o'clock.

INTERIM SUPPLY

Hon. W. S. FIELDING (Minister of Finance): In accordance with an intimation given on Friday last, I desire to ask the unanimous consent of the House to the several steps that would be necessary for the passing of an Interim Supply Bill. If there be no objection, I move that the House do now proceed to Government Orders for that purpose.

Motion agreed to.

The House proceeded to consider certain resolutions reported from Committee of Supply.

Agriculture—experimental farms, $1,525,000.

Sir HENRY DRAYTON (West York): The unanimous consent given, as I understood it, was a consent that my hon. friend should get his interim supply, but that he should confine it to interim supply, and not ask the House to go through the form of taking all the different estimates that have already been passed and of asking for concurrences.

Mr. FIELDING: The usual course is that we take all the estimates that have been dealt with and add one-sixth of the remainder think that is the invariable practice. If is not so, I shall have to let the matter over until to-morrow and re-cast the tion.

Sir HENRY DRAYTON: What we use do, and what my hon. friend always too objection to, was to vote one-sixth, full right being reserved to object, later on, to any estimates that had not already been passed. We have to-day some important matters that, I think, should not lose their right of way for the purpose of concurring in everything that

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has been voted. I am perfectly willing to consent to all that we thought would be done, namely, that the government should have the necessary interim supply, and we consent to a resolution now going through for one-sixth, the usual supply, as interim supply, without prejudice to the opposition or anybody else who may wish to object to any individual item.

Mr. FIELDING: The difficulty is that we have already voted the whole amount of the estimate in a number of instances, and it is rather inconvenient to vote one-sixth of what we have already voted six-sixths of. I do not think anybody's right is prejudiced by our concurring in any of these resolutions. I think, if my hon. friend will look into the matter, he will find that what I propose now is exactly what has been the custom.

Sir HENRY DRAYTON: We can take it as it was last year.

Mr. FIELDING: I have not the papers ready for the motion in that form.

Sir HENRY DRAYTON: I am quite content that the motion be put in that way now, or to-morrow, if my hon. friend so desires.

Mr. FIELDING: To-morrow will do.

Item stands.

COMMITTEE ON MINES AND MINERALS

CHANGE IN MEMBERSHIP

On the motion of Mr. Fielding, the House reverted to the order, "Motions."

Right Hon. W. L. MACKENZIE KING (Prime Minister) moved:

That the name of Mr. Garland (Bow River) be substituted for that of Mr. Speakman as member of the standing committee on Mines and Minerals.

Motion agreed to.

EASTER ADJOURNMENT

Right Hon. W. L. MACKENZIE KING (Prime Minister): With the consent of the House I beg to move:

That when this House adjourns on Wednesday, the 28th instant, it stand adjourned until Monday, the 9th of April.

Motion agreed to.

INTERNATIONAL LABOUR CONFERENCE

Hon. JAMES MURDOCK (Minister of Labour): I beg to lay on the Table papers requested by the leader of the Opposition (Mr. Meighen) on Friday last, relative to representation at the meeting of the Geneva body of the International Labour office on April 10, next.

CRIMINAL CODE AMENDMENT

BETTING INFORMATION

Sir LOMER GOUIN (Minister of Justice) moved for leave to introduce Bill No. 102 to amend the Criminal Code.

Mr. MEIGHEN: Explain.

Sir LOMER GOUIN: The purpose of the bill is to prohibit the giving of information as to betting on horse races and fights.

Mr. MEIGHEN: Will this be the only amendment to the Criminal Code which the government will introduce this session?

Mr. BUREAU: That is for the government to decide.

Mr. MACLEAN (York): How far does this proposal go?

Sir LOMER GOUIN: This is the bill which I mentioned some weeks ago as embodying a suggestion which was submitted to us by the Attorney General of Ontario.

Motion agreed to and bill read the first time.

BUSINESS OF THE HOUSE

THE BUDGET

On the Orders of the Day:

Sir HENRY DRAYTON (West York): As the question of the Easter adjournment has now been settled, I suppose my hon. friend the Minister of Finance (Mr. Fielding) would like to announce to the House when he will bring down the budget. We should like to know whether it will be just after the recess, or when.

Hon. W. S. FIELDING (Minister of Finance): My hon. friend is quite right; I should certainly like to make the announcement he requests. But there are many things which I should like to do that are not immediately in my power.

Sir HENRY DRAYTON: Perhaps the minister might assist hon. members to the extent of informing the House that he is not going to bring down the budget the first week after we re-assemble.

Mr. FIELDING: I think I may oblige my hon. friend so far as to say that he is correct in that assumption.

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subject of negotiation. I think, however, there will be no trouble in regard to it. Our sales tax on the one hand and the French local tax on the other will balance one another.

Sir HENRY DRAYTON: Does my hon. friend say that the point is covered or that he does not fear trouble?

Mr. FIELDING: I think it is covered.

Sir HENRY DRAYTON: Under the contract what is my hon. friend's view as to the sales tax on French goods coming into Canada?

Mr. FIELDING: We will treat the goods of France the same as we treat the goods of any other foreign country.

Sir HENRY DRAYTON: Is that national treatment; is that the way in which the Minister of Marine and Fisheries understood it; or when he was drawing that contract and advising the Minister of Finance in regard to the legal effect of it, is this not what he thought, that he was going to give the goods of France the same treatment as the goods of Canada, once he had exacted his lower duties?

Mr. LAPOINTE: What my hon. friend refers to is the last clause of article 18, which reads:

> Subject to the laws now in force in either country France and Canada grant each other national treatment as regards consumption dues or other duties imposed upon the sale of goods.

The sales tax will apply to French goods in this country.

Sir HENRY DRAYTON: I thank my hon. friend for reading the clause. I was asking what it meant.

Mr. LAPOINTE: My hon. friend has done nothing this afternoon but read from the treaty.

Sir HENRY DRAYTON: I have been asking the hon. member what he meant by certain sections. What does this section mean?

Mr. LAPOINTE: It means what it says. It is very clear.

Sir HENRY DRAYTON: Does it mean that France and Canada agree with each other that the products of France in Caanda and the products of Canada in France shall both be subject to like treatment?

Mr. LAPOINTE: To the laws in force in France and in Canada.

Sir HENRY DRAYTON: That is hardly an answer to my question. Are they both to be subject to like treatment under those laws?

Mr. LAPOINTE: We cannot adjust the laws in France and Canada so as to be the same on everything.

Sir HENRY DRAYTON: I really credited my hon. friend with more intelligence.

Mr. LAPOINTE: I cannot say that of my hon. friend after some of the remarks he has made.

Sir HENRY DRAYTON: On the terms of his considered clause, can the extra sales tax charged on imported articles be charged on articles coming from France?

Mr. LAPOINTE: Surely.

Sir HENRY DRAYTON: The extra sales tax over the Canadian—can that be done?

Mr. LAPOINTE: Surely.

Sir HENRY DRAYTON: Under what section?

Mr. LAPOINTE: Section 18.

Sir HENRY DRAYTON: Has an opinion been received from the Department of Justice on that question?

Mr. LAPOINTE: Surely national treatment means that what is charged on Canadian goods shall be charged on French goods It is so clear.

Sir HENRY DRAYTON: My hon. friend must know that is not the point. Does he not know—

Mr. LAPOINTE: I know that is what you are talking about all the time.

Sir HENRY DRAYTON: Does he not know there is a difference—

Mr. LAPOINTE: I do not think you do.

Sir HENRY DRAYTON: Does my hon. friend not know that there is a difference in the rate on imported articles and on domestic articles?

The CHAIRMAN: Shall the clause carry?

Sir HENRY DRAYTON: No, we want to have this matter cleared up; we want to know what stand the government is going to take. In this contract Canada covenants with France to give France certain treatment in her markets, and we want to know whether, over and above the tariff duties reserved by the contract, the government can also charge a rate of sales tax on the imported goods of France, as of other countries, higher than the rate she levies on her own goods. We want to know what stand the government takes in

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this matter, and I think we are entitled to the information. In view of the covenant of the treaty, does the government concede that this internal tax of ours, the sales tax, is to apply to goods imported from France?

Mr. FIELDING: Read the concluding words of the article.

Sir HENRY DRAYTON: But I want the government's position.

Mr. FIELDING: I cannot undertake to explain it more clearly than it is stated in the act; I am not a lawyer. It seems that my hon. friend wishes to continue the discussion and I think we had better call it six o'clock. However, I shall not be able to be here this evening and I ask that the committee report progress.

Mr. CHAPLIN: Before we rise I will ask the minister to get some information in regard to item 214 in schedule B. This item refers to wheels, tires and wheel centres of iron or steel. I want to know what kind of tires this refers to, whether of steel or rubber?

Mr. FIELDING: I shall get the information.

Progress reported.

At six o'clock the House took recess.

After Recess

The House resumed at eight o'clock.

PRIVATE BILLS

CONSIDERED IN COMMITTEE—THIRD READINGS

Bill No. 108 (from the Senate), for the relief of Violet Gardiner.—Mr. Sheard.

Bill No. 110 (from the Senate), for the relief of Frederick Fong Young.—Mr. Stewart (Hamilton).

Bill No. 111 (from the Senate), for the relief of Thomas Percy Eversfield.—Mr. Ryckman.

Bill No. 113 (from the Senate), for the relief of Jean Elizabeth Burgess.—Mr. Hocken.

Bill No. 114 (from the Senate), for the relief of Thomas Wesley Scott.—Mr. Chew.

Bill No. 121 (from the Senate), for the relief of Fannie Boyle.—Mr. Sheard.

Bill No. 122 (from the Senate), for the relief of James Forbes.—Mr. Spencer.

Bill No. 123 (from the Senate), for the relief of Julia Tracey Kay.—Mr. Duff.

Bill No. 124 (from the Senate), for the relief of Charles Philip Roy McCabe.—Mr. Ross (Kingston).

[Sir Henry Drayton.]

Bill No. 125 (from the Senate), for the relief of William George Haden.—Mr. McMaster.

Bill No. 126 (from the Senate), for the relief of Gertrude Irene Wood.—Mr. Church.

Bill No. 127 (from the Senate), for the relief of James Murray.—Mr. Stewart (Hamilton).

Bill No. 128 (from the Senate) for the relief of James McAllister.—Mr. Sheard.

Bill No. 129 (From the Senate), for the relief of David Albert Clayton.—Mr. Sheard.

Bill No. 130 (from the Senate), for the relief of Hugh Russell Fulton.—Mr. McKillop.

Bill No. 131 (from the Senate), for the relief of Maybelle Elizabeth French.—Sir Henry Drayton.

SECOND READINGS

Bill No. 132 (from the Senate), for the relief of John Darton.—Mr. Church.

Bill No. 133 (from the Senate), for the relief of Minnie Eileen Biggs.—Mr. Sheard.

Bill No. 134 (from the Senate), for the relief of Thomas Henry Bottomley.—Mr. Sheard.

Bill No. 135 (from the Senate), for the relief of William Ritchie Dowd.—Mr. Garland (Carleton).

HURON AND ERIE MORTGAGE CORPORATION

On the motion of Mr. White, amendments made by the Senate to Bill No. 34, respecting the Huron and Erie Mortgage Corporation, were read a first and second time and concurred in.

CRIMINAL CODE AMENDMENT

Sir LOMER GOUIN (Minister of Justice) moved the second reading of Bill No. 102, to amend the Criminal Code.

Motion agreed to, bill read the second time, and the House went into committee thereon, Mr. Gordon in the chair.

On section 1—Definition of "opium joint" repealed.

Sir LOMER GOUIN: Clause 1 and clause 2 will have for effect to strike out the criminal code provisions with regard to opium joints as it is considered that this subject is more satisfactorily covered by the provisions of sections 4, 10, 11 and 12 of Bill No. 72, an "Act to prohibit the improper use of opium and other drugs," which passed the House the other day. We have now in the

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Criminal Code a definition of such houses, and this is to put the definition in line with the act which was passed the other day.

Section agreed to.

On section 3—Amendment to penalty clause in respect to advertising, printing, posting or selling intelligence on horse-races.

Mr. TOLMIE: Would the minister give us an explanation of that?

Sir LOMER GOUIN: I have already given an explanation to the House. This prohibits advertisements and the printing and publishing, exhibiting and giving of tips, selections and odds on horse-races. Reading the clause, which is very clear, the House will find that we propose that in the future no one shall be permitted to advertise, print, publish, exhibit, post up, sell or supply, or offer to sell or supply:

(i) other than on the premises of an association lawfully conducting race meetings in Canada, and during the actual progress of a race meeting thereon, any tips, selections, odds, winning money prices, pari-mutuel payments, or any similar intelligence with respect to or applicable to any hose-race, whether such race be held within or without the Dominion of Canada, and whether at the time of advertising, printing, publishing, exhibiting, posting up or applying such news or information such race has or has pot taken place;

The second part of the section reads as follows:

(ii) any information intended to assist in or intended for use in connection with book-making, pool-selling, betting or wagering upon any fight, game, sport or race, other than a horse-race whether at the time of advertising, printing, publishing, exhibiting, posting up or supplying such news or information, such fight, game, sport or race has or has not taken place.

That is to say that no publicity as to betting, book-making and pool selling on horse-races will be allowed in any other place or at any other time than on the race-track during a race. By the second part of the section this will apply to all cases of betting on games or races of any kind.

Mr. WOODSWORTH: I think, perhaps, we should have some little further explanation as to why betting should be permitted during the time of a race on the race-track and made illegal at all other times; as to why a monopoly should be given in the matter of betting on horse-races at the time of a race meeting and should not be extended to other kinds of betting in other places. I do not quite see the principle.

Sir LOMER GOUIN: This point was debated and disposed of by the House at a previous sitting. The pari-mutuel system was discussed and the House by a large majority decided that it should be retained. Betting on horse-races was also considered at the same time, and it would seem that the opinion of the House was in favour of its being allowed. The great abuse, as to which we have received complaints, is not the betting on race-tracks but the betting outside, and especially the book-making and the pool-selling not only on races in Canada but on races outside of the Dominion. I am afraid that the prohibition of betting on race-tracks, as it has obtained for years past, would have the result of creating difficulties.

Mr. WOODSWORTH: Under this provision is it not impossible for a man to enjoy the practice of betting except on a race-track and during the time of the meeting?

Sir LOMER GOUIN: The betting is only allowed on the race-track. It has been so for many years.

Mr. WOODSWORTH: Does that not give a monopoly of the betting to those who are conducting the horse-races?

Sir LOMER GOUIN: Not necessarily. Anyone can bet on a race-track; everyone is free to do so.

Mr. WOODSWORTH: In the case of a baseball game does betting become illegal.

Sir LOMER GOUIN: Yes; that is to say the advertising of it.

Mr. WOODSWORTH: Is it illegal to bet on a baseball game while the game is in progress?

Sir LOMER GOUIN: On a private game you can bet any amount you like. What we want to do is to prohibit the book-making and the pool-selling on any games. In the case of horse-races betting is only allowed on the track during the course of the meeting.

Mr. SHAW: I think there was an amendment proposed last year if not to this section perhaps to section 236—a section at least allied to this one, and relating to guessing contests conducted by certain newspapers. I think the minister was asked some time ago if, in view of the decisions which had been recorded in the courts, it was the intention of the government to bring in an amendment.

Sir LOMER GOUIN: I will bring it in immediately after this.

Section agreed to.

The CHAIRMAN: Shall I report the bill?

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Sir LOMER GOUIN: No. One minute. I have other amendments to propose. I beg to move that the following section be added to the bill:

Section 294 of the said act is amended by striking out the word "fourteen" in the second line thereof and substituting therefor the word "sixteen".

This amendment was inserted in the government's bill of last year. It was passed by the House but was defeated in the Senate. Section 294 as it stands provides, that the consent of a child under fourteen is no defence in a charge of indecent assault. The effect of the amendment is to change the age of consent from fourteen to sixteen years.

Amendment agreed to.

Sir LOMER GOUIN: I now beg leave to move that the following section be added to the bill:

Subsection 2 of section 301 of the said act, as enacted by chapter 43 of the statutes of 1920, is amended by striking out the words "of previous chaste character" in the third line thereof.

This also was passed last year by the House but rejected by the Senate. Section 301 as it stands provides that

Everyone is guilty of an indictable offence and liable to imprisonment for five years who carnally knows any girl of previous chaste character under the age of sixteen and above the age of fourteen.

The effect of the amendment is to strike out the words "of previous chaste character".

Amendment agreed to.

Sir LOMER GOUIN: I now beg to propose that the following section be added to the bill:

Section 412 of the said act is amended by inserting the word "badge" after the word "ticket" in the second line thereof and also after the word "ticket" in the third line thereof.

The amendment is asked for by the Toronto Transportation Commission, and appears to be unobjectionable. Section 412 provides that everyone is guilty of an indictable offence and liable to six months' imprisonment who by means of any false ticket or order, or of any other ticket or order, fraudently and unlawfully obtains or attempts to obtain passage on any carriage, tramway or railway, or in any steam or other vessel. The effect of the amendment is to extend these provisions to the fraudulent use of a badge as well as a ticket or order.

Amendment agreed to.

Sir LOMER GOUIN: I move that the following section be added to the bill:—

Section 1024A of the said act as enacted by chapter 43 of the statutes of 1920, is amended by inserting after the word "conviction" in the fourth line thereof the words "or acquittal".

[The Chairman.]

This is the case my hon. friend from Calgary (Mr. Shaw) had in mind.

Mr. SHAW: No.

Sir LOMER GOUIN: Clause 1024A was adopted in 1920, chapter 43 of 10 and 11 George V and reads:

Either the attorney general of the province, or any person convicted of an indictable offence, may appeal to the Supreme Court of Canada from the judgment of any Court of Appeal setting aside or confirming a conviction for an indictable offence if it conflicts with the judgment of any other Court of Appeal in like case.

I have the following memorandum on the subject:

This amendment is asked for by the Attorney General of Alberta, and appears to me to be unobjectionable. As section 1024A stands at present (1920, chap. 43, sec. 16), it does not cover the case of a person acquitted in the court below, and the purpose of the amendment is to make it extend to such a case. It appears that in the case of Rex. v. Stubbs, 24 Ca. Cr. Cas. page 303, the Appellate Division of the Supreme Court of Alberta decided that a certain kind of automatic gum vending machine, which paid rewards or premiums of varying amounts upon irregularly occurring times, was not a gambling device under section 228 of the code, whereas it has been held unanimously by the Courts of Appeal of both Ontario and Quebec that the machine in question is a gambling device, and this has also been held by the Court of Appeal of Manitoba. In the case of one MacNeil, subsequent to the Stubbs case, the Appellate Court of Alberta unanimously held that notwithstanding the decision of the Appellate Courts of the other provinces above mentioned they were not prepared to overrule their decision in the Stubbs case. The result is that the law of Alberta on this subject is not the same as that of the other provinces, and as the purpose of section 1024A was to provide a means of obtaining uniformity of interpretation of the Criminal Code throughout all the provinces, I think the section should be amended as above so as to cover cases like the Stubbs case.

That is to say, that under a special section of the Criminal Code the Appellate Courts of Ontario, Quebec and Manitoba have decided that a certain machine was a gambling machine. The Appellate Court of Alberta has decided the contrary. To make sure what the real meaning of the clause of our Criminal Code was it was provided in 1920 that in such cases where decisions were contradictory, the appeal should be to the Supreme Court, so that the citizens of Canada might be sure as to the meaning of any of the sections of our Criminal Code. As the section was drafted, it only applied to conviction on appeal to set aside a conviction, and did not apply to the case of acquittal, so that in case of acquittal the attorney general or any other interested party had not the right to appeal. By adding the words "or acquittal" the whole case will be covered.

Amendment agreed to.

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Sir LOMER GOUIN: I think this was the amendment my hon. friend from Calgary West intended to introduce.

Mr. SHAW: The point I had in mind was in connection with some legislation passed last year. My recollection is that it was an amendment to section 235 or 236 of the code. The legislation introduced dealt with what were commonly known as guessing contests, conducted by newspapers, and based upon the results of football and baseball games and sports of that character. Apparently in most of the western cities, at least, means have been found to get around the provisions of the statutes, and I was simply inquiring from the Minister of Justice as to whether he proposed to amend that section since the act was passed last year.

Sir LOMER GOUIN: Does the last part of subsection F not cover the case?

(f) Any information intended to assist or intended for use in connection with bookmaking, pool selling, betting upon any track, game, sport or race.

Mr. SHAW: I am afraid that would not cover the case. The minister is probably familiar with the legislation. It apparently originated in the Senate last year. It is a guessing contest depending upon the result of football or baseball games, the newspaper charging a small amount for each guess, and then paying a very large amount, usually dependent upon the number of subscribers, to those who guess most nearly the results of these events. I have not had time to consider this amendment, but I think it only deals with information supplied for a particular purpose and does not deal with the actual contest.

Sir LOMER GOUIN: The actual contest is the game, in every case it is the game, except horse-races.

Mr. WOODSWORTH: It seems to me there should be a protest against this class of legislation. I for one do not want to do anything that will encourage betting or gambling. But I cannot see why certain exceptions should be made and others should be penalized for carrying on what is precisely the same kind of thing. There are certain men who bet on a horse race on the tracks, and apparently that is perfectly legal. Other men who seem to want to exercise the same right, whether it is good, bad or indifferent, and to do some betting, are immediately performing an illegal act. This thing was brought to my attention last year in connection with some of these papers that were carrying on guessing contests of this character. I am free to admit that personally I do not like this kind of thing; but these people who are doing this kind of thing are perfectly justified in protesting that if it is right for one group in the community to be allowed the privilege of betting, it is right for other groups in the community to be allowed the same privilege, and there ought not to be discriminatory legislation of this kind.

Section agreed to.

Bill, as amended, reported, read the third time and passed.

CANADA TEMPERANCE ACT AMENDMENT

Sir LOMER GOUIN (Minister of Justice) moved the second reading of Bill No. 43, to amend the Canada Temperance Act.

Mr. W. G. McQUARRIE (New Westminster): May I be permitted to ask the Minister of Justice if he will consent to allow this bill to stand over to another date? Certain of the British Columbia members on this side of the House, who intend to take part in the discussion and who are opposed to the passage of this bill, are unable to be present to-night. I believe also the minister is going to move an amendment. That amendment I saw this afternoon; but I think these other hon. gentlemen have not seen it. Under the circumstances and as this is rather an important matter, I would ask the minister if he would be good enough to allow the bill to stand until some time next week when the hon. gentlemen to whom I have referred will be able to be present.

Sir LOMER GOUIN: We might have the second reading now, take the bill into Committee of the Whole and then report progress. Will Monday suit the hon. member?

Mr. McQUARRIE: Tuesday. It is understood, of course, that the whole matter will be open when the bill comes into committee.

Sir LOMER GOUIN: Certainly.

Motion agreed to, bill read the second time, and the House went into committee thereon, Mr. Gordon in the chair.

Sir LOMER GOUIN: I would ask to be allowed to propose an amendment which can remain before the committee for their consideration. I beg to move:

That paragraph (c) of subsection 2 of section 163 be struck out and the following two paragraphs be added as paragraph (c) and (d) respectively:

(c) The importation of intoxicating liquor into a province by any person duly licensed by the government of Canada to carry on the business or trade of a distiller where the intoxicating liquor so imported is

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imported solely for the purpose of being used for blending with or flavouring the products of the business or trade of a distiller carried on by him in the province and while kept by him in the province is kept in a place or warehouse which conforms in all respects to the requirements of the law governing such places or warehouses and is used solely for blending with or flavouring the products of his said business or trade as a distiller; or

(d) The importation of intoxicating liquor into a province by a person engaged in and carrying on the business of exporting intoxicating liquor from that province, where the intoxicating liquor so imported is imported solely for the purpose of his export business and while kept by him in the province, is kept in a liquor warehouse which conforms in all respects to the requirements of the law governing such warehouses, and when sold or disposed of by him is actually exported from that province:

Provided, however, that the exceptions contained in paragraphs (c) and (d) of this subsection, or either of them, shall not be applicable to any province in which this section is declared to be in force, unless in the order of the Lieutenant-Governor in Council mentioned in subsection five of this section or in any subsequent order in council it is specially requested that the said paragraphs, or either of them, be declared in force.

Progress reported.

THE RADIOTELEGRAPH ACT AMENDMENT

Hon. ERNEST LAPOINTE (Minister of Marine and Fisheries) moved that the House go into committee to consider the following proposed resolution:

Resolved, that it is expedient to amend The Radiotelegraph Act, chapter forty-three of the statutes of 1913, by providing that the Governor in Council may authorize the payment of a portion of the license fees collected in respect of certain prescribed licenses, to a provincial government, private company, or other prescribed party, and notwithstanding anything to the contrary in any act, to any department or employee thereof, for services given in connection with the operation of broadcasting stations and for services performed for the minister in connection with the licensing and inspection of stations.

Motion agreed to and House went into committee, Mr. Gordon in the chair.

Mr. LAPOINTE: Section 10 of the present act gives to the Governor in Council the right to prescribe the tariff of fees to be paid for licenses and for examination for certificates of proficiency held and issued under the provisions of the act. This amendment relates to radiotelephone broadcasting stations. During the past two years considerable progress has been made in the development of radiotelegraphy, and whereas last year there were issued about ten thousand licenses for receiving stations it is estimated that during the present year the number will be increased to about fifty thousand. These receiving stations are served by broadcasting stations that are rather expensive to maintain. Last year there were forty broadcasting stations but only twenty-five have renewed their licenses

[Sir Lomer Gouin.]

for this year. The cost of a broadcasting station varies from $7,000 to $20,000 and the maintenance cost from $2,000 to $5,000 or $6,000 a year. At present these broadcasting stations are operated either by the vendors of apparatus or by newspapers and big departmental stores for advertising purposes, and also by a provincial government and private companies. In Ottawa there is a broadcasting station operated by Mr. Booth. As I say, the upkeep is rather expensive and this bill proposes to meet the case of Manitoba, among others. In that province there were two broadcasting stations in Winnipeg operated by the Winnipeg Free Press and the Winnipeg Tribune, both of which have closed down. The Manitoba government however now operates a telephone line in the province and it is quite prepared to establish and maintain a first class broadcasting station; but the authorities want to have some remuneration. It is therefore deemed advisable that part of the license fee should be given to these broadcasting stations which serve the public. After all, they are affording enjoyment to thousands of listeners and it is only fair that they should receive some remuneration for their services. It is also provided that part of the license fee should be given for the services rendered the minister in connection with the licensing and inspection of stations. It is the intention to have the Manitoba government, or any other corporation with which the department may enter into an arrangement for the purpose, issue licenses on behalf of the department, for which they will be paid part of the license fee as remuneration for their services in collecting the fees for this government. The same thing applies to inspection; if they provide inspectors they will be paid part of the license fee for the purpose. I believe this is the best arrangement that could be made, and it is to that end that the bill is proposed.

9 p.m.

Sir HENRY DRAYTON: I suppose we shall have an opportunity of discussing the matter in detail when the bill is brought down?

Mr. LAPOINTE: As my hon. friend desires; but really there is not much either in the resolution or in the bill.

Sir HENRY DRAYTON: It would be of interest to the House to know who are operating broadcasting stations at present. The minister might also tell us what proportion of the fee he proposes to give to the stations. Is the act going to define that?

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Senate Proceedings.

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CANADA

The Debates of the Senate

OFFICIAL REPORT—UNREVISED EDITION

Vol. LVIII Tuesday, May 1, 1923 No. 31

CONTENTS

First Readings of Bills:
Live Stock Bill.
Seeds Bill.
Trade Mark and Design Bill.
Criminal Code (Betting) Bill.
C.N.R. Office Building, Toronto—Inquiry.
C.N.R. and Government Merchant Marine Insurance—Inquiry.
C.N.R. Capital Account—Inquiry.
Cold Storage Bill—Second reading postponed.
Second Readings of Bills:
Fruit Bill.
Patent Bill.
Irrigation Bill.
Industrial Disputes Investigation Bill—Consideration in Committee postponed.
Penny Bank Bill passed.

THE SENATE

Speaker: Hon. HEWITT BOSTOCK

Tuesday, May 1, 1923

The Senate met at 8 p.m., the Speaker in the chair.

Prayers and routine proceedings.

DIVORCE BILLS

FIRST READINGS

Bill M4, an Act for the relief of Edgar Lindsay.—Hon. Mr. Reid.

Bill N4, an Act for the relief of Charles Marigoli Hare.—Hon. Mr. Green.

LIVE STOCK BILL

FIRST READING

Bill 10, an Act to amend and consolidate the Acts respecting Live Stock.—Hon. Mr. Dandurand.

SEEDS BILL

FIRST READING

Bill 12, an Act respecting the Testing, Inspection, and Sale of Seeds.—Hon. Mr. Dandurand.

TRADE MARK AND DESIGN BILL

FIRST READING

Bill 21, an Act to amend the Trade Mark and Design Act.—Hon. Mr. Dandurand.

CRIMINAL CODE (BETTING) BILL

FIRST READING

Bill 102, an Act to amend the Criminal Code.—Hon. Mr. Dandurand.

PRIVATE BILL

FIRST READING

Bill O4, an Act respecting the Subsidiary High Court, Ancient Order of Foresters, in the Dominion of Canada.—Hon. Mr. McCoig.

DIVORCE BILLS

FIRST READINGS

Bill P4, an Act for the relief of Esther Levin.—Hon. Mr. McCoig.

Bill Q4, an Act for the relief of Hilda Marguerite Watt Black.—Hon. Mr. Robertson.

C.N.R. OFFICE BUILDING, TORONTO

INQUIRY

Hon. Mr. BLAIN inquired of the Government:

Is there any truth in the report made in the press, Friday, 23rd March, 1923, that the Canadian National Railways is to erect a large office building at the corner of King and Yonge Streets, Toronto.

Hon. Mr. DANDURAND: Report in question was unauthorized. Alterations to ground floor of present building, in which Grand Trunk ticket office has for years been located, are being undertaken with a view to doubling present facilities.

C.N.R. and GOVERNMENT MERCHANT MARINE INSURANCE

INQUIRY

Hon. Mr. CASGRAIN inquired of the Government:

1. How was the amount of $327,046,561 for which the Canadian National Railways and the Canadian Government Merchant Marine were insured arrived at?
2. How much of the above amount was for the Canadian Government Merchant Marine?

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3. For what terms was the above insurance?
4. What were the claims paid, if any?
5. Were any parts of the Grand Trunk System included in this amount of $327,046,561?
6. If said insurance was placed on a competitive basis what was the difference with the regular rates?

Hon. Mr. DANDURAND:

1. The amount of $327,046,561 represents the insurable value of the properties of the Canadian National Railways, including the Grand Trunk and the Canadian Government Merchant Marine.

2. $41,156,812.

3. Fire insurance under schedule placed at three-year basis and marine policies for one year.

4. Fire claims $418,624; Marine claims $681,-035 for year 1922.

5. Grand Trunk Railway System insurance amounting to $94,080,646 is included in the $327,000,000.

6. Impossible to give tariff rates for each risk. Schedule is placed on a blanket rate covering the whole. Schedule, specific and fund rates, shown on attached statements from Hansard of April 23rd.

CANADIAN NATIONAL RAILWAYS

MEMORANDUM RE INSURANCE

—	Name of brokers	Name of firms carrying insurance	Rates
RAILWAYS			
Canadian Northern Railway System.	Toronto Insurance & Vessel Agency.	Western Ins. Co. who reinsured with the following:— Globe & Rutgers; London Guarantee & Accident; British American Insurance; Commercial Insurance Co.; General of Perth; Norwich Union Ins. Co.; Royal Assurance Co.; Home Insurance Company; Fireman's Fund; Hartford Insurance Co.; St. Lawrence Underwriters; Pennsylvania Insurance Co.	See Statement attached.*
Grand Trunk Pacific Railway	Hare & MacKenzie.	Union Insurance Co.; Lloyd's London; Cornhill Insurance Co.	See Statement attached.*
Grand Trunk Railway System	Dale & Company.	Globe & Rutgers; Alliance Assurance Co.; Motor Union Insurance Co.; London Guarantee & Accident Co.; London & Lancashire Fire; Union Society of Canton; Western Assurance Co.; United British Ins. Company; Northern Assurance Co.; Liverpool London & Globe Ins.	See Statement attached.*
MARINE			
Canadian Government Merchant Marine.	Willis Faber & Co.	Various English Insurance Companies and a small percentage with American Companies.	See Statement attached.*
Grand Trunk Pacific Coast Steamships.	Hare & MacKenzie.	Various English Insurance Companies.	See Statement attached.*
Canadian Northern Railway Floating Equipment.	Willis Faber & Co. / Toronto Insurance & Vessel Agency / Dale & Company	Various English Insurance Companies.	See Statement attached.*
Grand Trunk Railway Floating Equipment.	Willis Faber & Co. / Dale & Company. / Hare & MacKenzie	Various English Insurance Companies.	See Statement attached.*

* See next page.

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The subjects or citizens of each of the contracting countries shall in all the other countries of the Union as regards patents, utility models, industrial designs or models, trade marks and trade names, indications of origin, and the suppression of unfair competition, enjoy the advantages that their respective laws now grant or may hereafter grant to their own subjects or citizens.

Our Act at present allows only residents of Canada to register industrial designs. There is no reason for this restriction, and it should be removed in any case. Under our law all applicants, without regard to residence or nationality, may obtain patents and register trade marks. There is no reason for the distinction.

Hon. Sir JAMES LOUGHEED: May I ask my honourable friend, while he is on his feet, what countries adhere to this particular Convention? We are now permitting foreigners to come into Canada and to enjoy all the privileges which to-day are confined to Canadians. It seems to me that we should assure ourselves that we are obtaining reciprocal advantages.

Hon. Mr. DANDURAND: I read from the British ratification deposited at Washington on April 1, 1913. We may find references to some people who have changed their vocations since then. I shall not personally shed any tears over the loss of some of the crowns that are mentioned in this preamble:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: His Majesty the German Emperor, King of Prussia, in the name of the German Empire; His Majesty the Emperor of Austria; King of Bohemia; etc.—

Hon. Sir JAMES LOUGHEED: They are gone.

Hon. Mr. DANDURAND: Yes, they are gone.

—and Apostolic King of Hungary, for Austria and for Hungary. His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain; the President of the United States of America; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the United States of Mexico; His Majesty the King of Norway—

Hon. Mr BEIQUE: That is enough.

Hon. Sir JAMES LOUGHEED: All those countries belong?

Hon. Mr. DANDURAND: Yes.

—Her Majesty the Queen of the Netherlands; the President of the Provisional Government of the Republic of Portugal; His Majesty the King of Servia; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; and the Tunisian Government.

The motion was agreed to, and the Bill was read the second time.

CRIMINAL CODE BILL

SECOND READING POSTPONED

Hon. Mr. PARDEE moved the second reading of Bill 102, an Act to amend the Criminal Code.

He said: Honourable gentlemen, the memorandum which the honourable the leader of the House has asked me to take shows that the purpose of the Bill is to repeal certain sections of the Criminal Code dealing with opium joints, so as to bring the Code into agreement with the provisions of the Opium and Narcotic Drug Act; to prohibit the furnishing of any tips, selections, odds, winning money prices or other similar intelligence with respect to horse-races, or intended to assist or to be used in connection with bookmaking, pool selling, betting or wagering upon any fight, game, sport, or race other than a horse-race; to raise the age of consent from 14 years to 16 years with regard to certain offences against young girls; to make it a criminal offence to obtain a passage on any carriage, tramway, railway or vessel by the fraudulent use of a badge; and to extend the right of appeal to the Supreme Court of Canada given by section 1024A of the Code to cases of acquittal as well as conviction. This is a rather large programme.

Hon. Mr. McMEANS: Would the honourable gentleman explain what is meant by the appeal in cases of acquittal?

Hon. Mr. PARDEE: It is an amendment to section 1024A, Chapter 43 of the Statutes of 1920. The present Act reads:

Either the attorney-general of the province, or any person convicted of an indictable offence may appeal to the Supreme Court of Canada from the judgment of any court of appeal setting aside or affirming a conviction of an indictable offence, if the judgment appealed from conflicts with the judgment of any other court of appeal in a like case—

and so on. The amendment proposes the insertion, after the word "conviction," in the fourth line, of the words "or acquittal." In other words, as I take it, it would mean that even in the event of an acquittal there might still be an appeal taken to the Supreme Court of Canada from the Court of Appeal. I do not know what the House may say regarding the matter.

Hon. Sir JAMES LOUGHEED: What is that again?

Hon. Mr. PARDEE: It means in certain cases, if there has been an acquittal, although

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Hon. Mr. McMEANS: Would the honourable gentleman explain what is meant by the appeal in cases of acquittal?

Hon. Mr. PARDEE: It is an amendment to section 1024A, Chapter 43 of the Statutes of 1920. The present Act reads:

Either the attorney-general of the province, or any person convicted of an indictable offence may appeal to the Supreme Court of Canada from the judgment of any court of appeal setting aside or affirming a conviction of an indictable offence, if the judgment appealed from conflicts with the judgment of any other court of appeal in a like case—

and so on. The amendment proposes the insertion, after the word "conviction," in the fourth line, of the words "or acquittal." In other words, as I take it, it would mean that even in the event of an acquittal there might still be an appeal taken to the Supreme Court of Canada from the Court of Appeal. I do not know what the House may say regarding the matter.

Hon. Sir JAMES LOUGHEED: What is that again?

Hon. Mr. PARDEE: It means in certain cases, if there has been an acquittal, although

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no appeal is possible to the Supreme Court, that by this legislation, which would become ex post facto, as I understand it, an appeal might be taken to the Supreme Court in order to upset the acquittal. As I say, I do not know what the House will say in regard to this legislation. Two or three honourable gentlemen expressed themselves with regard to it this afternoon. I leave it in the judgmet of the House whether the Bill should stand in the meanwhile.

Hon. Sir JAMES LOUGHEED: The honourable gentleman from Middleton (Hon. W. B. Ross) takes a very deep interest in this Bill, particularly in relation to certain sections of the Criminal Code, and has given a great deal of attention to the law as it stands to-day upon the Statute Book. Session after Session attempts have been made to repeal the legislation which, after very great thought and deliberation, this Chamber has framed and placed upon the Statute Book. In the absence of the honourable gentleman from Middleton, I should not like to see any disposition made of the Bill, particularly of those sections in which he is deeply interested. I expect that he will be here to-morow; certainly he will be here when we resume our sitting after the adjournment.

Hon. Mr. PARDEE: We might take the second reading of the Bill, and then consider it in Committee.

Hon. Mr. McMEANS: I would like to hear the principle of the Bill discussed, because I must confess that I do not understand the explanation given by the honourable gentleman. A man is acquitted after trial by a jury, and there is an appeal to the Court of Appeal, and he is acquitted there; and now you provide that an appeal can be taken to the Supreme Court. If a man is charged with an offence, when is he ever going to get free? You may ruin a man by simply bringing a charge against him. It does seem to me to be opposed to every principle of British justice.

Hon. Mr. DANDURAND: I draw the attention of my honourable friend to the fact that there is more than one principle in the Bill—it is an omnibus Bill.

Hon. Sir JAMES LOUGHEED: It covers almost every conceivable offence.

Hon. Mr. DANDURAND: Yes, there are three or four clauses. Of course, if a majority of the Senate were to dissent from the principle contained in each and every clause, that would settle the Bill on the second reading. I may say that I was spoken to by a representative of an association whose name I now forget, and I stated that I did not intend to bring before the Senate the clause that had already been rejected two or three times.

Hon. Sir JAMES LOUGHEED: Half-a-dozen times.

Hon. Mr. DANDURAND: But he informed me that he had seen some of the leading members of this Chamber, and that he had asked for a reference of this Bill to one of the Standing Committees or to a Special Committee of the House, in order that he might lay before the Committee the reasons for the legislation. If we decide to give a hearing to outside parties upon one or two or more of the clauses of this Bill, perhaps we could take the second reading and send to to Committee.

Hon. Mr. WILLOUGHBY: The honourable gentleman from Lambton (Hon. Mr. Pardee) says that to some extent this is ex post facto.

Hon. Mr. PARDEE: Yes.

Hon. Mr. WILLOUGHBY: What particular act or circumstance was in the mind of the honourable gentleman when he made that observation?

Hon. Mr. PARDEE: I would rather my leader would explain that part of the Bill. There is some special case which this is intended to cover, in regard to some device—a slot machine or something of that kind—in which there has been a conviction, and this legislation aims at that particular class of case. An acquittal, I understand, has already taken place. If this Bill is to hark back, then I describe it as I have done.

While on my feet I should like to say also that there is something further in this programme. A memorandum has been handed to me, which states:

The Minister of Justice desires that if convenient the above Bill be amended in the Senate by adding thereto the following clause:—

Section 242A of the said Act, as enacted by chapter 13 of the statutes of 1913, is amended by inserting the words "upon indictment or" after the word "liable" in the first line thereof.

So the section would read as follows:

Everyone is guilty of an offence and liable upon indictment or on summary conviction to a fine of five hundred dollars, or to one year's imprisonment, or to both, who—

(a) as a husband or head of a family, is under a legal duty to provide necessaries for his wife or any child under sixteen years of age; or,

(b) As a parent or guardian is under a legal duty to provide necessaries for any child under sixteen years of age.

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The memorandum then goes on to say:

The purpose of the amendment is to remove a doubt which exists as to whether the provisions of the recent Supplementary Convention with the United States by which the offence of wilful desertion or wilful non-support of minor or dependent children was added to the list of extraditable crimes can be made effective in Canada. The offence covered by the Treaty is contained in section 242A of the Criminal Code, as enacted by chapter 13 of the statutes of 1913, and is punishable on summary conviction. Since the ratification of the Supplementary Convention representations have been made that the Treaty applies only to indictable offences, and that in order to make the Supplementary Convention effective it is necessary that this particular crime be made an indictable offence in Canada. While the question is not free from doubt, it is not unlikely that this view would be given effect to by the courts, and it is considered advisable, therefore, to amend section 242A so as to make this offence punishable upon indictment as well as upon summary conviction.

That will be added as an amendment.

Hon. Sir JAMES LOUGHEED: Honourable gentlemen, it seems to me that some further consideration should be given to the entire Bill before the Senate approves of the principle of it. There is a well-established practice that upon the second reading we approve of the principle of a Bill. I quite appreciate the difficulty pointed out by my honourable friend the leader of the House. Where there is so much difference of opinion and where there are so many principles involved as are embodied in the many sections of this Bill, it is not easy to apply the principle generally. At the same time, in view of the action taken by the Senate in the past upon some of these sections, which may be said to be very contentious, one hesitates to permit of a second reading without feeling assured as to what will be the ultimate step the Senate will take. The reverend gentleman to whom my honourable friend the leader of the House referred waited upon me, and what I said to him was this, that if the Government in its wisdom saw fit to send this Bill to a Committee for the purpose of hearing evidence upon those clauses to which the honourable gentleman from Middleton (Hon. W. B. Ross) has given special attention for several Sessions past, I ertainly would not object to such a reference being made. However, I speak only for myself and not in any sense for other members of the Senate. They may exercise their own judgment upon that. It seems to me that it would be very much better, if my honourable friend proposes sending this to a Committee, that the Committee should consider the entire Bill and submit a report to the House. Possibly many of the sections would be eliminated and we might then agree to some extent upon a general principle applicable to the Bill.

Hon. Mr. DANDURAND: There would be this advantage in sending such a Bill to a Committee, that the Department of Justice, from whom this legislation emanates, would have a representative there to explain and justify these amendments to the Criminal Code. I have already had occasion to say, and I repeat, that it is very unsatisfactory to have such legislation passed in the House of Commons without one word of criticism or one question put.

Hon. Mr. DANIEL: That is right.

Hon. Sir JAMES LOUGHEED: The burden is thrown on us. That is the intention.

Hon. Mr. DANDURAND: And year after year the Bill comes to us, for the Senate to deal with as it pleases. If we had that reference to a Committee, I think we should have much better information from the initiator of all this legislation, the Department of Justice.

Hon. Sir JAMES LOUGHEED: May I suggest to my honourable friend who has charge of the Bill (Hon. Mr. Pardee) that he permit it to stand until to-morrow and in the meantime give some consideration to the appointment of a Committe for that purpose?

Hon. Mr. PARDEE: Most certainly.

On motion of Hon. Sir James Lougheed, the debate was adjourned.

DOMINION LANDS (COAL) BILL

CONCURRENCE IN REPORT OF SPECIAL COMMITTEE

Hon. Mr. BEIQUE moved concurrence in the Report of the Special Committee to whom was referred Bill E2, an Act to amend the Dominion Lands Act respecting the sale or other disposal of coal lands and coal mining rights.

He said: The report of the Committee is to be found at page 295 of the Minutes of the 3rd of May, instant. For the information of this House it will be sufficient for me to refer to the latter part of the report, at page 300, which, I think, adequately explains what is contained in it:

Following an interview with the Committee on the 18th April, 1923, Mr. Newcombe, Deputy Minister of Justice, considered the agreement between the Isenberg Estate and Mr. Murdoch of the 18th July, 1922 (Exhibit 5), and also the testimony of Mr. Murdoch given before the Committee. In a letter dated 23rd April, 1923, directed to the Committee by Mr. Newcombe, he states:

Honourable gentlemen will remember that this deals with those mining rights which have come before this honourable House on several occasions, and the question is whether they shall be conserved or not. Mr. Murdoch,

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acting on behalf of the Isenberg estate, who had been granted the leases, obtained a fiat authorizing the estate to bring a suit before the Exchequer Court, and the suit is now pending. Mr. Murdoch was examined before the Committee and was asked to produce the papers relating to the matter. Among them he produced an agreement between himself and the Isenberg estate, and the letter of Mr. Newcombe, Deputy Minister of Justice, is in reference to that agreement, which it criticizes. Here is Mr. Newcombe's letter:

According to the narrative of the agreement Mr. Murdoch had previously been acting as agent of the estate for the purpose of having the leases recognized or restored, and it is implied in the arrangement as concluded that Mr. Murdoch shall have the direction of the petition which was then afoot, although in the name of the estate, he assuming all costs and expenses, and to be indemnified out of the proceeds of the property if successful.

In these circumstances the arrangement under which these proceedings are being carried on offends against the law respecting maintenance and champerty. It is said that transactions of this character are specially discouraged as tending to pervert the due course of justice in civil suits; that no encouragement should be given to litigation by the introduction of parties to enforce those rights which the persons in whom the rights are alleged to exist are not disposed to enforce; and, quoting from Sir Frederick Pollock's 9th edition of Principles of Contract, p. 406—'The modern cases proceed not upon the letter of the statutes or of the definitions given by early writers, but upon the real object and policy of the law, which is to repress that which Knight Bruce, L. J. in Reynell vs. Sprye, 1 D.M.G. at pp. 680 and 686, spoke of as the traffic of merchandising in quarrels, of huckstering in litigious discord, which decent people hardly require legal knowledge to warn them from, and which makes the business and profit of 'breedbates, barretors, or counsel whom no Inn will own, and solicitors estranged from every roll.'

Remarkably enough, the authorities appear to be against the right of a defendant to plead a champertous agreement, illegal and void though it be, as a defence to an action maintained by the Champertor to recover the claim or property for the purposes agreed; but nevertheless it is obvious that the Crown cannot very respectably continue voluntarily to be associated with the project of this action which, as it now transpires, has in view the re-establishment of the leases under the stipulations of a huckstering agreement.

Certainly His Excellency would not have been advised to grant a fiat upon the petition if the facts disclosed by the agreement and Mr. Murdoch's testimony had been before the Department when the petition was considered, and therefore if there be power to revoke the fiat I would think this is a proper case for the exercise of the power. The Petition of Right Act however makes no provision, and so I venture to repeat the suggestion which I made to the Committee that it would be advisable to provide generally for such cases by apt amendment of the Petition of Right Act, and I submit herewith for consideration draft clauses which I have prepared to give effect to this suggestion.

Then follows the draft Bill as suggested by the Deputy Minister of Justice. The last clause of that draft Bill is:

Hon. Mr. BEIQUE.

2. Nothing in this Act shall be construed or interpreted as a legislative interpretation, declaration or limitation of the prerogatives of the Crown in dealing with the issue or revocation of any fiat granted upon petition of right.

I was somewhat surprised when the Deputy Minister of Justice made this statement:

Remarkably enough, the authorities appear to be against the right of a defendant to plead a champertous agreement, illegal and void though it be, as a defence to an action maintained by the champertor to recover the claim—

etc. I have a case in point, which is reported in the Supreme Court Reports, volume xxxiv, page 24. It is, in fact, a case in which I appeared for one of the parties—the case of Meloche vs. Déguire, wherein the champertous agreement was expressly pleaded, and the plea was maintained by the Supreme Court, the judgment of the lower courts, and especially the judgment of the court of appeal in Quebec, being reversed. The person who had advanced the money for the purpose of the litigation was the husband of one of the parties interested, and therefore a member of the family. So there seems to be no question under our jurisprudence that the plea can be made. However, the Committee has acted on the suggestion of the Deputy Minister of Justice, and has reported the draft Bill as suggested by him.

The report proceeds as follows:

Your Committee was informed by the Minister of Justice that this Bill will be forthwith introduced as a Government measure.

The Deputy Minister of Justice has also suggested, and your Committee concurs in the suggestion, that Bill E2. "An Act to amend The Dominion Lands Act respecting the sale or other disposal of coal lands and coal mining rights," referred to the Committee on the 21st March last, be amended as follows

Then the amendments follow. The Bill would take this form:

(1) Section 37 of the Dominion Lands Act, Chapter 20, 7-8 Edward VII, is amended by adding thereto the following subsection:—

"(2) Notwithstanding anything contained in the Dominion Lands Act, or in any Act amending the same, lands containing coal, and the coal mining rights therein, situate or being within townships 55, 56, 57, 58 and 59, in ranges 7, 8 and 9 west of the sixth Initial Meridian in the Province of Alberta, shall not be sold, leased or otherwise disposed of in whole or in part, or as to any right, title or interest therein, except by the special authority of the Parliament of Canada to be hereafter enacted."

If, as your Committee hopes and strongly urges upon the Government, the fiat granted on October 9th, 1922, is withdrawn, and the above mentioned Petition of Right permanently stayed, the question may arise whether under the special circumstances disclosed by the records of the Department of the Interior, an indemnity should be granted to the Isenberg Estate. In the opinion of your Committee such indemnity, if deemed advisable by the Government to be paid (as

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of preventing large numbers of strikes. This Act has saved the wage earners of this country millions and millions of dollars. It has maintained industrial peace in scores of cases where very serious troubles would have developed but for the provisions of this or some similar Act.

Hon. Mr. CASGRAIN: If it is so good, why change it?

Hon. Mr. ROBERTSON: We are not changing it.

Hon. Mr. DANDURAND: The answer is simple: the effect of these amendments is simply to emphasize the good that is in it, and clarify it. That is all there is in this Bill. The amendment in the last clause simply extends the penalty to cover any change that may be made, contrary to the law which we have passed and which is now on the Statute Book. It provides a penalty for making a change effective before the parties have been brought together.

Hon. Mr. FOWLER: I beg leave to move that the Committee rise.

Some Hon. SENATORS: Carried.

Hon. Mr. DANDURAND: Of course, I can explain what the motion means.

Hon. Mr. FOWLER: There can be no discussion of that.

Hon. Mr. DANDURAND: The adoption of the motion means that the Bill is rejected, and that the Act remains as at present, that is, without the teeth, as my honourable friend from Montarville (Hon. Mr. Beaubien), has said.

Hon. Mr. BEAUBIEN: But with the spirit, as the honourable leader has said.

Hon. Mr. ROBERTSON: Two and a half per cent.

Hon. Mr. DANDURAND: It remains with the spirit, but I would draw the attention of honourable members of the House to this fact—

Hon. Mr. FOWLER: I call the attention of the Chair. This cannot be discussed.

Hon. Mr. DANDURAND: But I can continue to discuss the Bill on the motion that the Committee rise.

Hon. Mr. FOWLER: No, you cannot.

Hon. Mr. DANDURAND: I think I can. At all events, I would draw the attention of this Chamber to the fact that we are examining a Bill which has passed the other Chamber unanimously.

Hon. Mr. FOWLER: Order.

Hon. Mr. DANDURAND: We have, it is true, a right to reject it, and everyone must take his own responsibility.

Hon. Mr. FOWLER: We are willing to take it.

Hon. Mr. ROBERTSON: Will the honourable leader—

Some Hon SENATORS: Order, order.

Hon. Mr. ROBERTSON: Mr. Chairman, I rise to a point of order. The honourable leader of the Government has not yet indicated to the House—

Hon. Mr. CASGRAIN: Order.

Hon. Mr. ROBERTSON: —the effect of the Committee adopting the motion of the honourable member from Sussex (Hon. Mr. Fowler).

Hon. Mr. CASGRAIN: Yes, he has.

Hon. Mr. FOWLER: Yes.

Hon. Mr. DANDURAND: Of course, the rising of the Committee will simply kill the Bill.

Hon. Mr. FOWLER: That is what the honourable gentleman said.

The motion of Hon. Mr. Fowler was negatived: yeas, 13; nays, 15.

Hon. Mr. BEAUBIEN: I move, Mr. Chairman, to strike out section 2.

Hon. Mr. LYNCH-STAUNTON: I agree with that motion if the honourable gentleman will substitute a clause such as I suggested before. I think that, as the honourable leader has said, the Act is a very good one, and we ought to try as far as we reasonably can to make it effective in every way. I do not agree with the present clause, but I think we might amend it.

Hon. Mr. BEIQUE: I move that the Committee rise and report progress.

Hon. Mr. DANDURAND: What is the object of that.

Hon. Mr. BEIQUE: To prepare an amendment and to submit it to the Government. I have voted against the motion which has been put, but if pressed to vote for the amendment as it stands, I would vote against it.

Hon. Mr. DANDURAND: There is only one objection that I have to rising. We have given two hours to the study of this Bill; we have laid before the Senate the various views of the members; we will meet to-morrow with

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another shift or a double number of Senators, and we will again have to discuss the whole of the Bill and go through the work we have done this evening. Is that fair to those who are here?

Hon. Mr. BEIQUE: This is a very important measure, and I do not think it would be proper to undertake at the moment to prepare the amendment which we have in mind.

Progress was reported.

CRIMINAL CODE BILL

SECOND READING

The Senate resumed from Thursday, May 8, the adjourned debate on the motion of Hon. Mr. Pardee for the second reading of Bill 102, an Act to amend the Criminal Code.

Hon. Mr. PARDEE: The other day I moved the second reading of this Bill. The honourable the leader of the Opposition said he rather objected to the Bill being read the second time, inasmuch as it might be taken as agreeing to the principle of the Bill. As it is my intention to move for a special Committee to consider the Bill, I would move the second reading now without the House accepting the principle of the Bill.

The motion was agreed to, and the Bill was read the second time.

REFERRED TO SPECIAL COMMITTEE

Hon. Mr. PARDEE: I beg to move, seconded by Hon. Mr. Dandurand:

That this Bill be referred to a special Committee, consisting of Hon. Messrs. Belcourt, Barnard, Dandurand, Hardy, Fowler, McMeans, McCoig, McLennan, Lynch-Staunton, Lougheed (Sir James), Ross (Middleton), and the mover.

The motion was agreed to.

The Senate adjourned until 3 p.m. tomorrow.

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Hon. W. B. ROSS: Mining companies must necessarily pay a dividend out of proceeds of what they are taking out of the ground. It is the opinion of the Government lawyers that they can do that as the law now stands, but this section provides that they cannot do it if they have not sufficient assets to pay their debts. When I heard the suggestion of the honourable gentleman this morning I was very much taken with it, but on reconsideration I doubt whether it is necessary. I am told that the Hollinger mine, for instance, is careful to state to their shareholders at every annual meeting how much they have paid in dividends, by way of reminding them that pro tanto they are reducing their assets.

Hon. Mr. BEIQUE: We want the other mines to follow the same good practice.

Hon. W. B. ROSS: But do not make an amendment that will tie the matter up so that they will not know what to do. I do not think there is any necessity for that amendment, but I am not going to oppose it. I think that the practice of the Hollinger mine, and the knowledge the people have when they are going into a mining enterprise, would be sufficient.

Hon. Mr. GORDON: This appears to me to be legislation of a very dangerous character. For instance, take the paper business, you might classify that as of a wasting character.

Hon. W. B. ROSS: No, that term is confined to mining companies.

Hon. Mr. GORDON: But a mining company might figure that they had assets sufficient to meet their outstanding liabilities, and yet there might be accidents that would change that condition. I think when any company is allowed to impair its capital we are travelling on dangerous ground.

Hon. W. B. ROSS: You cannot help it. From the day a mining operation starts it is eating up its capital. A coal company has no capital but a block of coal in the ground, and if they pay a dividend this year, pro tanto they have eaten up their capital.

Hon. Mr. GORDON: But any company starting business must start with money capital.

Hon. W. B. ROSS: That capital has been used to buy the mine and the machinery, and sink the shaft. The chief cost of a coal mine is in sinking the shaft; it will cost four or five million dollars; but the shaft is only a hole in the ground, and the only asset is the coal.

Hon. Mr. TURRIFF: To my mind we are passing legislation that is very bad, and this is one effect of bringing legislation down in the last days of the Session. I think no interest would suffer very greatly if this matter were left over till next Session. But if we are going to pass it now it ought to be made clear that the shareholders will know what is being done. I listened this morning for an hour to what was said here, and I do not know now what the section means, and how will a shareholder understand it?

Hon. Mr. BEIQUE: The honourable gentleman and myself think very much alike, and I was trying to give effect to his idea. Companies of that kind are of such a nature that they cannot state what proportion the balance after payment of dividend may represent.

The amendment of Hon. Mr. Beique was agreed to, and the Senate went into Committee on the Bill.

Hon. Mr. Willoughby in the Chair.

The amendment proposed by Hon. Mr. Béique was agreed to, and the Bill, as further amended, was reported.

THIRD READING

On motion of Hon. Mr. Foster, the Bill was read the third time and passed.

At six o'clock the Senate took recess.

The Senate resumed at 8 oclock.

CRIMINAL CODE BILL

REPORT OF SPECIAL COMMITTEE

Hon. Mr. PARDEE moved concurrence in the Report of the Special Committe to whom was referred Bill 102, an Act to amend the Criminal Code, together with the amendments thereto.

Hon. Mr. DANDURAND: The honourable gentleman who is the Chairman of the Committee will explain the amendments.

Hon. Mr. CASGRAIN: It is not necessary.

Hon. Mr. PARDEE: If the House desires it, I shall be very glad to do so.

Right Hon. Sir GEORGE E. FOSTER: The amendments are long and numerous. Should we not have an explanation?

Hon. Mr. PARDEE: Honourable gentlemen, Bill 102, which was referred to a Special Committee, has been very carefully examined by the Committee and certain changes have been

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made therein. The purpose of the first and second sections of the Bill, as we have been advised by the Department of Justice, is to bring the Code into agreement with the provisions of the Opium and Narcotic Drug Act. These were not particularly discussed by us, because we considered that what the Department had advised ought to be done.

The purpose of section 3, as set out in the Bill, was to prevent Canadian newspapers from publishing certain news with regard to betting. It was also desired by the amendment that all other publications should be likewise prevented from supplying any information regarding betting. That prohibition would include American newspapers. The Committee came to the conclusion that it was absolutely impossible to shut out from Canada American newspapers containing the information that the Bill was intended to prohibit.

It was suggested by Mr. Shearer, who appeared before the Committee, that all forbidden news should be blotted out with a brush or blue-pencilled, and that anyone sending newspapers containing such news, not so blotted out or erased, should be liable to punishment I think the House will agree with me that it would be absolutely impossible to carry out that suggestion. How would it be possible to shut out about 200 newspapers that are now coming to Canada daily, or prevent them from publishing the odds on horse-racing and information as to weights, etc.? The attempt to exclude them would have this result, that Canadian newspapers must not be allowed to publish such information, and at the same time there would be American newspapers coming in with such news; consequently the prohibition would operate to the detriment of Canadian papers. It appeared therefore, to the Committee that even if it were enacted and Canadian newspapers were thus forbidden to publish such news, we would be powerless to keep out American newspapers, unless we closed the mails to them, and the evil would not be abated in the slightest degree.

Another great evil, in the opinion of certain newspapers, was the publication of "Racing News." That is a publication which comes in from Buffalo and contains nothing but racing news. The Committee were unanimously of the opinion that it ought to be shut out from Canada, so far as possible, and we have made a provision to this effect. The Committee do think, however, that it is an absolute impossibility to shut out news regarding racing and odds on racing, and so long as we have not, or do not desire to exercise, the power to shut out American newspapers, the evil would not be one whit lessened. The Committee were also of the opinion that, even if the newspapers were shut out, there would be nothing whatever to prevent forbidden information from being disseminated by radio all over the country. In regard to section 3 of the Bill, therefore, the Committee decided to recommend that it be not adopted.

We come now to section 4, relating to the age of consent. The purpose of this section was to raise the age from 14 to 16. I shall not discuss the arguments on that question, but the Committee unanimously came to the conclusion that this year, as in former years, the section ought to be rejected.

The next clause of the Bill, section 5, deals with girls between the ages of 14 and 16, and proposes to strike out of the existing section the words "of previous chaste character". After long discussion and serious consideration by the Committee, it was decided that the amendment was not desirable and ought to be rejected.

Section 6 refers to persons gaining admission to race meetings or getting on railway trains, steamboats, etc., and proposes to insert the word "badge" after the word "ticket". The proposed amendment goes on to provide that any person who gains admission to a performance or amusement, or obtains passage on a railway train or steamboat by wearing a badge falsely shall be liable in the same way as those who falsely present a ticket.

Section 7 of the Bill proposes that section 1024A of the Criminal Code be amended by adding the words "or acquittal" after the word "conviction." In this connection the Committee thought that the proposed amendment would add to the Criminal Code a feature which might be extremely dangerous and ought not to be approved, and, we ask that this matter be left in abeyance until such time as the Law Officers of the Crown reach a decision as to the best means of carrying out the purpose in view.

Section 1024A says:

> Either the Attorney General of the province or any person convicted of an indictable offence may appeal to the Supreme Court of Canada from the judgment of any court of appeal setting aside or affirming a conviction—

Then the amendment comes in, "or acquittal"—

> —of an indictable offence, if the judgment appealed from conflicts with the judgment of any other court of appeal in a like case.

It was thought that the insertion of the words "or acquittal" might result in a pri-

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soner who had been acquitted being brought up on appeal and tried over again. The Committee therefore decided that the proposal would make this provision of the Criminal Law too broad and that it consequently ought to be stricken out.

Certain new clauses have been added to the Bill. New clause A reads:

"Paragraph (g) of section 235 of the said Act, as the said paragraph is enacted by section 13 of chapter 16 of the statutes of 1922, is hereby amended by inserting after the word "contest" in the fourth line thereof the words "or any result or contingency of or relating to any contest".

That was added for this reason. Mr. Shaw, member of Parliament for Calgary, appeared before the Committee and pointed out that there had been published in Calgary, and perhaps elsewhere in the West—I do not remember where—a certain sheet relating to football matches in the old country. That paper had been found to be illegal. After having been precluded from publishing that news, the publishers issued a statement to the effect that they were content to publish the odds on what certain football teams and other teams would do in the ensuing year. This sort of thing was bound to be a source of great evil, and much money was lost in that way. It was simply an evasion of the law, and Mr. Shaw asked that the Committee take this matter into consideration. The Committe did so, and has decided to add the clause that I have quoted.

Then there has been added new clause B. The honourable member for Ottawa (Hon. Mr. Belcourt) can perhaps explain that better than I can. The original section sets out to what extent racetracks may deduct percentages on each race. In his opinion and, I believe, in the opinion of many racing associations, the clause was not clear as to how much might be deducted over a certain amount mentioned in the original Bill. Therefore the Committee have added the following new clause:

Where the total amount staked or deposited is under $20,000, 7 per cent; over $20,000, 7 per cent on $20,000, and on the excess up to $30,000, 6 per cent.

which I think the House will very readily grasp, is just what is desired.

Then, we have new clause C, which says:

Section 242A of the said Act, as enacted by chapter 13 of the Statutes of 1913, is amended by inserting the words "upon indictment or" after the word "liable" in the first line thereof.

I have here an explanation given by W. Stuart Edwards, Assistant Deputy Minister of Justice:

The purpose of the amendment is to remove a doubt which exists as to whether the provisions of the recent Supplementary Convention with the United States by which the offence of wilful desertion or wilful non-support of minor or dependent children was added to the list of extraditable crimes can be made effective in Canada. The offence covered by the Treaty is contained in section 242A of the Criminal Code, as enacted by chapter 13 of the statutes of 1913, and is punishable on summary conviction. Since the ratification of the Supplementary Convention representations have been made that the Treaty applies only to indictable offences, and that in order to make the Supplementary Convention effective it is necessary that this particular crime be made an indictable offence in Canada. While the question is not free from doubt, it is not unlikely that this view would be given effect to by the courts, and it is considered advisable, therefore, to amend section 242A so as to make this offence punishable upon indictment as well as upon summary conviction.

After having heard the opinion of the law officers of the Crown, the Committee felt quite justified in accepting the advice of the Deputy Minister of Justice and recommend the enactment of that legislation.

Then we come to clause D. We have had letters from the Clerk of the Legislative Assembly of the Province of Manitoba stating that it was the wish of the Government of that Province to do away with the Grand Jury. I understand that neither Alberta nor Saskatchewan have grand juries, and it is the desire of Manitoba to be in the same position as those Provinces, and the Committee passed that recommendation.

Then, we have new clause E, which I would ask the honourable member for Winnipeg (Hon. Mr. McMeans) to explain. Last year he introduced a Bill in this House which was thoroughly threshed out and passed. We have simply embodied that Bill in this report so that it may appear in a more uniform way.

There is another new clause which we have added, and which I desire to read. It has to do with the question of prohibiting the publication of what is known as racing news or racing tips in the Dominion of Canada. This clause was added, although the Committee was not absolutely certain that it would accomplish what was desired:

For clause 3 substitute the following:

"3. Section 235 of the said Act is hereby amended by adding to paragraph (f) thereof the following:

(ii) imports or brings into Canada any matter, whether printed or in writing, which from the nature of its contents or from other evidence adduced which is not a newspaper published in good faith mainly for the purpose of supplying news and comment, other than information intended or likely to promote, assist in, or be of use in gambling, bookmaking, pool-selling, betting or wagering upon any race of any kind, fight, game or sport whether held within or without Canada and whether published before, during or after such race, fight, game or sport; or is not a magazine or other periodical published in good faith mainly for the purpose of supplying literature and comment, other than such information as aforesaid; but is intended or likely to afford such information as aforesaid."

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These are the recommendations contained in the Report on Bill 102, an Act to amend the Criminal Code, which the Committee has unanimously decided to present to this House.

The Report was concurred in.

THIRD READING

Hon. Mr. PARDEE moved the third reading of the Bill.

The motion was agreed to, and the Bill was read the third time and passed.

BUSINESS PROFITS WAR TAX BILL

SECOND READING

Hon. Mr. DANDURAND moved the second reading of Bill 248, an Act to amend the Business Profits War Tax Act, 1916.

He said: Honourable gentlemen, this is a Bill of one clause. It reads as follows:

1. Subsection three of section thirteen of The Business Profits War Tax Act, 1916, is amended by striking out all the words after the word "liable" in the second line thereof down to and including the word "payable" in the third line thereof, and the words "within the said three years" in the seventh line thereof. The said Act shall be construed as if the words struck out by this amendment had never been contained therein.

If the Senate is agreeable to this amendment, clause 3 will then read as follows:

Any person liable to pay the tax shall continue to be so liable, and in case any person so liable shall fail to make a return as required by this Act, or shall make an incorrect or false return, and does not pay the tax in whole or in part, the Minister may at any time assess such person for the tax; or such portion thereof as he may be liable to pay, and may prescribe the time within which any appeals may be made under the provisions of this Act from the assessment or from the decision of the Board.

It will be seen that any person liable to pay a tax would continue to be liable for the period of three years from the time when such tax was payable. Three years have elapsed since the Act came into force, and out of $200,000,000 that was assessed under this legislation there is $8,000,000 still outstanding and to be collected.

Right Hon. Sir GEORGE E. FOSTER: On profits tax alone?

Hon. Mr. DANDURAND: On business profits war tax alone. By far the larger part of this $8,000,000 that is still outstanding comes within the three-year period; but there are a certain number of persons whose assessment has been unpaid for three years. When the Act was passed we set a prescription, so to speak, of three years, feeling that that was a long enough period for the Department of Finance to collect the tax. Yet some arrears are apparent, and it is sought to do away with that time limit so that the persons who have been owing the debt for the last three years, and who under the present law would have been freed from further liability, will fall back among the live debtors of the State, and collection will be possible. It is felt that it would be unfair to those who have made payment that these people should be free of liability. It may be argued that we are depriving these people of an acquired right. When Parliament fixed that time limit of three years, it did not immediately free the debtor from paying his debt. Because a date is fixed in our laws up to which a creditor will have the right to exact payment of a debt, it does not mean that the debtor upon the arrival of that date is immediately free from his obligation.

Hon. Mr. ROCHE: There are cases that have not been mentioned by the honourable leader, in which people who were taxed have questioned the law and defended their rights. How are they to be affected by the retroactive legislation?

Hon. Mr. DANDURAND: They are not at all affected by the Act. Their rights are reserved. Of course, if one had been sued after the expiry of the three years, and he had pleaded estoppel, his defiance could not avail him, since we are giving retroactive effect to this Bill.

Hon. Mr. TURRIFF: Take the case of a farmer's company, who owed the Government $1,000 on this account; the three years elapsed a month ago, and in the meantime before this Act was passed, the company had sold all their assets. Would the Government be out then?

Hon. Mr. DANDURAND: We have a French saying that where there is nothing the King loses his rights. I suppose that will apply.

The motion was agreed to, and the Bill was read the second time.

THIRD READING

Hon. Mr. DANDURAND: I would ask that we take the third reading without going into Committee.

The motion was agreed to, and the Bill was read the third time and passed.

MONTREAL HARBOUR COMMISSIONERS BILL

SECOND READING

Hon. Mr. DANDURAND moved the second reading of Bill 250, an Act to provide for further advances to the Harbour Commissioners of Montreal.

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PC 41563

PRIME MINISTER'S OFFICE

MEMORANDUM

Wednesday,
February 11,1925

MR. KING:

Reverend J. G. Shearer called this morning to ask for an interview with you. As your appointments to-day make one with him impossible, he asked me to urge you to say something in Parliament when the Betting Bill comes up for discussion. He says Mr. Meighen is in favour of suppression and will in all probability speak in the debate. Mr. McMurray, he adds, is likely to reverse his vote on the subject and a number of other members have signified a similar intention. Dr. Shearer tells me that J. J. Denis, M.P. will probably second the resolution.

McG.

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PRIME MINISTER'S OFFICE

C 41564

MEMORANDUM

Tuesday
February
17
1925

MR. KING:

Re: Race track Gambling.

I attach hereto:

(1) A memorial submitted by the Vancouver Board of Trade, during your Western trip in October last. (with Synopsis)

(2) A further memorial from various local organizations of Vancouver and Victoria, supporting the request of the Vancouver Board of Trade for legislation to meet the race track gambling situation.

(3) A memorandum submitted by the Social Service Council delegation in March 1922 to the Prime Minister and Members of the Cabinet, in which is briefly set out the case against race track gambling.

R.O.C.
(R.O.CAMPNEY)

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C 41565

Re: Race Track Gambling in Vancouver and Victoria.

Memorandum from the Vancouver Board of Trade

Recites:

That Toronto (pop. 650,000) has 4 tracks and 8 weeks racing;

" Montreal (pop. 953,000) " 7 " " 14 " " ;

" Winnipeg (pop. 250,000) " 2 " " 4 " " ;

The following facts as to Vancouver and Victoria:

Number of days racing	- 70
Aggregate attendance 1924	- 122,786
Average daily attendance	- 1,754
Total amount passing through machines	- $6,397,565
Average amount passing through machines per day	- $91,408;

That is an average of $52.00 per person per day or

$7.73 per person per race.

Alleges:

That of approximately 500 horses used 75% came from the United States;

That the withdrawal of so much money from legitimate channels is a great handicap to legitimate business;

That the racing programme brings a large floating population of undesirables to these cities;

That the situation is a serious menace to the younger generation.

Asks: To have the period of racing restricted, to remove unsatisfactory conditions.

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C 41566

Note:

A Bill was introduced into the Legislature of British Columbia during November of last year, with a view to cutting down the number of days racing in British Columbia from 70 to 30 - that is 6 days on each of the 5 trakcs.

According to press reports this Bill was apparently not proceeded with, owing to the strength of feeling against it in the House, and in the hope that the Federal Government this session would do something in the matter of horse racing generally.

R.O.C.

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O.D. SKELTON TO WLMKC. Apostolic Delegate ✓
Imperial Relations ✓
Vatican ✓

C 41567

To the Prime Minister: July 26, 1927.

Attached is a despatch of 9th July from the Secretary of State for Dominion Affairs, with enclosed correspondence between the British Legation to the Holy See and the Vatican, on the subject of the appointment of delegates apostolic and other high ecclesiastical appointments "within the British Empire."

The British proposals appear to be:

(1) Wherever possible, ecclesiastical positions in the British Empire should be filled by British subjects.

(2) When any appointment of a delegate apostolic in the British Empire is proposed, the name is to be communicated to the British Legation at the Holy See not less than seven days before it is made public. The British Government apparently will exercise a veto on the appointment by deciding whether or not to grant a passport visa to the new delegate.

(3) The British Government reserves the right to discuss, if and when necessary, any ecclesiastical appointment which may be made in the Crown Colonies and mandated territories.

It will be noted that the first two proposals refer to all appointments "within the British Empire." The question arises whether the Canadian Government desires that these two rules should be adopted as regards Canada. Ordinarily speaking, it would be desirable that ecclesiastics appointed in Canada should be British subjects, but this is, I assume, so in 99 per cent. of the cases, and it is questionable whether it is necessary

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to make a formal requirement in the case of the Roman Catholic Church, any more than in that of any other church.

One notable exception has been that the apostolic delegate in Canada has been of Italian or Spanish birth. Perhaps it is felt that a man of such antecedents is better able to hold the balance evenly between English-speaking and French-speaking Roman Catholics. The proposal to exercise a veto on appointments of delegates apostolic might be appropriate in certain colonies, and may fit in with the British decision to establish quasi-diplomatic relations with the Vatican. Its adoption in Canada might seem to imply some special formal relationship of the delegate apostolic to the Government. So far as is known, the delegate has no more official standing than the Moderator of the Presbyterian Church or the Archbishop of Rupert's Land.

Mr. Amery, in his covering despatch, states that it is in India and the Colonies, Protectorates, and Mandated Territories that it is specially important that ecclesiastical appointments should be in harmony with the views of the local authorities. The exchange of views between Sir Odo Russell and the Vatican, however, covers the whole British Empire, and the question arises whether, even if it is desired to have these arrangements extend to Canada, the arrangement should have been made without consulting the Canadian Government.

See next page.

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P.S. - A further confidential despatch of July 9 on the same subject has now come to hand. Mr. Amery explains that the reason why the note covered delegates apostolic appointed to any part of His Majesty's Dominions is that the advantage of a particularly favorable moment had to be seized, and that the exclusion of appointments in certain parts of His Majesty's Dominions would weaken the effect of the whole arrangement. He adds that if the Canadian Government desires to ~~consider~~ review such appointments an extension of time beyond seven days could probably be arranged, while on the other hand if the Canadian Government wishes to consider the arrangement as a matter of form, it can authorize His Majesty's Minister at the Holy See to grant automatically without reference to it a visa to any candidate selected by the Vatican.

This explanation is hardly adequate, and it is a question whether the solution suggested would fully meet the Canadian position.

O.D.

(See L.S. AMERY TO KING, JULY 9, 1927
L.S. AMERY TO KING, JULY 9, 1927 (2nd separately)

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C 41570 E-1843

[This Document is the Property of His Britannic Majesty's Government.]

[E 8630/656/91] No. 1.

Major Marshall to the Marquess Curzon of Kedleston.—(*Received August* 30.)

(No. 62. Secret.)

My Lord, *Jeddah, August* 10, 1922.

I HAVE the honour to transmit to you herewith the Jeddah report for the period the 11th July to the 10th August, 1922.

Copies of this report and despatch are being sent to Alexandria, Bagdad, Jerusalem, Aden, Simla, Damascus and Transjordania.

I have, &c.

W. E. MARSHALL, *Major, R.A.M.C.*

Enclosure in No. 1.

Jeddah Report for the Period July 11–*August* 10, 1922.

Pilgrimage.

THE total number of pilgrims who came by sea to this year's pilgrimage was 56,319, only about 900 less than the number arriving by sea for last year's pilgrimage. All pilgrims arrived in ample time, and so far as we know no pilgrim has missed the Hadj. Pilgrimage day was the 3rd August, and the Id on the 4th, 5th and 6th. The weather was entirely favourable, and all reports received say it was a most successful pilgrimage. The number of pilgrims present at Arafat is estimated at about 65,000. The health conditions were good, and it is said that only twelve deaths occurred at Arafat and thirty-four at Mona.

The Mahmal arrived from Egypt on the steamship "Dakahlieh" on the 24th July. Unfortunately, it arrived twenty-four hours before the scheduled time, and preparations for its arrival were not complete.

H.M.S. "Cornflower" arrived the same afternoon. On the following morning, when the Mahmal procession left the Jeddah pier, H.M.S. "Cornflower" fired a salute, and all ships were dressed. The annual reception at the British agency was held on the 26th, and the Mahmal left for Mecca on the 27th.

The Nejd pilgrimage caravan arrived at Ashairah on the 25th, and reached Mecca on the 30th. The King sent a sherif to meet them. The total number is said to be about 1,800, mostly villagers from Boreidah and Anaizah districts. About 100 of them were armed and carried a Wahhabi banner, but King Hussein decided not to interfere. The Emir of the Nejd pilgrimage is Musaad-bin-Suweilim of Boreidah, and not Musaad-bin-Saud as previously reported. They brought two camels and two horses as presents, and friendly letters, and I understand from the Secretary of State for Foreign Affairs that Ibn Saud's letter to the King was very well expressed. The King is treating seventy of the Nejd pilgrims as his guests. I wrote to King Hussein to tell him how grateful we were for the cordial reception given by him to the Nejd pilgrims.

What might have been a most untoward incident was the later arrival of fifty pilgrims from the Dawasir tribe. The Emir of the Nejd pilgrimage did not inform the Mecca authorities that these were coming, and they reached the frontier without previous warning. Luckily, nothing happened, and they arrived in Mecca without mishap.

King Hussein took every military precaution, as he was undoubtedly nervous about the coming of the Nejd pilgrims. Emir Ali brought his troops from Medina. Many of the garrison were taken from Jeddah, and the hills surrounding Mecca were garrisoned and fortified.

The later Medina caravans seem to have had a bad time and to have paid heavy fines to the Bedouin. The Ahamda tribe were particularly aggressive. A Persian caravan of 400 camels paid 3,000*l.* and the Indians paid about 30–50 rupees each.

REC'D.
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Some Indians were unable to pay this amount, and had to take another route. One Persian caravan was not allowed to pass on any payment, and returned to Mecca without having been to Medina. The Dutch consul informs me that another caravan consisting of Indian and Javanese pilgrims reached Bir Ali, within sight of Medina, and was then turned back by Bedouin, and returned to Mecca.

An Indian police inspector who returned from Medina on the 16th July said that the pilgrims were badly treated, and the Government authorities incapable of doing anything. All pilgrims paid money to the Bedouin, and the Persians especially had to pay a large sum. He said murders were common in Medina, but if a Bedouin murdered a pilgrim no justice was meted out against the murderer.

This year the Syrian pilgrims came direct from Beirout to Jeddah in three steamers, one flying the French flag and two the Egyptian flag. There are two different local agents for these boats. The Persian Gulf Steam Navigation Company have also changed their local agent. The firm of Khandwani, the previous agent, is now running a pilgrim boat, so Suleiman Gabil, the Reis of the Belediah in Jeddah, is the new agent for the Persian Gulf Steam Navigation Company. He is a great friend of the kaïmakam, head of the firm of Haji Zainal Ali Reza, who has hitherto done all in his power to fight against the Persian Gulf Steam Navigation Company and to oust them from the pilgrim traffic. This year there are four shipping companies taking pilgrims to Bombay, the Bombay and Persia Steam Navigation Company, the Persian Gulf Steam Navigation Company, Namazi and Khandwani, and the result should be that the fares for pilgrims will be low. The fare quoted for the first boat is 30 rupees.

There seems to be no limit to the taxes imposed on the pilgrims in the course of the pilgrimage season. The two most recent are a tax of 2 mejidis on each camel proceeding to Arafat, and a tax of 4 mejidis on each person leaving Mecca after the pilgrimage.

Political.

1. The new Persian consul, Manieh-ul-Sultanah, who ranks as a consul-general, arrived in Jeddah on the 15th July, having come direct from Tehran viâ Constantinople. I had previously informed the King of his coming, and had asked that he might be accepted officially as the Persian representative. The King replied that he could not do this until the Persian Government recognised his Government, as he fully explained to the Persian consul last year. At the same time, he said that he had no objection to the British agent looking after the interests of the Persian pilgrims. The King sent the Kaïmakam of Jeddah to welcome M. Manieh-ul-Sultanah, but at the same time orders were sent to the Mutawwifs that the Persian pilgrims were on no account to go to the Persian consulate, and that the consul and his assistants were not to be allowed access to the pilgrims.

No objections were raised to Manieh-ul-Sultanah going to Mecca, so I strongly advised him to proceed there and to see the King. He has stayed for the pilgrimage, and was well received by the King, but I have not yet heard officially the result of the interview.

2. As I reported in my despatch No. 58, a local demonstration took place in Jeddah on the 14th July to protest against our pro-Zionist policy in Palestine. The chief speakers were Suleiman Gabil, the Reis of the Belediah, and Constantine Yanni. They visited al the foreign representatives.

A similar demonstration took place in Mecca, where the Palestine delegation has been spreading propaganda among the pilgrims. King Hussein addressed the demonstration, told them to go peacefully to their homes, and that he would do all in his power to see that the rights of Moslems were protected (*vide* press).

General.

1. Sherif Ali-bin-Mansour, the Kaïmakam of the Bedouin between Jeddah and Mecca, has been recalled to Mecca, and Sherif Bekhait, of Hadda has been appointed in his place.

2. Emir Ali arrived from Medina, viâ Yambo, on the 27th July. He was given a most cordial reception, both at Jeddah and at Mecca. Emir Zeid came to Jeddah to meet him.

Press.—"Al Qibla," No. 601.

Leading Article on the Arab Question.

A condemnation of European civilisation, which is said, while giving the world new scientific inventions, to have forgotten the old virtues of honour and truth to a plighted word.

The police in Paris have instructions to arrest perverts who throw ink on ladies' dresses. These are the manners of the people who are to be granted a mandate for Syria!

Long extracts from the speeches of Lord Islington, Lord Sydenham and Lord Buckmaster in the House of Lords debate on the Palestine mandate.

On England and France the editor says: "We cannot imagine a case where parties have pledged themselves to a common end, the attainment of which requires loss of life and property in common and where one of them turns on the share of his comrade, won by this co-operation after bloodshed and loss, as our Allies Great Britain and France have fallen upon us, the Arabs. They pledged themselves and bound themselves to us in co-operation in the war, as they have repeatedly admitted and declared in their use of the words "the common foe," and they have seized our share—that is, our lands—usurping them with pretexts and a show of legal excuse . . . . Oh, Lloyd George! "The tyranny of a friend is bitterer than a sword-cut." And either God rules His own affairs or his Excellency (the Prime Minister) is naturally corrupt beyond all correction, and in that case we must excuse him.

Arrival of the Emir Ali at Yambo.—Distinguished Visitor to Mecca.

Sheikh Mudasser of the Soudan has reached Mecca from Medina. He has written the editor an account of his delight with the treatment accorded to pilgrims in Medina, the public security and comfort of the roads, &c., which the editor considers too flattering to publish.

News from Asir.

The editor learns that a special messenger sent by the "Aal Ayidh" Emirs of Asir to King Hussein has brought news of the eviction of the usurpers (*i.e.*, the Wahhabis) from Ebha and from all Asir and of the capture of their leaders, this having been effected by the union of the tribal and other chiefs of Asir with those of the Shahran and Qahtan, all of whom are prepared to accept the guidance of His Hashimite Majesty and his Government in all their needs. A special delegation is being sent to express their congratulations and loyalty to the Hashimite throne, on this strengthening of the bonds connecting them with the Hedjaz, and the return to earlier conditions. Identical news has arrived from the sheikhs of the men of Alma (Suleiman-bin-Ali) and the leaders of Mahail.

Alliance between Abyssinia and the Yemen.

The "Fat-ul-Arab" of Damascus (No. 230) is quoted as reporting the conclusion of a military alliance between the Yemen and Abyssinia, which, being directed against Great Britain, has caused her some alarm.

Extracts from the Foreign Press.

A page-long article from "Al Sabah" of Jerusalem on "The Allies and their Love for the Arabs."

An article from "Al Moqattam" of Cairo on "The East."

No. 602.

Offical Notice, reminding the public of the prohibition on the export of gold.

Leading article, in reply to the Governments's statement in the House of Lords, that King Hussein had, during the last four months, taken no steps to conclude conversations on the subject of the treaty, and that, as the frontiers of the Hedjaz were still undefined, it was untrue to say that Ibn Saud's adherents had occupied Hedjaz territory.

"Al Qibla" refers to Hedjazian efforts in the war, and compares them with this contemptuous treatment of the Hedjaz since, and says that not only has King Hussein not signed the treaty referred to, but he has refused to ratify the Treaty of Versailles, because both treaties traversed the rights of his country and his people. "And your discussion of our hesitation to sign the treaty causes us discomfort, oh Excellency! For your own pacts and your own promises you have broken like pie-crust."

For the conviction of the British Government and the world at large, King Hussein's letter to Sir H. MacMahon of the 21st Zil Qida, 1336, is once more reproduced, in full.

"Can any shadow of blame," the editor enquires, "attach to the author of such declarations?"

As for the frontiers, readers are reminded of what King Hussein said to the Hedjaz delegation during the pilgrimage of 1919, that either things should be again

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as they were in the time of his own and Ibn Saud's fathers and grandfathers, or he would, with pleasure, hand over his country to Ibn Saud.

"Could anything more public spirited, more useful to the peace of the peninsula, have been said? Could any ulterior motive lurk behind such sincerity?"

Palestine Delegation in Mecca.

Arrival of part of the delegation under Sheikh Abdul Qader Muzaffer. Excellent reception by King Hussein and the populace of Mecca.

Distinguished Arrivals.

El Sayed Hassan Husny Bey, charged by the Egyptian Government with the supervision of Egyptian pilgrims' affair, and El Sayed Mohammed Ismail Effendi Murad of Dessouk, have arrived in Mecca.

Refusal of the Mandate.

Reproduction of an article from No. 8 of "As Saut-esh-Sha'ab" of Bethlehem.

"*Oppressed Palestine.*"

From "Al Lewa-al-Masri" of Cairo.

No. 603.

The leading article, issued two days before as a special edition, describes the demonstrations in Mecca against the Palestine mandate under the title: "Lamentations in the Mosque of Al Haram." "Enormous and spirited Islamic Demonstrations in Mecca."

The article, in which the Islamic aspect of the demonstrations receives all possible emphasis, states that, since the arrival of the Palestine Moslem delegation, the mandate for Palestine has been the sole subject of conversation in Mecca. Moslem feeling against that mandate which is to give to the Jews the third most Holy Place of Islam ran so high that a monster demonstration alone could give it expression. Vast crowds of Moslems of every race paraded the town, calling for a free, Arab, Moslem Palestine and protesting against the Jewish National Home. "Al Qibla" finds no words to describe the force of this wave of lofty Moslem sentiment. Pilgrims of every race of Islam participated, the Egyptians being especially notable for their zeal.

The Ulema, the Guardians of the Kaaba, and other notables, proceeded to the Mosque of Al Haram and there implored God to save from this disaster Palestine and other Moslem countries. The general assembly completely filled the Maidan of Qasr-al-Ali and rent the heavens with their cries of protest against the offence done to Palestine and to other countries—(variously described as "Islamic" and as "Arab")—by the policy of colonisation. Schoolboys carried Arab flags.

Their sighs and groans reached the ear of King Hussein, who appeared with the Emir Zeid, the Ministers and the Palestinian delegation. Sheikh Abdul Qader Muzaffer, president of the delegation, made a speech and evoked a storm of protest by pointing to a picture of the Mosque of Jerusalem, capped with a Zionist crown. King Hussein in a speech promised that all possible steps should be taken to ensure the realisation of Moslem wishes for Palestine. His Majesty later received representatives of the demonstrators until the hour of prayer.

Telegrams of protest against the Palestine Mandate.

Copies of those sent by the Palestinian delegation to "Al Mufid" of Bagdad, King Feisal and to the Emir Abdullah; by the Grand Qadi and other notables of Mecca to the League of Nations; and from pilgrims of Java, the Yemen, the Soudan (Sabr Ahmed Hamed Musa, of the White Nile Province), Kurdistan, Turkey, Egypt (Taj-ud-Din Mohammed, Ismail Metwalli and Es Sayed Ahmed Omar, of Shargieh, and Hufny Mustafa Shehata of Daqahlieh), Afghanistan, Syria, the Punjab (Wahid Baksh Pir Baksh), Hyderabad, Deccan (Ali Mohammed Qabatallah), and Bengal (Hankul Khan Samir-ud-Din), to the League of Nations, the Prime Minister, the "Times," the French and Italian Ministers for Foreign Affairs, "Le Temps," the Pope, and the Archbishop of Canterbury.

Kurdistan and Irak.

Representatives of the people of Sulaimania and Bagdad have declared themselves and their countrymen ready for any sacrifice to save Palestine from the Jews

and to safeguard the sanctity of Moslem Holy Places. (The names given—Haji Suleiman of Basrah, Haji Abbas of Sulaimania, &c.—are of little value for purposes of identification.)

Arrival of the remainder of the Palestine Delegation.

El Sayed Abul Khair Effendi Al Mowaqqa and El Sayed Amin Effendi Nurallah have reached Mecca.

Demonstrations in Jeddah.

A description of the manifestation of anti-mandate sentiments by townsfolk and pilgrims in Jeddah on lines similar to those followed in Mecca. Chief spokesman, Constantine Yanni. The foreign representatives' attitude.

The leading article of No. 104 of "Al Sabah" of Jerusalem is reproduced with comments.

No. 604.

Leading Article.

"An open letter to the League of Nations," signed by "a party of the sons of Islam in Mecca."

A vigorous appeal to the League of Nations to be true in this moment when all Western civilisation is on trial before the Moslem world, to the principles of article 22 of the Covenant, and not to act as catspaw to England and France. If the League accepts the Syrian and Palestinian mandates, the writer declares that what happened in Russia with the Bolsheviks is nothing to what will happen in the world of Islam. The League is adjured to reply to France and England with the words: "You shall not with our hands destroy to-day what with your own hands you constructed yesterday, nor will we become a rag for you to wipe the filth of your hands upon."

(The style throughout suggests that King Hussein is the author.)

Reception.

In honour of the Palestine delegation, given by the Emir Zeid.

Foreign Press.

"The Palestinian Question and the Moslem World," from "Al Mufid" of Bagdad.

No. 605.

"One of the readers of 'Al Qibla' in Mecca"—(from internal evidence the most distinguished)—contributes an article inspired by the Government's reply to Mr. Ormsby Gore on the 11th July.

Mr. Churchill is said to condemn himself out of his own mouth in admitting that His Majesty's Government gave an undertaking to King Hussein to recognise and support the independence of the Arabs within certain territorial limits, excluding the districts of Mersina and Alexandretta and the portions of Syria lying to the west of the districts of Damascus, Homs, Hama and Aleppo. The Arabs have yet to see this promise realised in respect of these four towns. What does it matter what Feisal may have said in 1921, since the language of the earlier pledge is clear? It is of no use explaining away the pledge with commentaries and exceptions. The Arabs know that they were promised their independence by Great Britain, when England and France were in sore need of help, and now, because of the surrender of Palestine to the Zionists, the encouragement of Wahhabism in the peninsula and the sanction given by His Majesty's Government to the servitude of Northern Syria, Great Britain's reputation for fair dealing is lost. The Arabs will know how to defend their rights, and every English stick and stone, if not the English people, will approve their action.

The Syrian and Palestine Mandates.

The League of Nations has approved these. This proves that the rôle of the League of Nations is that of a registry office only.

Egyptian Pilgrims in Quarantine.

"Al Ahram" of Cairo having protested against the imposition of twenty-four hours' quarantine on Egyptian pilgrims, "Al Qibla" points out that there was plague in Suez at the time, and suggests that the editor of "Al Ahram" should

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amuse himself with "Om Kalthum" (an Egyptian actress) or at the pigeon-shooting, and not with criticism of the Hedjaz Administration. A telegram in which Egyptian pilgrims complain of the arrangements made for their accommodation by the Egyptian Government is appositely reproduced.

Reception.

Given by King Hussein in honour of the Palestine delegation at the barracks in Mecca, with a review of troops, &c.

The Egyptian Mahmal.

Arrival in Jeddah reported.

No. 606.

Official Notice.

Explaining that the caravan of pilgrims which was stopped for two days by Bedouin at Watar and which later turned back to Mecca without visiting Medina, did so at the wish of the pilgrims themselves, after the camel men had offered to conduct them by another road to Medina. A statement to this effect, signed by some of the pilgrims, is reproduced The Government is enquiring into the matter. The pilgrims are said to have been afraid of arriving too late at Mecca if they continued their journey to Medina.

(Outside reports are emphatic that the Bedouin refused this caravan passage at all costs and bade them seek redress from King Hussein.)

Leading Article.

"Mandates."

The theory of mandates and the practice in Syria and Palestine are contrasted, in a tone which suggests that the last link binding the Arabs to England is now broken.

"We can see in this mandate—(that over Palestine)—no purpose except Great Britain's desire to provoke the Arabs in Arab countries and to compel them through hatred of herself to oppose her views and her aims by every possible means of essential defence. This is the fact and this the inevitable result which from hence-forward we must prophesy. We do so with great sorrow, for it was never our wish that the Arabs and the British should one day confront each other as foes."

Nejd Pilgrims.

We learn that more than 1,000 Nejd pilgrims will shortly arrive from Boreidah and Anezah, and that the Government has sent out a party to receive them and to protect them on their journey.

His Highness the Emir Ali.

Has arrived at Jeddah from Yambo: met by His Highness the Emir Zeid.

Mecca and Moscow.

King Hussein has received an appeal for help from Russian Moslems.

Ceremonial Reading of the "Sahih" of the Imam Bokhari.

This ceremony—(which is generally understood to signalise national affliction)—took place in the Mosque of Al Haram, in the presence of the Palestine delegation, when God was implored to avert impending disaster from the Arab and Moslem world in general and from Palestine in particular.

(No better means could have been found to impress the mass of pilgrims, who do not read "Al Qibla," with the idea that political developments in Palestine and the peninsula threaten the best interests of Islam.)

"Comedy and Tragedy."

Article reproduced from "Al Sabah" of Jerusalem.

No. 607.

Leading Article.

Addressed to the League of Nations, warning that body that the Hedjaz is in a delicate position owing to the impossibility of refusing help to brother Arabs in revolt against the Palestine and Syrian mandates.

The Arabs rely on God first and then on themselves—(hitherto Great Britain has always had the place next after the Deity in the King's effusion)—and they must defend their cause to their last breath.

Arrival of the Emir Ali in Mecca.

Description of the ovation His Highness received, with a review of troops, speeches and the recital of complimentary verses.

Arrivals.

The Syrian delegation: El Sayed Ahmed Bey Mariud; El Emir Ali Adil Arslam; El Sayed Mohammed Ismail Bey, with a private secretary, El Sayed Omar Shakir, of the newspaper "Al Falah," secretary of the League of National Defence of Ammam.

The Sahih of the Imam Bokhari.

Text of the eloquent prayer for the deliverance of the Mosque of Jerusalem from the Jews, offered during the ritual.

The Palestine Delegation.

Their reply to the Palestine Government's refutation of their alarmist propaganda.

The Egyptian Mahmal.

Arrival in Mecca.

W. E. MARSHALL, *Major, R.A.M.C.*

APPENDIX.

Shipping Intelligence.

Steamship.	Flag.	From—	To—	Arrived.	Left.	Pilgrims Disembarked.	Cargo Discharged.
							Packages.
Dakahlieh ..	British ..	..	Suez ..	..	July 11	..	..
Keneh ..	„ ..	Suez ..	„ ..	July 11	„ 12	866	..
Mansourah ..	„ ..	Port Soudan	„ ..	„ 11	„ 12	663	71
Sultania ..	„ ..	Basrah ..	..	„ 12	..	860	16,855
Akbar ..	„ ..	Bombay ..	..	„ 12	..	1,329	3,678
Jeddah ..	„ ..	Basrah ..	..	„ 13	..	437	506
Zayani ..	„ ..	Bombay ..	..	„ 14	..	1,004	750
Mahmoudieh.	„ ..	Suez ..	Suez ..	„ 14	July 14	719	..
Borulos ..	„ ..	„ ..	Port Soudan	„ 15	„ 15	480	4,342
Tawil ..	Hedjaz ..	Yambo ..	Akaba ..	„ 16	„ 17	..	..
Syria ..	French ..	Beirout ..	Suez ..	„ 16	„ 17	361	286
Berkshire ..	Egyptian ..	„ ..	Port Soudan	„ 16	„ 22	762	..
Acora ..	British ..	Bombay ..	..	„ 17	..	478	..
Asmara ..	Italian	Massaua ..	Suez ..	„ 20	July 20	202	1,169
Borulos ..	British ..	Port Soudan	„ ..	„ 21	„ 22	703	4
Massaua ..	Italian ..	Suez ..	Massaua ..	„ 22	„ 22	..	4,372
Keneh .	British ..	„ ..	..	„ 22	..	843	..
Mahmoudieh.	„ ..	„ ..		„ 23	..	525	..
Teucer ..	„ ..	Singapore ..	London ..	„ 24	July 25	241	300 tons.
Hedjaz ..	„ ..	Bombay ..	..	„ 24	..	638	5,281
Amazonia ..	Egyptian ..	Beirout ..	..	„ 24	..	452	18
Dakahlieh	British ..	Suez ..	..	„ 24	..	707	..
Tangistan ..	„ ..	Bombay ..	..	„ 25	..	727	..
Koweit ..	„ ..	Basrah ..	..	„ 25	..	59	8,556
Mansourah	„ ..	Suez ..	Port Soudan	„ 25	July 25	216	761
Tawil ..	Hedjaz	Akaba ..	„ „	„ 27	„ 28	..	..
Berkshire ..	Egyptian ..	Port Soudan	..	„ 29	..	180	4 mules.
Mansourah ..	British ..	Suakin .	Suez ..	„ 30	July 31	..	115
Tawil ..	Hedjaz ..	Port Soudan	..	Aug. 1	..	..	..
Asmara ..	Italian ..	Massaua ..	Suez .	„ 3	Aug. 3	..	376
Massaua ..	„	Suez ..	Massaua ..	„ 5	„ 5	..	305
Borulos ..	British ..	„ ..	Port Soudan	„ 5	„ 5	..	..
Antenor ..	Dutch ..	Amsterdam .	..	„ 9	..	..	6 tons.
Bahrein ..	British ..	Bombay ..	..	„ 10	..	..	..

The French cruiser "Colmar" arrived on the 14th and left on the 16th July, 1922.

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EASTERN (ARABIA). [March 6.]

CONFIDENTIAL. Mecca. SECTION 2.

[E 2478/120/91] No. 1.

Major Marshall to the Marquess Curzon of Kedleston,—(Received March 6.)

(No. 11.)

My Lord, *Jeddah, January 31, 1923.*

I HAVE the honour to transmit to your Lordship herewith my pilgrimage report for 1922 (mecca)

Copies of this despatch and report are being addressed to Cairo, Jerusalem, Bagdad, Aden, Delhi, Singapore and Khartoum.

I have, &c.

W. E. MARSHALL, *R.A.M.C.*,
Agent and Consul.

Enclosure 1 in No. 1.

Pilgrimage Report, 1922.

Pilgrimage.

DURING the pilgrimage of 1922, 56,319 pilgrims came by sea and disembarked at Jeddah. The first pilgrim boat arrived on the 21st February and the last on the 28th July. As usual, the majority of the Javanese and Singapore pilgrims arrived early and proceeded to Medina before the pilgrimage, while the Indians, Egyptians, Persians and Mesopotamians arrived during the months of June and July and proceeded to Medina after the pilgrimage.

The following table shows the number of pilgrims who embarked at different ports :—

Straits Settlements	6,550
Dutch East Indies	19,506
India	12,849
Soudan	4,850
Egypt	7,545
Basra	3,082
Beirut	1,575
Massaua	216
Aden	146

The number of pilgrims who arrived by sea was only 936 less than the number last year, and during the pilgrimages of 1920, 1921 and 1922 the numbers have been approximately the same. A feature of this year's pilgrimage has been the marked increase in the number of northern pilgrims, while the Javanese and Malay pilgrims were about 5,000 less than during the 1921 pilgrimage.

For the first time since the war an official pilgrimage, under the charge of Musaad-bin-Suweilim, came from Nejd. The pilgrims numbered about 2,000, and they were for the most part villagers from Boreidah and Anaizah districts. These pilgrims behaved well and there was no trouble of any kind between them and the Hedjaz Arabs. They did not go to Medina, but returned to Nejd after the Arafat pilgrimage.

Pilgrimage day was on the 3rd August, and the Id on the 4th, 5th and 6th.

The weather was favourable, the health conditions good, and reports received say it was a most successful pilgrimage. The number of pilgrims present at Arafat including local people, was estimated at about 65,000.

The first returning pilgrims left Jeddah on the 12th August, and by the end of August approximately 36,000 pilgrims had left the country. Owing to a lack of Indian pilgrim boats, the last pilgrim boat for Bombay did not leave Jeddah until the 22nd November.

The "Mahmal" arrived on the steamship "Dakahlieh" from Suez on the 24th July, and left for Mecca on the 27th July.

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The disembarkation and embarkation of pilgrims was, as a rule, carried out expeditiously and reflects a good deal of credit on the local authorities. There was also plenty of camel transport, and the pilgrims were able to proceed to Mecca soon after landing in Jeddah.

Public Health.

The health conditions throughout the pilgrimage were good. With the exception of smallpox, which has been endemic in the country since the pilgrimage of 1921, and which has remained of a mild clinical type, no infectious disease occurred. Throughout the summer the weather was much cooler than during the two preceding pilgrimages. The death returns have not yet been received, but I think the death rate for this year's pilgrimage will be low. It is said that only twelve deaths occurred at Arafat and thirty-four at Mona. So far the deaths of fifty-one Indians and fourteen Egyptians who have left property have been reported to us by the Hashimite authorities. The number of Javanese pilgrims who died during this year's pilgrimage is given as 1,454, but some of the caravans of Javanese pilgrims who went to Medina before the Hadj were caught in a "simoom" (dust storm) and a good many deaths (from heat exhaustion and fatigue) occurred in consequence. More than 1,000 Javanese pilgrims have remained in Mecca until the end of next year's pilgrimage.

Though the health conditions of the pilgrimage have been good, the sanitary conditions in the Hedjaz have not improved. Three Turkish doctors arrived for service under the Hashimite Government, but the hospital accommodation has remained as it was before, and all reports show that there is still a great lack of ordinary medicines.

Dr. Munir-ud-Din, the Indian vice-consul, reports as follows on the sanitary conditions of Mecca, Arafat and Mona :—

> "In Mecca the streets are generally dirty, as there are few scavengers and no public latrines. There are no dustbins, hence the night soil, sweepings and all other rubbish are thrown into the streets and from there they are only partially removed by scavengers. The meat, fish, sweet-meats, fruits and other prepared foods are exposed to dust and flies. The system for the disposal of excreta is a cesspool under each house, and this cesspool is emptied after the lapse of years. The smells which enter the houses from these cesspools are occasionally very offensive.
>
> "At Arafat the water channel of the Zubeida Canal runs underground through the camping area, but it is open at some places where the water is received in tanks for the use of the public. As all the people and the animals have access to these tanks, the water soon becomes muddy and contaminated. There were few flies and few mosquitoes, but owing to the absence of latrines, human and animal excreta was so abundant that it was almost impossible to avoid soiling the feet or shoes.
>
> "At Mona the water is protected. There were few flies and few mosquitoes. The slaughtering ground was kept in a fairly sanitary state, as the blood and offal were buried soon after the animals were slaughtered. The lack of latrines again led to extensive soiling of the ground. The death rate was low and the causes of death were exhaustion, debility and terminal diarrhœa in old people, dysentery and chronic lung diseases. There was no epidemic."

Public Security.

The public security in Jeddah and Mecca and on the Jeddah–Mecca and Mecca–Arafat roads was excellent, and we have received no reports of anyone molested or maltreated during the journey from Jeddah to Arafat. There were a certain number of robberies at Arafat, but the robbers were summarily dealt with according to Sharia Law.

On the Medina road, on the other hand, the public security was very bad, and the experiences of the pilgrims who proceeded to Medina has confirmed the fact that King Hussein has little or no control over the tribes who occupy the pilgrim routes to Medina, and that a tax levied by these tribes on the pilgrim caravans is an additional charge paid by the pilgrims. Unfortunately robbery, with and without violence, by the Bedouin attached to the caravans, was very common, and indiscriminate firing on the caravans by the Bedouin in the hills was the cause of many innocent pilgrims being ruthlessly shot.

Two caravans returned to Mecca without having reached Medina. In one case it was officially announced that the caravan returned because the pilgrims were afraid they would be late for the pilgrimage. The other caravan was stopped by Bedouin and forbidden to proceed.

One cannot get a better idea of the conditions than by quoting extracts from the reports of the pilgrims. An Indian pilgrim from Calcutta reports :—

> "Above all, it is the state of insecurity which harasses the mind of the Hajjis and makes them most uneasy in the Hedjaz. From Mecca to Medina and back from Medina to Jeddah we have nowhere felt the existence of any Government outside the town areas. Bedouin killed the Hajjis and beat them with impunity and fought amongst themselves, causing loss of life and property to the Hajjis. Hostile tribes fired on the caravans, wounding and killing Hajjis, looted their property and killed their camels. No Government official was with the caravans, and no one appeared at the halting-places to enquire about its safety. No action was taken by the Government when Hajjis were murdered, robbed or oppressed. It is a pity that the Hedjaz Government should appropriate so much of the money which the Hajjis have to pay and should not depute a single responsible officer with the caravans, and do other necessary things to secure and ensure the safety of life and property on these journeys of the Hajjis. It is intolerable that there should be no one to receive or enquire into the complaints for murder and other wrongs."

The report of Mohammed Beg, an Indian pilgrim from Lahore, gives such a graphic account of his journey to Medina and of his experiences on the Shereefian steamer "Tawil" that I attach it in full at the end of this report.

Making an allowance for some exaggeration in the various reports received, there is no doubt that the public security of the Medina road is very bad and there is no improvement from the conditions which prevailed last year. The Hashimite Government do nothing to redress these wrongs. An Indian pilgrim arrived in Jeddah with a gunshot wound of the thigh and pelvis received on the return journey from Medina. He died two days after his arrival in Jeddah. I at once reported the matter to Mecca, and asked that steps should be taken to punish those guilty of the murder. The Hashimite Government made all kinds of excuses, said they had not received a report from one of their doctors, said that the Mutawwifin had reported that all the pilgrims had returned safely, and that, therefore, the hostages had been released and that I must give them the name of the Mutawwif, even though I had already told them the house in which he died. I sent them a medical report by Dr. Munir-ud-Din, gave them the name of the Mutawwif, and insisted on an investigation. This they reluctantly agreed to, but since then I have heard nothing, and I do not expect to hear anything further on the matter.

Pilgrims are encouraged through Mutawwifin and others to make no complaint, as it is contrary to their religion, and that these hardships and dangers are a necessary adjunct to the pilgrimage. Only those who appeal direct to the King have a chance of redress; any complaint through a consul is almost universally useless.

Only two things appear to appeal to the conscience of King Hussein. One is the fear of what pilgrims may say on their return home, and the other is the fear of the press. As an example of the former, when Mirza Mohammed Beg, the Indian pilgrim, whose report is attached, returned from Medina every effort was made to pacify him when the authorities knew that he was writing a report for publication. His fare on the "Tawil" (*vide infra*) was refunded, the chief Muallim called on him, assured him that things would be made easier, and obtained his signature to a document saying that on these assurances he had satisfaction and thanked the King. He was also sent for by the Kaïmakam, who treated him with great deference and repeated the assurances of the Muallim.

A good example of the second was the case of a Javanese pilgrim who appealed to the Dutch consul for medical assistance as his wife was ill. The Javanese doctor was sick, so, at the request of the Dutch consul, I sent Dr. Munir-ud-Din. The Mutawwif would not allow him to enter the house. The Dutch consul took immediate steps to notify the local Government that he had found three Javanese journalists, and that he proposed to report the matter to them so that they might publish it in the Javanese press. The result was that in a very short time the Mutawwif was sent to make a most abject apology to the Dutch consul, and the local authorities expressed regret at the occurrence.

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Jeddah Customs.

Customs dues on pilgrims' effects were instituted for the first time, and at the beginning of the pilgrimage extortionate charges were made. The very clothes the pilgrims were wearing, if they were adjudged new by the customs authorities, were taxed, and on occasions the tax charged was 50 per cent. of the cost of the article. One Javanese pilgrim paid customs dues amounting to 29*l.* on his personal belongings.

As the pilgrims were complaining bitterly about these customs charges, I made representations to the Hashimite Government that customs dues on pilgrims' personal effects should be waived or moderated. In their reply the Hashimite Government notified me that the following articles brought by pilgrims would be exempt from customs dues :—

1. Rice, if not a full sack.
2. Oil, petroleum and sugar, if not a full tin.
3. Bread, called "Kajib," syrups and cocoanuts in any quantity.
4. Ihram clothes, all used towels and five new ones for each person.
5. All perfumes for private use.
6. Flour, lentils and wheat, not more than one sack per person.
7. All ladies' ornaments, silks, &c.

Though the Hashimite Government did not in all particulars, especially with regard to foodstuffs, carry out these regulations strictly, conditions were greatly improved.

A further hardship imposed on pilgrims was the customs dues of 50 per cent. levied on the import of Turkish Medjidies. No previous warning was given, and pilgrims from Bahrein and Mesopotamia, who had brought Medjidies, suffered considerable loss. A further order for the confiscation of all Maria Theresa dollars was given to the customs authorities, and some pilgrims from the Yemen, who arrived with no other currency, were penniless. The matter was referred to King Hussein, who said that the money should be kept in the customs and returned to the pilgrims on their return journey. In the meantime these pilgrims were left in the country without any means of support.

Some Afghan pilgrims arrived with a sack of rosaries in order to trade during the pilgrimage, as is allowed in the Koran. The cost of these was 800 rupees. The customs charge was 38*l.* gold.

Quarantine.

1. *Jeddah Quarantine.*—As in previous years, the Hasihimite quarantine authorities followed no definite rules. All boats from the south arrived from Kamaran with a clean bill of health, but almost without exception the pilgrims were sent to the quarantine islands at Jeddah for twenty-four hours. Pilgrims from the north were also, as a rule, quarantined for twenty-four hours. This, in my opinion, owing to the prevalence of plague in Egypt, was justified, especially as the boats from Egypt did not call at Tor, as, in my opinion, they ought to have done (article 128, International Sanitary Convention).

Not only were the pilgrims sent to the quarantine islands, but the steamers from the south were kept in quarantine, and the agents, pilot and coolies treated accordingly. The Dutch consul and I protested strongly against this, and Dr. Thabit, in his reply to the Dutch consul, said that he would not accept the word of any ship's doctor as to the presence of any disease on board.

Unfortunately these rules were not universally applied, and distinctions were made between different shipping companies. A new line of pilgrim steamers belonging to Nemazee, of Hong Kong, with Haji Zainal Ali Reza, the Kaïmakam's firm, as agents, were treated much more leniently than the Dutch and Blue Funnel boats. The ships' officers were allowed to disembark without disinfection, and the ships allowed *libre pratique* after the pilgrims had disembarked and left for the quarantine islands. On the arrival of the steamship "Jeddah" (Arab Steamers (Limited))—agents, Messrs. Gellatly, Hankey and Co.—the ship was put in quarantine for twenty-four hours and the captain was forbidden to come ashore. Nevertheless, one first-class pilgrim, Dr. Mohammed Hussein, at one time Indian vice-consul in Jeddah, was allowed, with his family, to disembark direct without going to the quarantine island. On the same day the Italian consul, Dr. Torré, who is also a medical man, went on board an Italian boat which was in quarantine. On the following morning the Minister for Foreign Affairs at Mecca sent a telegram to

all foreign representatives stating that the Government intended to take action in the matter, and that they would not recognise the qualifications of any representative of any Government who interfered in such important questions. In my reply I referred to the case of Dr. Mohammed Hussein, and presumed that he was allowed to disembark because he was a medical man, and that I could not understand why the same courtesies *re* quarantine should not be extended to Dr. Torré. In their reply the Government said that Dr. Mohammed Hussein was allowed to disembark because he was a first-class passenger, and therefore exempt. When I sent them a list of the first-class pilgrims from the same ship who had gone to the quarantine island they had no reply to give. King Hussein, on discussing the matter later, said that we must remember they were a young country, and had still much to learn.

Two more examples may be quoted to show the arbitrariness of the Jeddah quarantine. An Italian boat arrived from Suez and was put in quarantine. A few minutes later Dr. Thabit found that three Turkish doctors, travelling third-class, had arrived for work with the Hashimite Government, and the quarantine was at once abolished and the steamer given *libre pratique*. The second was the steamer "Borulos," on which I returned from leave early in April. At Yembo there was no quarantine, and people from the shore flocked on board. On arrival at Jeddah twenty-four hours later the steamer was kept in quarantine during her stay in Jeddah harbour.

Owing to the repeated demands of the Dutch consul and ourselves to know what regulations the Hashimite Government were following in their application of quarantine laws, the Hashimite Government notified us in May that they would follow the "Dispositions applicables aux pèlerins et aux navires à pèlerins pendant le pèlerinage du Hedjaz de 1913," published by l'Administration sanitaire de l'Empire ottoman. They asked us to notify them if these regulations were not carried out by the local quarantine authorities.

I pointed out to the Minister for Foreign Affairs that these regulations were issued annually by the Sanitary Administration of Constantinople and that the latest publication was 1914. I further pointed out that Turkey had signed the International Convention of 1912, and that these regulations were published in accordance with that convention.

2. *Kamaran Quarantine.*—All pilgrim boats from the south called at Kamaran for the disinfection and quarantine of pilgrims, and all arrived here with a clean bill of health. On the return journey boats for the Dutch East Indies and Singapore proceeded direct, while up to the 30th August all boats for India and the Persian Gulf called at Kamaran for medical inspection. We had, however, been in telegraphic communication with Aden and India on the subject, and, as the pilgrimage was clean, the call at Kamaran was abolished after that date.

3. *Egyptian Quarantine.*—With regard to the official Egyptian pilgrimage, carried on three steamers, and those Syrian pilgrims who came on special steamers from Beirout, there was little or no difficulty, but we had again great difficulties with regard to pilgrims and passengers travelling to Egypt on the ordinary mail steamers—non-pilgrim boats—the Khedivial Mail Steamship Company and Marittima Italiana Company. On the 18th August the local agents of the Khedivial Mail Line received from their managing agents in Alexandria the following telegram :—

> "Quarantine have decided until further notice all passengers class and deck Egypt, yours and Yembo, will be considered pilgrims and disembarked Tor till following mail steamer; only passengers on board before arrival of steamer yours considered passengers."

As I considered this decision to be not only unjust in its discrimination against passengers embarking in the Hedjaz, not all of whom are pilgrims or even Mussulmans, but also illogical in its exemption of passengers embarking in the Soudan, since these are compelled to share with Hedjaz suspects the promiscuity of deck passage, I telegraphed to the Foreign Office and to his Excellency the High Commissioner for Egypt, protesting against the ten days' quarantine, which would be thereby imposed at Tor on all passengers embarking on mail boats at Jeddah, pointing out that such was contrary to International Convention, and justified by nothing in the health conditions of the pilgrimage. The Quarantine Board replied that it was three and not ten days' quarantine, but, as the mail steamers call at Tor every ten days, it meant ten days' detention at that place.

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Under the International Convention in force there is no regulation which makes it compulsory for a non-pilgrim ship to call at Tor. The Egyptian Quarantine Board, Alexandria, in their session of the 21st September, 1920, decided that :—

"Les navires ayant à bord des pèlerins de la dernière classe en proportion moindre d'un pèlerin par cent tonneaux de jauge brute, ne sont pas considérés comme navires à pèlerins; mais les pèlerins de toutes les classes amenés par lesdits navires subiront les mesures générales imposées aux pèlerins.

"Les bateaux en question qui ne font pas escale à Tor débarqueront leurs pèlerins à Suez, au lieu de Tor, pour subir les mesures réglementaires."

The Khedivial Mail Line makes Tor a port of call, the Marittima Italiana does not. Yet in spite of this circumstance the Italian mail steamship, "Massaua," which left Jeddah on the 17th August was ordered back from Suez to Tor by the Egyptian authorities. The Italian company then refused to carry any more passengers from Jeddah, and the only means of communication with Egypt was a Khedivial mail steamer every ten days, and as these boats only carried 1 per cent. deck passengers, one can appreciate the hardship involved to merchants and others wishing to proceed to Egypt, Syria and Palestine in the ordinary course of business.

I submit that the quarantine measures imposed by the Egyptian Quarantine Board upon passengers from the Hedjaz to Egypt are as unreasonably severe as their neglect to impose quarantine measures at Tor upon Egyptian pilgrims southward bound was incomprehensible. From the 1st January, 1922, to the 6th July, 1922, the number of cases of plague reported in Egypt was 314, and yet not only were pilgrims not detained at Tor on their way to the Hedjaz, as required by article 128 of the International Convention, but the Quarantine Board telegraphed to me on the 6th July last expostulating against the imposition of twenty-four hours' quarantine at Jeddah upon these pilgrims, a measure for which the Hashimite Government had every justification, not least in their memory that plague occurred in Suakim in June 1921, the infection of which was almost certainly brought from Suez. The neglect of article 128 of the International Convention by the Egyptian authorities threatened more seriously than any other single circumstance the health of this year's pilgrimage.

On the other hand, the extension of Egyptian quarantine measures involving detention at Tor, first to pilgrims travelling by non-pilgrim ships, and now to all travellers from the Hedjaz, whether pilgrims or not, finds little justification in the health of recent pilgrimages. Were the pilgrimage infected one could understand the Egyptian authorities taking every precaution, and we would give them every assistance in our power, but when the pilgrimage is clean I can see no necessity for these elaborate, and, I think, unjustifiable steps.

We again had considerable difficulty about the passage of non-Egyptian pilgrims through Egypt. While many Syrian pilgrims came on special boats, and many Palestinians came with the official Egyptian pilgrimage, a large number of pilgrims, Palestinian, Syrian, Tunisian, Algerian and Moroccan came as ordinary passengers viâ Egypt. There was also a certain number of West Africans who came viâ England and Egypt. The agents of the Khedivial Mail Line received the following letter from the company :—

"*Return pilgrims.*

"In reply to your remarks we beg to inform you that the Egyptian authorities will not allow any foreign pilgrims to land in Egypt under any circumstances, and you must therefore absolutely refuse to book any by our steamers."

I telegraphed to his Excellency the High Commissioner, Cairo, and received a reply that the Egyptian Government had not refused permission for transit through Egypt to non-Egyptian pilgrims, though they adhered in principle to articles 131 and 137, Sanitary Convention.

These two different interpretations did not help us much in our difficulties, nor did it faciliate the passage of these pilgrims, because the Khedivial agents had to obey the orders from the company. Some of the pilgrims went by the French boat to Beirout, and some went on the Shereefian steamer, "Tawil," to Akaba. The West Africans, who had ample means, and who had booked a return passage from Egypt, went viâ Port Soudan.

I do not think the new regulations, No. 131, proposed by the Commission of the League of Nations will be of much assistance unless the Egyptian authorities agree that all pilgrims who come viâ Egypt as ordinary passengers are allowed to return by that route, and their passports stamped accordingly. If we have to get permission for individual cases or groups of cases, there will be considerable delay, and, if telegraphic communication is used, considerable expense.

Until something is done to lessen these severe quarantine measures for northbound pilgrims and passengers we will have no improvement in the quarantine conditions at Jeddah. The liberty to observe or not to observe the International Convention, as it suits them, which the Hashimite Government exercise to the general discomfiture is justified by them with the argument, repeated *ad nauseam*, that, since the authorities in Egypt can by such a decision as that taken by the Quarantine Board at their session of the 21st September, 1920, impose a local and not universally acceptable interpretation of an article of the convention (article 89) similar license to make and to impose "local" rules must be allowed to the quarantine authorities in Jeddah.

Shipping.

As in previous years, the shipping arrangements for the Javanese and Malay pilgrims were excellent. The vast majority of the pilgrims came early and visited Medina before the Hadj. Immediately after the pilgrimage there was a steady stream of Blue Funnel and Dutch boats to take returning pilgrims, and early in September the majority had gone. After the Medina pilgrimage boats called for the small number of Javanese and Singapore pilgrims, who went to Medina after the Hadj, and for the stragglers. The last boat left on the 6th October. Even for a small party of stragglers these companies will always send a steamer.

Four different shipping companies carried the pilgrims from Indian ports. The Bombay–Persia Steam Navigation Company (Mogul and Arab Lines), the Persian Gulf Steam Navigation Company, Mr. Nemazee and Mr. Dada Mia Khandwani. Nine hundred and sixty-five return tickets were issued, and these were all issued by the Bombay–Persia Steam Navigation Company; the remaining companies issued single tickets only.

Owing to the competition, the pilgrim fares were low, but this is a doubtful blessing, as, by the issue of single tickets many poor people are tempted to make the pilgrimage and are destitute in Jeddah at the end of the pilgrimage. The Indian shipping arrangements worked smoothly this year, and the only drawback was the lack of shipping after the Medina pilgrimage. This is probably due to the fact that (1) the number of pilgrims after the Hadj, reported by the Hashimite Government as having gone to Medina, was greatly below the actual numbers; (2) many of these pilgrims are destitute, and it does not pay the company to take them at a low fare; and (3) owing to the fact that return tickets were not issued by three of these companies they were under no obligation to take the pilgrims back. There are still, in January 1923, forty-two Indian pilgrims awaiting passage to India.

The Egyptian pilgrims came in three steamers, the "Dakahlieh," "Mahmoudieh" and the "Keneh." After the pilgrimage the first named took the Mahmal party to Tor, and then carried the pilgrims from Tor to Suez, while the other two steamers carried pilgrims from Jeddah. This was a most excellent arrangement. There were, however, two drawbacks. One was that the Egyptian official sent, as in former years, to superintend the embarkation of Egyptian pilgrims had no idea of the number of pilgrims who had embarked, and apparently sent out pilgrims until the steamer refused to take any more, with the result that the steamers were, on two occasions, overcrowded, and the "Mahmoudieh," on her last trip, carried less than ten pilgrims. The second is the fact that a good many Egyptian pilgrims, who came with the official Egyptian pilgrimage, went to Medina after the Hadj, and no shipping arrangements were made by the Egyptian Government for their return. These numbered at least 300, and if the Egyptian official in charge of the embarkation had done his work properly, he would have cancelled the last trip of the "Mahmoudieh," when she took less than ten pilgrims, and arranged for her to come after the Medina pilgrimage. It is true that the Egyptian Government offered to send a boat after they were sure that all the pilgrims had returned from Medina, but, in the meantime, the Egyptian pilgrims at Yembo, short of funds and stranded in a town where there are few conveniences for pilgrims, petitioned King Hussein, who sent them on the Shereefian steamer, "Tawil." All those who could not pay were taken free of charge.

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The purchase of two steamers, the "Tawil" and the "Rushdi," by the Hashimite Government, and the entry of these steamers into the pilgrim traffic, showed the Hashimite Government quite incapable of running these steamers, and in consequence great hardships were inflicted on the pilgrims who travelled in these small steamers. The "Tawil" is a boat of about 250 tons and the "Rushdi" about 50 tons. The "Tawil," in August, took 640 pilgrims to Hodeida and arrived in Kamaran on the 20th August (despatch No. 136 from Political Resident, Aden). The pilgrims, owing to overcrowding, were in a most deplorable condition, and there was not a single drop of fresh water on board when the steamer reached Kamaran. Five died at Kamaran as the result of starvation during the voyage. There was no medical officer on board.

The same steamer then proceeded to Suakim with Soudanese and Takruri pilgrims and arrived there on the 31st August with 701 pilgrims and without a doctor on board. The Quarantine Board decided that the captain should pay the penalty for the contravention of the rules of the International Sanitary Convention. It seems a pity that, before this step should be taken, warning was not sent to the Shereefian Government, because it was pointed out that the same boat, under the Italian flag and called the "Paolo," carried, during the 1921 pilgrimage, 570 pilgrims to Suakim without a doctor, and even smaller Italian steamers, the "Serpentara" and the "G.-38," carried 419 and 520 pilgrims to Suakim, also without a doctor, and no action had been taken. Also the "Keneh" and "Mahmoudieh," owing to the reason given above, carried an excess number of pilgrims to Tor, and again no action had been taken. I am glad that the Quarantine Board decided to take no action this year, but decided to apply these regulations strictly next year. The whole question of the transport of pilgrims to Suakim wants looking into. Unfortunately, the regulations published by the Soudan Government in "Gazette No. 404" of the 15th November, 1922, does not promise much assistance because, though the regulations are for the "protection of Soudan pilgrims and native passengers travelling by steam vessels and native craft to and from the Hedjaz," the regulations appear to apply to steam vessels only, and can have little or no reference to native craft. These regulations for steam vessels are in some cases vague and in some cases—such as that each steamer must carry sufficient lifeboat accommodation for passengers and crew—too severe for a journey of eighteen hours. Some native dhows carry a large number of pilgrims to Suakim, and I cannot see how the conditions can be anything but very unsatisfactory from the overcrowding, lack of proper latrine accommodation, &c. One dhow, the "Elelaoui," arrived at Suakim on the 14th December with 279 pilgrims, the "Moubachir" on the 2nd November with 212 pilgrims, "Elmanchial" on the 17th October with 287 pilgrims, "Elmagraba" on the 23rd October with 224 pilgrims, "Elabbas" on the 13th October with 244 pilgrims, and altogether after this pilgrimage 1,677 pilgrims, including 151 infants, were carried in eight dhows to Suakim.

The "Tawil" made two more journeys to Suakim, arriving there on the 8th September with 599 pilgrims and on the 20th September with 627 pilgrims. On each occasion the boat carried a doctor.

The next trip of the "Tawil," and the worst, was the transport of not less than 800 pilgrims from Yembo to Jeddah in September. The conditions, due to overcrowding, lack of water and lack of sufficient latrine accommodation, were very trying for the pilgrims. They were so crowded that they could not move from their original position, could not reach the latrines nor the water tanks, and the conditions, with both male and female pilgrims crowded so close together and using basins and cooking articles for latrines, can better be imagined than described. The steamer spent thirty-six hours on the journey and it was said that six pilgrims died during the voyage. The other Shereefian steamer, the "Rushdi," also brought 360 pilgrims from Yembo to Jeddah, and the conditions on that boat were equally bad. The pilgrims complained very bitterly, and I wrote to the Hashimite Government drawing their attention to the terrible conditions on these boats and asking what steps had been taken to deal with those responsible for such a state of affairs, and to prevent a repetition of these atrocities. The reply was entirely irrelevant, but at the same time word must have been received at Mecca that the pilgrims were writing reports, because the mutawwifin were ordered to pay back to the pilgrims the cost of the passage, and assurances were given that things would be looked into and put right. This was done, and on the subsequent voyages of these steamers no complaints were received.

The last voyage of the "Tawil" for this season was when she embarked 183

Egyptian pilgrims and 50 Syrians at Yembo, disembarked the latter at Akaba and the Egyptian pilgrims at Suez. The quarantine authorities at Suez found the conditions on board very bad, and that the steamer was quite unsuited for the transport of pilgrims.

For the first time since the war three special steamers ran between Beirout and Jeddah for the transport of Syrian pilgrims. Owing to the difficulty of transit of foreign pilgrims through Egypt we can only hope that this plan will also be followed in the future in the case of North African, Palestinian and Turkish pilgrims.

Pilgrim Expenses.

Inspector Hakim Said Hassan, M.B.E., Indian police officer, has worked out in rupees the minimum expenses incurred by a pilgrim during the Mecca and Medina pilgrimages after he reaches Jeddah harbour.

The same officer has also worked out the taxes from pilgrims which go to the Hashimite Government, and the results are shown in the following tables:—

I. Minimum expenses per pilgrim:—	Rs.	a.	p.
1. Porterage of luggage from steamer to sambuk ...	0	8	0
2. Bakhshish to quarantine people (Jeddah Islands)	0	4	0
3. Bakhshish to boatman	0	8	0
4. Sambuk hire	2	0	0
5. Porterage of luggage from sambuk to house ...	0	9	0
6. House rent at Jeddah, one night	0	4	0
7. Wakil's fee at Jeddah	2	8	0
8. Camel hire to Mecca, half-camel	7	0	0
*9. Shughduf hire to Mecca or price of shibri ...	2	0	0
10. Municipal dues on shughduf at Jeddah ...	0	4	0
11. Stamps for passport at Jeddah	0	2	6
12. Wages of servant to Mecca	0	4	0
13. Bakhshish to servant	0	4	0
14. For halt at Bahra	0	4	0
15. Bakhshish to camelman to Mecca	0	8	0
16. Moallim's fee at Mecca	12	0	0
17. Zamzami's fee at Mecca	2	0	0
18. House rent at Mecca	10	0	0
19. Bakhshish to Haram people at Mecca	0	4	0
20. Camel hire to Arafat and back to Mecca, half-camel	12	0	0
21. Shughduf hire to Arafat and back to Mecca, half-camel	3	0	0
22. Tent hire for Arafat	2	0	0
23. House rent at Mona	1	0	0
24. Camel hire to Medina and back, half-camel ...	116	8	0
25. Shughduf hire to Medina and back, half-camel ...	6	0	0
26. Wages of servant to Medina	5	0	0
27. Charges for lighting on Medina way	5	0	0
28. Bakhshish to camelman, both ways	30	0	0
29. Bakhshish to camelman, both ways, guard duty	13	0	0
30. Muzawwir's fee at Medina	6	0	0
31. House rent at Medina	4	0	0
32. Koshan from Medina, half-camel	2	8	0
33. Camel hire from Mecca to Jeddah	6	0	0
34. Shughduf hire to Jeddah	4	0	0
35. House rent at Jeddah, one night	0	4	0
36. Medical certificate at Jeddah	2	8	0
37. Porterage of luggage from house to sambuk ...	0	6	0
38. Sambuk hire to steamer	1	0	0
	261	9	6

* Owing to the shortage of shughdufs the hire in the end had gone up to 10 rupees per pilgrim.

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II. Taxes paid to the Hashimite Government :—	Rs.	a.	p.
1. From sambuk hire (Nos.4 and 38) 2½ per cent. ...			
2. From camel hire (No. 8) as Koshan	2	8	0
3. Municipal dues (No. 10) per shughduf ...	0	2	0
4. For stamps for passports (No. 11)	0	2	6
*5. Moallim's fee (No. 16)	12	0	0
6. From camel hire (No. 20.) as Koshan	2	8	0
7. From camel hire (No. 24)	44	0	0
8. Koshan per camel from Medina (No. 32) ...	2	8	0
9. Fee for medical certificate (No. 36)	2	8	0
	66	4	6

Inspector Hassan works out the minimum expenses at approximately 260 rupees per pilgrim and this does not include food and water, nor does it include the cost of transport from and to India.

The amount which goes to the Government in taxes works out at 66 rs. 4 a. 6 p. per pilgrim, plus 2½ per cent. of the sambuk hire, and plus the quarantine and entrance tax, now 90 Turkish piastres, making a total of not less than 78 rupees per pilgrim, or approximately 5*l*. per pilgrim.

The quarantine dues for next season's pilgrimage have been raised by the Hedjaz quarantine authorities from 37½ Turkish piastres to 90 Turkish piastres. Of this sum 40 Turkish piastres is for quarantine dues, and the remaining 50 Turkish piastres for landing permit dues. These dues are charged at the fixed rate of 112 Turkish piastres to the gold pound sterling, and, as in previous years, is charged in the pilgrim's ticket and paid by the shipping agents in Jeddah.

There is no doubt the pilgrimage is becoming yearly more expensive, and compares very unfavourably with the pilgrimage expenses in the time of the Turks.

Indian Pilgrimage.

This year we began the registration of Indian pilgrims. Four thousand, eight hundred and seventy-seven Indian passports, containing the names of 8,583 Indian pilgrims were registered at the agency, and was a very useful record for future reference. Two hundred and sixty-eight pilgrims deposited at the agency money totalling 58*l*. and 84,917 rs. 15 a. The amounts were kept by Inspector Hakim Said Hassan. Depositors Nos. 32, 65, 127, 137, 157, 159 and 216 died, and the money was paid to the heirs of the depositors whom they had nominated at the time of making the deposit. Depositor No. 158 and his heir both died, so the money was sent to the Deputy Commissioner of Dera Ghazi Khan. Depositors No. 156 (120 rupees) and No. 252 (140 rupees) have not yet turned up to claim their money.

Pilgrims holding return tickets deposited 713 coupons at the agency for safe custody. They were given receipts on their passports. Seven hundred and eight coupons have been withdrawn, while five are still unclaimed

As in past years the Beit-ul-Mal at Mecca and at Jeddah collected the effects of the deceased pilgrims. No passports were collected, no efforts were made to find out the full address of deceased pilgrims, the names were not taken down correctly, and, as in previous years, the work of these departments was entirely unsatisfactory.

This year the number of destitute Indian pilgrims was greater than in past years. The reason for this was threefold :—

1. The majority of the pilgrims came on single tickets, and had not sufficient money to keep them in the Hedjaz or to purchase a ticket for the return journey.
2. Owing to the competition between the different shipping companies it was possible to obtain single tickets at a very low rate—35 rupees a head—and many pilgrims were tempted to make the journey without preparing for future needs.
3. It is now a well-known fact among the pilgrims that they will be repatriated, and they take no precautions to save money for the return journey.

This year the destitute pilgrims were repatriated at the expense of the Central Hadj Committee of India. One thousand and fifty-four pilgrims were repatriated

* The whole of the moallim's fee is taken by the Government, and the moallim thus uses other means to get enough out of the pilgrim to suffice him for the whole year.

at the rate of 25 rupees per pilgrim, making a total of 26,350 rupees. The cost of food put on board for these pilgrims was 3,389 rs. 8 a., making a grand total of 29,739 rs. 8 a. The amount originally voted by the Central Hadj Committee was 24,000 rupees, but this was found not to be sufficient, and they wired authority to spend an additional 7,500 rupees. The work of repatriation and of administering this fund was in the hands of a local committee of Indians, with His Majesty's agent and consul as president and the Indian vice-consul as secretary.

As we still had a certain amount of money in the old destitute fund (subscribed some years ago by local people) I tried this year the experiment of issuing money on loan. Receipts were taken and forwarded to the district authorities concerned. Also 182 repatriated pilgrims promised to repay the cost of the ticket to the Central Hadj Committee, and lists, with receipts, were sent to that committee for necessary action.

Conclusions.

The pilgrimage for 1922 was, so far as the pilgrimage to Mecca and Arafat was concerned, a success. The health of the pilgrimage also was good, and the death rate low. The public security on the Medina road, however, shows no improvement, and the pilgrims are being more and more exploited as a source of revenue both by the Hashimite Government and by the people of the Hedjaz. The ordinary passenger service to Suez after the pilgrimage was completely disorganised as the Italian steamers refused to take passengers, and the Khedivial Mail Line, so as to avoid quarantine of their steamers, could only take a very small number. The large number of Indian destitute pilgrims, increased from 500 in 1921 to 1,054 in 1922, is a disgrace to our Indian administration, and has still further lessened the prestige of the Indian pilgrim in the eyes of the local inhabitants. The entrance of the Hashimite Government into the pilgrim shipping traffic was a tragedy, and so far as the coastal traffic on the Arabian coast is concerned, a difficult thing to remedy. The Egyptian pilgrimage was well organised, but the failure of the steamers to call at Tor on the southward journey was greatly to be deprecated.

With regard to the pilgrimage for 1923, it would appear useless to reiterate recommendations which so far, in regard to the Indian pilgrimage, have borne no results. Nevertheless, a scheme for the better control of Indian pilgrims will be submitted, in a separate despatch, by Mr. Vice-Consul Grafftey-Smith. I am more than ever convinced that the only way to deal with the question of destitute Indian pilgrims is to institute compulsory return tickets. The pilgrims knew about the repatriation fund when they left India, and quite early in the pilgrimage two destitute Indians came to the agency and demanded to be sent back at the cost of that fund. Inspector Hassan informs me that some Indian pilgrims have done two pilgrimages in the last four years, and have been repatriated on each occasion. The local committee found it extremely difficult to find out who were really destitute, but there is no doubt that the majority are destitute, because on arrival in Jeddah after the pilgrimage they camp in the streets and they have not the wherewithal to pay for a lodging.

The Indian Government have demanded the return to India of Inspector Hakim Said Hassan, M.B.E., and he will leave Jeddah by the first boat for Bombay. He will be a great loss to this agency, where, for more than five years, he has been invaluable and indefatigable in pilgrim work. His knowledge of the language, the country, and the people is a great asset, and if he is not replaced by a suitable man the work of registration of Indian pilgrims, which was begun this year, and which is a step in the direction of that pilgrim control which we consider essential, will undoubtedly suffer. I envy the Dutch in their control of the pilgrimage. They have more pilgrims than any other country. They have no destitutes. They have little or no trouble with shipping. The pilgrims are well disciplined and well behaved. The prestige of the Javanese pilgrims is higher than that of other foreign pilgrims.

It seems a pity that the Commission of the League of Nations on Quarantine did not visit Jeddah while they were in the Near East. They could have interviewed the foreign representatives and the local authorities and conceived an idea of our difficulties with regard to quarantine before putting forward recommendations for the amending of the International Convention.

If the pilgrimage is clean I think the call at Kamaran for returning pilgrim boats should be abolished, and, also, any steamer proceeding to the Hedjaz from the south with less than 1 per cent. sick pilgrims on board need not call at Kamaran on the northern journey.

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I again submit that the quarantine measures imposed on ordinary passengers proceeding north after the pilgrimage are unjustified. Also, I must protest against the breaking of article 128 of the International Convention in that Egyptian pilgrim boats did not call at Tor on the southward journey. What would have happened if the local authorities, instead of imposing twenty-four hours' quarantine at Jeddah, had ordered the boats back to Tor? It was perhaps fortunate, in this case, that the Hashimite Government did not recognise the International Convention. As I have previously stated, if the pilgrimage were infected, we would be only too ready to assist the International Quarantine Board and the Egyptian Government in their endeavours to prevent the infection reaching Egypt, but when the pilgrimage is clean I can see no necessity for these elaborate precautions. Our intelligence on the health of the pilgrimage is, I think, trustworthy. Dr. Munir-ud-Din, the Indian vice-consul, was present with the pilgrimage, there are two Egyptian doctors with the Mahmal, there was a doctor with the official Palestine pilgrimage and Dr. Mohammed Husseini, the Egyptian doctor in Mecca, keeps me informed of the health conditions and always reports if any infectious disease occurs. In addition two of our staff, Inspector Hassan and Ismail Effendi, our chief translator, were on the pilgrimage. The latter is *persona grata* with the King, and was allowed to talk to me on the telephone whenever he wished to do so. The French consul, Captain Ibrahim Depui, telephoned to me from Mona purely to report on the health conditions.

I expect that, with the advent of the Shereefian steamers into the pilgrim traffic, the Akaba route will be more used than formerly for Syrian and Palestinian pilgrims. In the "Kibla," No. 649, of the 1st January, 1923, the Hashimite Government announces that the Hedjaz Railway is being repaired at the expense of King Hussein, and that they hope it will be running for the pilgrimage of 1923. In my opinion, this is a forlorn hope, but in this connection I must point out with regard to future quarantine arrangements, that Maan is now administered by the Hashimite Government and not by Transjordania. We have no reason to hope that any quarantine station at Maan under the direction of the Hashimite Government will be a success.

I think the Egyptian Government, whose shipping arrangements were excellent, should arrange for a steamer to call for the pilgrims remaining after the Medina pilgrimage. Also, I consider that, for the present, the Egyptian official in charge of the embarkation of the pilgrims should work at this agency under our supervision instead of independently. The officials who did this work in 1920 and 1921 were retired Egyptian army officers, and always worked in close co-operation with this agency. The official who did the work this year, and who had apparently no idea of administrative work, remained in the customs and did not even report at this agency until I sent for him. He also made a very bad impression on the local authorities as, before his departure, he did not call on the Kaïmakam to thank him for the office and other facilities which were placed at his disposal by the local authorities.

In a despatch written on the 24th October, the Governor of the Straits Settlements has drafted a scheme for the protection and control of the Malay pilgrimage. With the recommendations contained therein, we are in complete accord, and so far as the Jeddah part is concerned, we are ready to assist in what promises to be a great help to the Malay pilgrims. Briefly, the scheme is the purchase of compulsory return tickets, full registration of names and addresses, names and addresses of next-of-kin, affixed photographs, pilgrims to report at the British agency, Jeddah, within twenty-four hours after disembarkation, deposit of return tickets and a written agreement signed by each pilgrim.

These recommendations are very closely allied to the scheme adopted by the Dutch in their supervision of the Javanese pilgrimage, and offers, in my opinion, the same prospect of success.

In conclusion, I beg to express our thanks to the Persian Gulf Steam Navigation Company, Bombay, who, through their local agent, Sheikh Suleiman Gabil, carried all the destitute Indian pilgrims at the low rate of 25 rupees per head.

W. E. MARSHALL, *R.A.M.C.*,
Agent and Consul.

Jeddah, January 15, 1923.

Enclosure 2 in No. 1.

Mahommed Beg to Major Marshall.

Sir, *Jeddah, October* 2, 1922.

I MOST respectfully beg to lay down the following facts to your benign notice, hoping you would kindly take such steps as would ensure the safety, both of life and money, of the Indian pilgrims in Arabia.

The caravan started on the 20th August, 1922, for Medina, and we were told by our muallim that 230 rupees per camel was the rate of fare (per camel) fixed by the Shereef of Mecca, who had arranged with the hostile tribes, and that there was no danger on the way. Another sum equal to 30 rupees was to be paid for the shughdufs, muallim and zamzami charges. On this assurance that 230 rupees was the fare from Mecca to Medina and back to Jeddah we, or myself, took 125 rupees with me and 367 rupees was sent through the Delhi shop at Jeddah. On the way we had to feed the jammal or the camel-keepers with plenty of ghee and had to pay them 1 rupee daily besides the backshish for tea and tobacco, and yet we were not allowed as little ration as would take us to Rabik, whence we bought more.

We reached Asfan, when we heard that several foot passengers were looted and killed by the Bedouin. We stopped at this place for the whole day and the night, in the latter part of which an Egyptian lady was attacked by the Bedouin, but on a hue and cry being raised, one of her relatives got a wound on his head, but there was no loss. The Bedouin were firing from the hills, and we could see them moving about.

We went on till we left Gadima on the 25th August, and were proceeding in our shughdufs when all at once the camel train stopped and a great noise in the front was heard, and we could see the Bedouin and the camel-keepers firing at each other. We were all thunderstruck, as bullets were passing over our heads like showers of rain. One bullet came in my shughduf, but by a miracle, after tearing some clothes, remained stuck in the bag tied to the side of the shughduf. I produce it to show it to you. Our muallim cut off the train of his caravan and took a side bye-path to avoid the scene of trouble, but still the caravan suffered at the hands of the Bedouin, as two women were shot and died the following night and were buried in Rabik the next day.

We left Rabik on the 28th at about 12 noon and were proceeding when there was trouble again and shots were fired from the surrounding hills, but we were passing hastily through danger. I cannot say whether there were deaths or not, as the train of camels was too long and I could not see what happened in the front or rear.

We reached Beir Hassan on the 30th and were detained for two days. We heard several shots during the night and the day following, and the result was that we had to pay 2 mejidis per camel.

On our way from Khalas to Bir Abbas on the 2nd September we were again surrounded by the Bedouin and shots were profoundly poured on us, but we did not stop and nothing can be said what loss of life occurred here again. At this place we were detained for six days and consumed our rations. We suffered a deal from suspense, heat, exposure, and at last were asked to pay a guinea each camel, but again it was found that the sum thus collected would not meet the demand of the Ahmadi tribe. The camel-keepers had also gone to their homes, which were in the vicinity of this camp. The traders were also of the same tribe as that of the chief of the jammals (Solomon) and were to be given a chance to earn money and thus benefit themselves by our stay. People were in great distress and ran this way and that to get release. I went to see the chief jammal, but found him in the middle of a crowd of Hajis of all caste and country. He could not stand this, and got up and went away. The Hajis then held a meeting, and it was agreed that a further sum of 2 mejidis should be collected and given. Thus we had in all to pay the chief (Solomon) a total sum of 13,300 mejidis. The sum had to be sent to the Ahmadi tribe on a camel and we had to wait till next day the return of the carrier with permission of the Ahmadi tribe to let us proceed and the return of jammals from their homes. There were several deaths here as well.

We left this place on the 6th September, but I am not sure of exact dates, as we had lost clue of dates and days, and after two hours of our departure from this camp we were again stopped by the Bedouin and shots were being fired on us, but we went on, and to my belief nothing occurred. During the night, which was dark,

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as we were going along cries of women were heard and one of the women passed us running and crying: she was made to get down, and the jammal took away the camel. No one could help her. Another woman of our caravan died, and a man complained that he had lost 900 rupees during the night journey.

We reached Medina on the 15th September, 1922, where after four days we were told that Shereef's orders were to send us to Yembo instead of Jeddah and that we should pay the jammals 2 medijis for detention over three days, and we had to pay it along with the backshish to the jammals, who forced us to pay them.

I asked the muallim to take me to the kaïmakam, and I went with him and four other men. The kaïmakam, after hearing me, said that he had orders from Shereef to send us to Yembo, and he was not responsible for what fare we paid and what promises were given by the Shereef at Mecca; we should pay 2 mejidis to the jammals and leave Medina or we would be turned out by force.

We were ordered to leave Medina soon after Friday prayers, and brought out our belongings to where our shughdufs were standing, but we were again made to wait for two days as it was said that the Shereef had not paid some money as an allowance to a tribe and told the tribe to get from us. I cannot prove the veracity of this statement, but we had to wait there exposed to the sun and dew in an open place after leaving the houses we had hired in the town.

On our leaving Bir Derweish in the afternoon of the 16th September at about 10 o'clock in the night we were again attacked very severely by the Bedouins. Shots were poured like showers of rain on us and the bullets passed our heads. It was a severe attack, but we hurried on. I saw a camel dropping and an Egyptian lady shot.

We arrived at Turrah on the 18th September, and the Egyptian woman was buried here. I am not aware of any other loss of life, but it was said that four men died. A foot passenger who met us the next day said that he was left behind and came at daybreak from where he had slept and saw a shughduf without riders and with beds and utensils lying about and a heap of mud, seemingly the grave of the occupants.

We arrived at Yembo in the morning of the 23rd September, 1922. Here I and several others had no money left, and we had been without rations and managed by borrowing from each other. I had to borrow money from my muallim. We hired a house; water was very dear, so sparingly, 2 rs. 8 a. was the daily expense. When I and others went to buy tickets for the steamer we were not allowed by the menials to go above without paying money, and each and every one had to pay 4 a. or more at the entrance and similarly on the next storey. I shouted from below to the kaïmakam, who looked down, and I told him that no one can go up without payment. He muttered something and went away. I was allowed to go up by the gatemen without paying, but the officer who was issuing tickets closed and went away. One of my friends who was there since two hours told me that one of the menials had taken a rupee with the promise of getting him the ticket, and which he had not complied. I went to the kaïmakam, who at first waved me off, but I persisted, and he sent for the menial and got the rupee from him, not even reprimanding the man. Bribery was common and openly asked, and we had to pay in all 25 rupees, each man for one ticket, including quarantine charges, and bribery at each step.

On the 29th September, 1922, at about 2 P.M., we were ordered to bring our luggage to the sea-side, which we did, and remained sitting in the sun till evening, when we were turned out, and we passed the night exposed to the wet climate. Next morning we had to take our luggage again to the sea-side, and hungry and thirsty we had to wait in the sun, but the gate-keepers would not let anyone go in until he paid some money, and allowed one man only through a partly opened gate. We had to throw our luggage over 8-ft.-high railing, and our utensils, &c., were damaged. At last, after paying different sums to the officials, we were made to take our seats in the boat and taken to the steamer. We were hoisted up by our arms and thrown by our arm-pits in the second-floor of the steamer, without being allowed to take a drop of water or food. No pen can describe the misery men and women suffered in this black hole; men and women cried for water, and it was horribly hot, and both up and down floors were cram full, so that no one could move about, while sitting, even, was difficult. There was no accommodation for making water and w.c., and it was impossible to go up. Men were falling on each other. I, with great difficulty, crawled up and trampled several to go to the captain, but he did not hear me. People now saw the difference between British rule and the rule of a Mahommedan Government. The thirty hours of misery over, with one or two deaths on board, we

came to Jeddah, where our luggage was thrown in boats, which came on shore at dusk, and here, fainting, hungry, thirsty, without going to w.c. for thirty hours, we had to face another difficulty of picking our luggage, as there was no light in the boat to enable us to find our things. God only can fathom the misery and trouble we went through in the night.

Now my request, by taking all this trouble and taking your time, is to beg you, please, to ask the Arab Government—

1. Why fare from Mecca to Medina and back to Jeddah was taken from us when we were to come back through Yembo?
2. Why the Government took the monopoly of sending its own small steamers for 2,000 (or near) men to be taken by the steamer when it had accommodation for 400 or 500?
3. Why no consideration was given to the comforts of men, but they were packed like sheep and fowls? It is quite evident that the Government had its own profit in view by not sending one of the company's steamers which were standing at Jeddah.
4. Why an assurance was given us that our journey and our lives will be safe on the way, and why no arrangements were made against these tribes?

I am, &c.
MOHAMAD BEG,
Resident of Lahore.

P.S.—The muallim came to me this morning and paid me 7½ mejidis as Yembo to Jeddah fare, and asked me to state in writing that I had no claim or complaint against him, which is a fact, as he treated us nicely. My complaint is against the Government of Arabia, and not against him.

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EASTERN (ARABIA). [February 13.]

CONFIDENTIAL. SECTION 1.

[E 1656/46/91] No. 1.

The Marquess Curzon of Kedleston to Mr. Henderson (Constantinople)

(No. 107.)

Sir, *Foreign Office, February* 13, 1923.

DR. NAJI-EL-ASSIL, the representative of King Hussein, called at the Foreign Office on the 6th instant on his return from Lausanne. He said that on the afternoon of the 6th February, Ismet Pasha, having heard of his impending departure from Lausanne, had sent for him spontaneously. Ismet had begun the conversation by asking whether they should talk about Mosul. Dr. Naji had said he would prefer to talk about the relations between the Turks and the Arabs. Ismet then said that the Arabs had joined the enemies of the Turks and fought against them, but that all this was past and done with. Turkey recognised the independent rights of the Arabs. He was speaking, he added, officially and in the name of the Grand National Assembly; and he asked Dr. Naji to convey what he had said to "His Majesty King Hussein." He referred in the conversation to the separation of the Sultanate and the Caliphate, and spoke of the Caliph as being the head of the whole Moslem world.

2. Dr. Naji replied that he had no authority to speak about the Caliphate, but he noted with satisfaction and gratitude what Ismet Pasha had said about the attitude of Turkey towards the Arabs and King Hussein, observing that this was the first occasion on which it had been so defined.

3. Dr. Naji stated that nothing further passed in this conversation, but that he had previously had conversations with Colonel Tewfik Bey, a military member of the Turkish delegation, to whom he had spoken of the unfortunate impression created by certain statements of Riza Nour Bey describing the Arabs as traitors. Dr. Naji saw a strong contrast between the explicit statement made to him by Ismet and these earlier pronouncements of Riza Nour.

4. Dr. Naji was sounded as to whether Ismet had hinted in any way at a federation of Turkey and the Arab countries. He was quite positive that Ismet had said nothing beyond affirming Turkey's readiness to respect Arab independence and explaining the Turkish view regarding the position of the Caliphate.

5. Dr. Naji further stated that he considered Ismet Pasha's declaration as very significant because a few hours before he had seen two members of the "dissident" Syrian delegation at Lausanne, Sheikh Arzlan and Ihsan Sabri. The former had complained strongly to Ismet of King Hussein, as the person primarily responsible for bringing non-Moslem and European influence into the Arab countries. Ihsan Sabri, who disapproved of Arzlan's declaration to Ismet in this sense, had informed Dr. Naji afterwards.

6. Dr. Naji was asked how he regarded Ismet's declaration as differing from the first article of the National Pact. He said that the wording of that article had been specially designed to leave a loophole for the Arabs themselves to decide to come again into the Turkish sphere. That was the significance of the self-determination formula given in article 1 of the National Pact. On the other hand, Ismet's present declaration meant that Turkey disinterested herself in the Arab countries from a political point of view. Dr. Naji added that he regarded this declaration as the logical sequel of Turkey's practical composition of her difficulties with England. Turkey had realised at Lausanne that the Arab countries, with England's help, had become definitely separated from Turkey.

7. Dr. Naji also stated that he had telegraphed Ismet's declaration to King Hussein, who had replied as follows:—

> "Inform Ismet in the best possible manner that in future Turkey may regard us as neutrals. Inform our friends at the same time that this declaration and our answer will make no difference to our established relations."

I am, &c.
CURZON OF KEDLESTON.

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EASTERN. [April 16.]

CONFIDENTIAL. SECTION 2.

[E 3897/46/91] No. 1.

English Text of the Anglo-Hashimite Treaty, initialled by the Secretary of State for Foreign Affairs and by Dr. Naji-el-Assil, April 16, 1923.

In the Name of God the Merciful, the Compassionate.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, and His Hashimite Majesty King Hussein, Leader of the Arab Revolt, Founder of the Arab Hashimite State and its King, Warden of the Inviolate, Precinct of the Sanctuary of God, and of the City of His Ancestor, Lord of the Divine Messengers, on behalf of themselves, theirs heirs and successors, being inspired with the sincere desire of confirming and strengthening the good faith and friendly relations established between their respective countries during the war together waged against the Germanic Powers and Turkey, and with the further desire of consolidating their respective interests and ensuring permanent peace and harmony among the Arab peoples,

Have determined to conclude a treaty for these purposes, and have named and appointed as their plenipotentiaries:—

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: The Right Honourable Marquess Curzon of Kedleston, K.G., His Majesty's Principal Secretary of State for Foreign Affairs; and

His Hashimite Majesty King Hussein, Leader of the Arab Revolt, Founder of the Arab Hashimite State and its King, Warden of the Inviolable Precinct of the Sanctuary of God, and of the City of His Ancestor, Lord of the Divine Messengers: Dr. El Seyyid Naji-el-Assil,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE 1.

There shall be perpetual peace and friendship between His Britannic Majesty and His Hashimite Majesty King Hussein, their heirs and successors. Each of the high contracting parties agrees and promises to use all the means which his laws provide to prevent his territory being used as a base for activities directed against the present or future interests of the other.

ARTICLE 2.

His Britannic Majesty hereby undertakes to recognise and support the independence of the Arabs in Irak and Trans-Jordan and in the Arab States of the Arabian Peninsula (exclusive of Aden). As regards Palestine, His Britannic Majesty has already undertaken that nothing will be done in that country which may prejudice the civil and religious rights of the Arab community. In the event of the Governments of any or all of these territories expressing a desire to enter into an association for customs or other purposes with a view to eventual confederation, His Britannic Majesty will, if requested to do so by the parties concerned, readily use his good offices to further their desire.

His Hashimite Majesty hereby recognises the special position of His Britannic Majesty in Irak, Trans-Jordan and Palestine, and undertakes that in such matters as come within the influence of His Hashimite Majesty concerning these countries, he will do his best to co-operate with His Britannic Majesty in the fulfilment of his obligations.

ARTICLE 3.

His Hashimite Majesty undertakes to maintain the friendly relations which existed between himself and the ruler of Asir and between himself and the ruler of Nejd before the Arab revolt; to observe the pacts formerly existing between himself and

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those two rulers, provided that there is nothing in those pacts which is contrary to the spirit of the treaties existing between His Britannic Majesty and those rulers, and to do all in his power to forbid in his own territories and in all parts over which he has authority anything harmful to the material or moral interests of those States or their rulers.

ARTICLE 4.

His Hashimite Majesty undertakes to use his best endeavours to settle by friendly negotiation any disputes relating to the frontiers between his territories and those over which the two rulers referred to in article 3 have authority.

His Britannic Majesty, for his part, undertakes that he will use his good offices when it is desired in promoting and assisting the settlement of any such dispute, more especially in any case where a change has taken place since the date of the Arab revolt.

ARTICLE 5.

His Britannic Majesty undertakes to restrain by all peaceful and practical means in his power any aggression upon the territories of His Hashimite Majesty, within such frontiers as may ultimately be determined under article 4 of this treaty or otherwise, by neighbouring States which are in treaty relations with His Britannic Majesty.

ARTICLE 6.

Each high contracting party agrees and promises to receive and recognise the agent of the other. His Hashimite Majesty may appoint an agent in London. His Britannic Majesty may appoint an agent to reside at Jeddah or other seaport town of His Hashimite Majesty. Out of respect for the special character of Mecca and Medina, His Britannic Majesty will not appoint an agent there.

His Hashimite Majesty shall also be entitled, if he so desires, to appoint consular agents in England and India, and His Britannic Majesty shall be entitled to appoint a consular agent at Jeddah and such additional seaports of His Hashimite Majesty as His Britannic Majesty may from time to time deem expedient.

These agents and consular agents shall respectively enjoy the usual diplomatic and consular privileges.

ARTICLE 7.

His Hashimite Majesty hereby recognises the provisional quarantine arrangements set up by His Britannic Majesty in Kamaran to fulfil the medical provisions of the International Sanitary Convention of 1912, or of any other sanitary convention which is binding upon his Britannic Majesty.

On his part, His Britannic Majesty agrees to recognise such complementary measures as, in conformity with the medical provisions of the said convention or conventions, are to be taken at Jeddah and other ports of the territories of His Hashimite Majesty, in accordance with regulations to be published by His Hashimite Majesty.

ARTICLE 8.

Subject to the provisions of article 10, His Britannic Majesty undertakes not to interfere in any way with the measures adopted by His Hashimite Majesty within the territories of His Hashimite Majesty for the care and comfort of pilgrims.

On his part, His Hashimite Majesty undertakes to assist any efforts made by Moslem British subjects, or persons or institutions enjoying the protection of His Britannic Majesty, to contribute towards the welfare, health and food supply of pilgrims in the Hedjaz, as His Hashimite Majesty is doing in the case of Ain Zobeida.

ARTICLE 9.

The high contracting parties agree to fix a definite sum per pilgrim by way of dues, and to publish the amount thereof by the first day of the First-Jamada in each year, for sanitary services respectively performed by them. These dues shall cover the cost of the total sanitary services up to the time of the landing of the pilgrims, and shall be included in the price of the tickets issued by the various shipping companies.

His Hashimite Majesty shall retain dues charged for measures at his ports, and His Britannic Majesty shall similarly retain dues charged for measures at Kamaran.

ARTICLE 10.

His Britannic Majesty agrees to recognise the Hashimite status of all subjects of His Hashimite Majesty who may at any time be within the territories of His Britannic Majesty, or within British-protected territory or territory under a British mandate, provided such Hashimite subjects are possessed of papers issued by His Hashimite Majesty showing the Hashimite status of the bearer.

On his part, His Hashimite Majesty agrees to recognise the British status of all British subjects or persons enjoying the protection of His Britannic Majesty, who may be at any time within the territories of His Hashimite Majesty, provided such British subjects or British-protected persons are registered at a British consulate in the Hashimite territories. Further, in order to obviate complications, such persons must have in their own possession documentary proof of their nationality, as is laid down in the case of Hashimite subjects above.

The provisions of this article are, however, not to apply to British subjects or persons enjoying the protection of His Britannic Majesty who are habitually resident in the territories of His Hashimite Majesty outside Jeddah and other seaports at which His Britannic Majesty may appoint consular agents.

ARTICLE 11.

His Hashimite Majesty agrees that the property of British subjects or persons enjoying the protection of His Britannic Majesty, who may die in the territories of His Hashimite Majesty, shall be handed over to the British representative in the said territories, or to such authority as he may appoint for the purpose, to be disposed of in accordance with the law applicable to the case. The British representative in the said territories will see that any dues or taxes which are payable on such property under Hashimite laws are duly paid.

ARTICLE 12.

His Hashimite Majesty agrees that in all cases which arise in Hashimite territories and in which a British subject or person enjoying the protection of His Britannic Majesty is plaintiff or defendant, a British consular representative shall attend the Hashimite courts during the hearing of the case, and where the British agent wishes to make diplomatic representations on grounds of equity to His Hashimite Majesty concerning any such case, judgment shall be adjourned and shall not be executed while such representations are being made, and in no case shall the execution of judgment proceed except after permission of His Hashimite Majesty.

The provisions of this article are, however, not to apply in the case of British subjects or persons enjoying the protection of His Britannic Majesty, who are habitually resident in Hashimite territories outside Jeddah and other seaports at which His Britannic Majesty may appoint consular agents.

ARTICLE 13.

His Hashimite Majesty agrees that he will cause to be delivered over to the British consular authority British subjects or persons enjoying the protection of His Britannic Majesty who have been arrested by the Hashimite authorities, if the British consular authority gives security for their appearance when required by the Hashimite authorities.

The provisions of this article are, however, not to apply in the case of British subjects or persons enjoying the protection of His Britannic Majesty, who are habitually resident in Hashimite territories outside Jeddah and other seaports at which His Britannic Majesty may appoint consular agents.

ARTICLE 14.

His Hashimite Majesty agrees that cases between British subjects or persons enjoying the protection of His Britannic Majesty in which the interests of Hashimite subjects are not involved shall be tried by the British consular authority.

The provisions of this article shall not apply when both parties to the case desire that it should be tried by the Hashimite court, as provided in article 12, nor in the case of British subjects or persons enjoying the protection of His Britannic Majesty, who are habitually resident in Hashimite territories outside Jeddah and other seaports at which His Britannic Majesty may appoint consular agents.

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ARTICLE 15.

His Britannic Majesty agrees to surrender within the territories of His Hashimite Majesty all privileges and immunities, otherwise than as provided for in this treaty, hitherto enjoyed by British subjects and persons enjoying the protection of His Britannic Majesty, in virtue of the Capitulations between Great Britain and Turkey.

ARTICLE 16.

His Hashimite Majesty agrees to notify the British agent in all cases where he requires the deportation from the territories of His Hashimite Majesty of a British subject or person enjoying the protection of His Britannic Majesty; and the British agent shall be responsible for the deportation of the person indicated within a reasonable time.

ARTICLE 17.

His Britannic Majesty hereby confirms his recognition of the flag of His Hashimite Majesty, provided that when such flag is flown by vessels other than public ships of His Hashimite Majesty the vessel flying it shall be registered at Jeddah or Yembo, or at one or other clearly-specified seaport lying within the territories of His Hashimite Majesty, and shall be possessed of papers issued by His Hashimite Majesty in general conformity with the certificates and documents customarily issued to their vessels by the principal maritime States.

On his part, His Hashimite Majesty hereby confirms his recognition of the flags flown by merchant ships belonging to any parts of his Britannic Majesty's dominions or to British-protected territory, or to territories under a British mandate, provided that vessels flying such flags shall be possessed of the certificates and documents customarily issued to their vessels by the principal maritime States.

ARTICLE 18.

Each of the high contracting parties hereby declares that he will not, during the continuance of this treaty, enter into any treaty, agreement or understanding with a third party, directed against the interests of the other high contracting party.

ARTICLE 19.

No clause contained in this treaty shall override any obligations which may have been incurred, or may in the future be incurred, by either of the high contracting parties under the Covenant of the League of Nations, or under any convention which may be adopted by the League of Nations and entered into by either of the two parties.

ARTICLE 20.

The present treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible. It shall come into force immediately upon ratification, and shall be binding during seven years from the date of its coming into force. In case neither of the high contracting parties shall have given notice to the other six months before the expiration of the said period of seven years of his intention to terminate the treaty it shall remain in force until the expiration of six months from the day on which either of the high contracting parties shall have given such notice.

The present treaty has been drawn up in English and Arabic. One copy of each text will remain deposited in the archives of the Government of His Hashimite Majesty, and one copy of each text in those of the Government of His Britannic Majesty.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in duplicate at London, the , corresponding to the , of the Mahommedan era.

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EASTERN (ARABIA). [May 22.]

CONFIDENTIAL. SECTION 1.

[E 5175/653/91] No. 1.

Acting Consul Grafftey-Smith to the Marquess Curzon of Kedleston.—(Received May 22.)

(No. 39.)

My Lord, *Jeddah, April* 30, 1923.

I HAVE the honour to transmit to your Lordship herewith the Jeddah report for the period the 1st–30th April, 1923.

Copies of this report and despatch are being sent to Cairo, Bagdad, Jerusalem, Aden, Simla and Damascus.

I have, &c.
L. B. GRAFFTEY-SMITH.

Enclosure in No. 1.

Jeddah Report, April 1–30, 1923.

(Secret.)

KING HUSSEIN, accompanied by Sheikh Fuad-al-Khatib, arrived in Jeddah on the 18th April with the ex-Sultan and suite.

The Sultan's decision to send his aide-de-camp to explore the residential quarter of Haifa clashed with His Majesty's Government's expression of regret that adequate arrangements could not be made for His Majesty's residence in Palestine, and their suggestion that he might well consider the possibilities of Switzerland as a place of abode. On receipt of this message, the Sultan declared to King Hussein his intention of leaving Mecca at once for Jeddah, and of proceeding (he did not specify whither) by the first available boat, after consultation with this agency. King Hussein made some demur; but a flood of press propaganda which has reached the Sultan, attributing to King Hussein designs on the latter's title of Caliph, makes it as difficult for the King to press his guest to stay as it would be indelicate to urge him to depart. After prayers on the first day of Ramadan, therefore, the two old men started to jolt over some 50 miles of desert in a shared barouche. They rested for less than three hours on the way and arrived on the following morning more or less broken. King Hussein received visitors that same evening; the Sultan remained invisible until the afternoon of the 19th, when I called upon him at his request.

He began by complaining that his health left much to be desired, a statement which his frail appearance indeed confirmed, without need of the assurance of his physician, Reshad Pasha, that His Majesty had lost over 30 lb. in weight since arriving in the Hedjaz. The frustration of his hopes of residence in Haifa had much distressed him. His wish was to elect a residence in some British-protected Moslem country; he had suggested Haifa rather than Cyprus, because of the somewhat suspect proximity of Cyprus to the Cilician coast. It was perhaps not understood, and he wished strongly to emphasise, that he asked for no free accommodation or maintenance. Much to my embarrassment, he quoted Mr. Jack Jones on the subject of "15*s.* a week unemployment dole for the ex-Sultan and 1*s.* a week for each wife"; he seemed to consider this as a pronouncement by His Majesty's Government. He intended to live at his own charge. It was essential that he should leave the Hedjaz; his health demanded it. It was, moreover, essential that he and his "family" should be reunited. Switzerland, as a non-Moslem country, was an unsuitable residence for himself and his "family"; it was, incidentally, too expensive for his convenience. It it were really of no avail again to request permission to proceed to Haifa, he desired me to ascertain whether any objection existed to his settling in Cyprus. If that wish, also, were not to be realised, he would simply have to think what to do next. I gathered from his suite later that a refusal in respect of Cyprus would probably send the ex-Sultan to Switzerland for at least a few months' visit without his family.

I ventured to assure His Majesty that the difficulty in the way of his residence in Haifa was much less one of any material expense of hospitality than of the very

JUL 16 Rec'd

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real responsibility which his presence could not but entail to the local authorities responsible for the maintenance of public security; the possibility of the authorities in Cyprus feeling unable to accept this responsibility was mooted.

At the moment of writing, no reply has been received from His Majesty's Government on the subject, and the ex-Sultan's future movements, which have inspired the wildest local rumours, remain nebulous. He did not attend Friday prayers on the 27th April.

King Hussein, in conversation with me, made no effort to disguise his contempt for an ex-Caliph who runs away from Mecca on the first day of Ramadan, and who deserts the admirable field for discreet propaganda offered by the pilgrimage in favour of reunion with his somewhat euphemistically-styled "family." It is, I think, the fact that the Sultan would have been well advised to bear with the barren boredom of Taif, the climate of which is as pleasant as any he will find elsewhere, until the pilgrimage, and to defer his departure from the Hedjaz until after he had been able to show himself in Mecca to tens of thousands of the faithful, whom he claims still to command.

I have seen what I believe to be the only copy in Jeddah of a document printed in Mecca, in Arabic and Turkish, which purports to be Sultan Mohammed Wahid-ud-Din's first manifesto since leading Constantinople. This document is variously reported to have been compiled by the ex-Sultan and disapproved by King Hussein, and to have been compiled by King Hussein in collaboration with Mustafa Sabry Effendi (the ex-Sheikh-ul-Islam of Turkey) and presented to the ex-Sultan for his signature, which he refused to give. Whatever its origin and authorship (and I cannot conceive the Meccan printers printing anything without King Hussein's approval), the manifesto was, almost immediately after publication, withdrawn from general circulation. It is in the nature of an *apologia* for the Sultan's policy from the date of his accession. It attacks the Kemalists, reiterates the Sultan's refusal to recognise their right to tinker with the Caliphate and ends with effusive gratitude to King Hussein and prayers for the Arab cause, hardly in place in such a manifesto.

King Hussein himself has been in very gracious mood since his arrival in Jeddah, the source of this rare benevolence being his expectation of a miracle at the hand of Dr. Naji-el-Assil, who arrived in Jeddah on the 30th April. With no knowledge of the trend of recent negotiations between His Majesty's Government and Dr. Naji-el-Assil, this agency can do nothing either to endorse or to discourage King Hussein's semi-certitude that the day of his deliverance from Moslem reproach is at hand. Briefly, His Majesty believes that he is to be recognised forthwith as the head of a State comprising Palestine, Transjordania, Irak and the Hedjaz, and he counts on the attraction which this nucleus of Arab unity must, with discreet British assistance, exercise to ensure the speedy formation of the United States of Arabia, within which each ruler is to keep his present territories and titles and to send a representative to the seat of Central Government (not necessarily Mecca) to represent local interests in the common Arabian Ministry for Foreign Affairs. King Hussein would appear to reserve for himself only the "papal States" of Mecca and Medina and, presumably, general suzerainty over the peninsula, since he sees himself paying Ibn Saud an even larger subsidy than that ruler at present receives. After a year of such suzerainty, an Arab Caliphate would, it is thought, be irresistible. That achieved, the King's entourage ask no more from him than that he should intone the "Nunc dimittis."

King Hussein has not himself confided to me his hopes, but I understand from Sheikh Fuad-al-Khatib that the King firmly believes Dr. Naji-el-Assil to have laid the foundations for this edifice of Hashimite glorification. It will be a bad day for the little Bagdadi concessionnaire if he cannot show to the King some very definite accomplishment to justify his cabled assurances of all that His Majesty's Government are prepared to concede to secure a strong anti-Turkish *bloc;* and a bad day for us, as well.

King Hussein has informed Sheikh-al-Khatib that he may possibly visit his son Abdullah in Transjordania after the pilgrimage. The Egyptian press foresees a subsequent meeting between King Hussein and Ibn Saud at Jauf, with a view to an *entente*.

Asir.

The will to an understanding with Riyadh has not yet been allowed practical manifestation. Hashimite troops occupied Ebha in mid-April at the instance of Hassan-bin-Aidh.

Mecca.

Besides strictly limiting the quantity of all commodities which Bedouin are permitted to purchase in Mecca without special permission from himself, the King has now set octroi-guards at the entrance to the Mu'abda and Sheikh Mahmoud (Jerwal) quarters of the town (which are mainly inhabited by Arabs), and no single bag of foodstuffs is allowed into these quarters without Royal licence. These measures, which are intended to bring his less amenable subjects to heel and to enhance King Hussein's influence among the tribes, have caused curses and discontent among Arabs and townspeople alike. Trade, indeed, in Mecca, is a thing dead. Royal monopolies, Royal manipulation of exchanges and the system of Royal licences for petty purchases have brought merchants to the edge of despair.

It is estimated that over 600 "Hedjazi" Arabs (Mecca–Taif and district) were conscribed in Mecca during the early days of the month. The sheikh of these Arabs in Jeddah was instructed on the 2nd April to prepare a list of those resident in the town, presumably with a view to their eventual conscription.

The bazaar between Saffa and Merwa has been roofed in, much to the comfort of pilgrims whom religion obliges to run seven times between these hills. Arab soldiers and police were employed on this work; it is said that their long arrears of pay have been retained as a donation towards the cost of this municipal improvement.

Medina.

A section (the pilgrims of three mutawwifin only) of the first pilgrim caravan arrived back at Mecca from Medina on the 24th April. The caravan took the Darb-el-Fur'a, whose leading sheikh has made peace with the King after looting a merchant caravan last year, when going, and it returned by the Darb-el-Ghar. Those who have reached Mecca paid in all 18 or 19 Mejidi dollars per "shukduf" (camel-litter) by way of tolls to tribesmen, *i.e.*, about 2*l.* 10*s.* They suffered no loss of life by attack on the road. This rate of toll is less high than that which many caravans have paid in former years, but it is stiff for the first caravan of the season.

A party of some fifty Billi and Juheina sheikhs under Sherif Ma'ala, Emir of Yambo, visited the King in Mecca at his request for the anniversary of the Arab revolt, and presented to him the two standards recently captured from Wahhabi raiders. They told a fellow-passenger on the "Tawil" that these Aneiza raiders caused them continual trouble, but that with financial assistance from King Hussein they would be able to hold their own against aggression. Their hopes of such assistance were dashed by the King. He refused the deputation subsidy, either direct or indirect. They were a froward people and should have neither gold to spend nor pilgrims to loot. Aiming to crush the Bedouin into servile dependence on his favours, he spreads hatred of himself like a fire among the tribes.

From information supplied by a party of Indians who arrived from Medina early in the month, grave disorder appears to reign both in and around the town. The Mecca "Rukab" was held up, despite the protection of a "Khawi," and probably for the first time in history, on the road, and had to pay 16*l.* (10 Turkish piastres per head) to the highwaymen. The "Rukab" was also attacked by Bedouin (who in many cases occupy the forts built by the Turkish Government for road protection) just outside the city gate. Only with great difficulty was Ahmed-bin-Mansour, the acting Governor, able sufficiently to compose the feud between Medina townsfolk and Bedouin, arising out of a quarrel and bloodshed in the town in the early days of Rajab and resulting in the closing of the city gates for many days on end, to enable the populace to attend the Rajabieh ceremonies of Syedna Hamza. Blood-money was paid to the tribesmen for their wounded and a six months' "ani" (or respite from blood-vengeance) granted by them for their killed; at the expiration of this period they reserve the right to kill four inhabitants of Medina. Ladies of the family of Omar Kurdi, Kazi of Mecca, travelling to Rabegh, only escaped kidnapping by the fortunate intervention of two influential sheikhs of their aggressors' tribe. The Indians above referred to were set upon and robbed of goods to the value of 120*l.* at Bir Irwa, the last stage before Medina. Complaints to Ahmed-bin-Mansour failed to recover for them even the stolen head-gear and garments in which their robbers swaggered through the Medina bazaars. The Governor admitted, indeed, to one Indian complainant that a stolen head-dress belonged to the Indian and not to the Arab wearer, but he pleaded that the latter must have time to purchase a new one before giving up the old. There is no strong hand to deal with this anarchy.

For seven months, it is said, no caravan from the east has reached Medina.

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Postal and other communications with Yambo are chaotic, and Bedouin raid and loot the "uyun" or gardens 5 miles from the city wall. The eulogy of Hashimite public security arrangements in and around Medina, which appears in No. 676 of "Al Kibla," and the Government's official notice of the reign of peace throughout its dominions, will carry conviction to those only of "Al Kibla's" readers who have not yet realised that this journal is inspired by the same unprejudiced spirit of impartiality when discussing the affairs of the House of Hashim as is such a periodical as "Bubbles" when dealing with the interests of the House of Pears.

General: Commercial.

Mr. Peter Graham, a British subject and manager for Palestine and Arabia of the Singer Manufacturing Company, New York, has been in Jeddah for the last two months vainly endeavouring to wrest, if not justice, at least a decision from the local courts in claims against native agents. I am addressing a separate despatch on the subject of his experiences, which are illuminating, to the Department of Overseas Trade.

One of his claims is against his Jeddah agent, an Egyptian subject, who has in the past enjoyed, *quâ* Egyptian, the good offices of this agency as against Hashimite methods of justice. It is anomalous that in present circumstances an Egyptian is not liable to the jurisdiction of this consular court, and in order to prosecute him it is to Hashimite methods of justice that Mr. Graham has had to appeal.

Turkish Refugees.

King Hussein is still, and not unreasonably, resentful of the Egyptian Government's refusal to accept in Egypt the destitute Turkish refugees sent from Egypt to the Hedjaz during January and February last. For those who have elected to stay in the Hedjaz he is making some provision. The others, some thirty, whose passages to Suez he is prepared to pay, are in process of starving while their right to return whence they came is debated at a telegraphic cost sufficient to pay the onward passages of many from Egypt to their desired destinations. Four who are in Jeddah lie sick of fever on the bare floor of an unfurnished room. When Dr. Munir-ud-din last visited them they had neither bread nor water. Local charity dare not give where King Hussein withholds. It is strange to recall that the odyssey of these unfortunates began with their Anglophile sentiments, but not strange that these sentiments should vary with the adequacy of their reward.

Aviation.

M. Chirokof has flown the Armstrong safely back from Taif. While in Taif he made many flights for the edification of the Bedouin; he flew also over Kleikh and Taraba, but did not attempt bombing. He reports that the Emir Ali wants to purchase a Handley-Page machine with Rolls-Royce engines, but that there is constant propaganda by Constantin Yanni and Rushdi Bey in favour of Italian machines. It seems a pity, since aeroplanes will probably be imported into the Hedjaz, Arms Convention or no Arms Convention, that orders should not go to a British firm.

"*Maulai Mustafa.*"

A man of this name who is, I believe, wanted for hotel bills in Cairo, arrived on the steamship "Mansourah" on the 6th April. He informed the King that he was a member of the "Royal Family of Morocco," and that he had suffered much at French hands and needed money. The King gave him 700*l.*, and discovered, shortly after the man's departure, that he had been swindled. Stories of French wickedness are a sure way to the King's heart and purse.

Khedivial Mail Company.

The terms on which the Khedivial Mail Company should carry Hashimite mails have recently been under consideration. At present the company perform this service in exchange for free telegraphic facilities between their agencies in the Hedjaz. The company have asked, in addition, for exemption from all Hedjaz telegraph charges in respect of messages between the Alexandria–Suez and Hedjaz agencies. As it did not seem right to suggest that the Hashimite Government should exempt the company from Suakin–Jeddah cable charges, the Hashimite Government's right to dispose of which is still disputable, I felt compelled to refuse to

forward these proposals to Mecca, and the company have been asked to suggest other terms.

No success has attended our efforts to induce the Government to recognise its obligation to pay a 40 per cent. general average contribution in respect of a shipment of £E. 500 specie by the Khedivial Mail Steamship "Borulos." The Government's communications on the subject have been characterised by complete absence of dignity.

Quarantine.

The welcome decision of the international Quarantine Board at Alexandria to impose quarantine at Tor on southward-bound pilgrims has evoked protests from King Hussein as to its implication that detention on the island of Abu Saad becomes, by international convention, unnecessary. The King reserves full right to apply such local measures as he thinks fit. It is regrettable that his invitation to Jeddah telegraphed to the commission appointed by the League of Nations to examine quarantine affairs should have been ignored; he would have been much flattered by such a visit. For any revision of the 1912 Convention, based not on personal inspection at Jeddah, but on material supplied by the president of the Quarantine Board at Alexandria, he has no respect.

In default of very clear proof that King Hussein and his Government are indeed internationally bound to act in accordance with the procedure followed by quarantine authorities elsewhere, I would recommend that the detention of Egyptian and other pilgrims for twenty-four hours at Abu Saad should not be made the subject of a row from which no good to the pilgrims can possibly result. Experience, not mere cowardice, suggests that it is foolish to begin a heated argument unless the right cause is certain to prevail.

Post Scriptum.

Mention should have been made above of the arrival on the 28th April, by Italian steamer from Suez, of Sheikh Abdul Kader Muzaffer, the Syrian extremist. It is to be regretted that he should have been permitted to leave Palestine for the Hedjaz at this particular moment. From him, as from the Lotfallah crowd and from Sheikh Abdul Malik, Arab agent in Cairo, tooth-and-nail opposition to any scheme Dr. Naji may have brought must, I fear, be anticipated. Sheikh Abdul Kader's arrival was timed to precede Dr. Naji's by a few days; it remains to be seen whether his counsels will avail to stiffen the King's resistance to Dr. Naji's arguments.

Arabic Press.

A summary of Nos. 674 to 682 of "Al Kibla" is annexed.

L. B. GRAFFTEY-SMITH.

PRESS SUMMARY.

("Al Kibla.")

No. 674 *of March* 29.

Decorations: Sheikh Fuad-al-Khatib and Sayed Ahmed (King Hussein's private secretary) have been given the second-class of the Egyptian Order of the Nile; the Grand Kadi has received the same Order with brilliants.

Official notice: The Government announces to all intending visitors the reign of complete public security and order within the Hedjaz. The country flings its doors wide for the reception of Moslems of every race and devotes every endeavour to ensure the comfort of visitors, in particular of pilgrims, the guests of the House of God.

Anniversary of the Arab revolt: Festivities, speeches and appropriate verse.

Juheina and Billi sheikhs in Mecca: Arrival of a delegation of some fifty sheikhs of these tribes under the Emir Sherif Maala, to kiss the Hashimite Threshold after fighting and beating back a party of Wahhabi raiders. The two captured Wahhabi flags they have presented to the King bring the total of such trophies in His Majesty's possession up to eleven.

Medina caravans: A pilgrim caravan of 500 camels left for Medina to-day.

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Turkish refugees: We learn that the Government has taken the Turkish refugees on charge, providing for those who wish to stay in Mecca (39) accommodation, food and service, and paying the passages of those who wish to leave for various destinations (29). This is the true humanity of Moslem to Moslem brother.

No. 675 *of April* 2.

France and the Kemalists: An article from "Al Siyaseh" of Cairo (No. 106), reproducing the pessimistic views of a writer in the "Débats" as to the weakness of French policy towards the Kemalists before and during the Lausanne Conference.

Ali Riza Rikabi: Has accused the Emir Abdulla of lavish expenditure, which is absurd, because the Emir has been living under canvas in the ice and snow at Amman since arriving there. As for other charges made by Rikabi, he would not be the son of his father if he neglected to make them.

Land-split in Nejd: Further details.

No. 676 *of April* 5.

Glad tidings for our brethren the pilgrims: Five columns of admiration of the perfection of public security obtaining between Yambo, Medina, Rabegh, Jeddah and Mecca, contributed by an anonymous Egyptian. From internal evidence the writer would appear to be both blind and deaf

No. 677 *of April* 9.

Quarantine: Official communiqué.

The Hashimite Government has observed that great publicity is being given in the press to the employment of Tor as a quarantine station instead of the Island of Abu Saad. How can this be reconciled with the provisions of article 124 of "their convention," that ships carrying Egyptians should be inspected at Jeddah?

The Tor proposal is alleged to be based on desire for pilgrim's comfort; the Hashimite Government yields to none in devotion to this blessed object: witness the 1,600 packages lying in Jeddah customs waiting to be claimed by pilgrims. But how reconcile a desire for pilgrims' comfort with Article 125 of the convention, which ordains that if, on inspection at Jeddah, cases of suspects are found, the vessel must be sent back for detention at Tor? This is definitely to the discomfort of pilgrims, especially just before the day of Arafat, when time is everything. It looks as if Tor in the north was to be a copy of Kamaran in the south!

Remember how the Egyptian pilgrims complained of their detention at Tor on the return from last year's Haj. This proposal is a clear infringement of the sovereign rights of the Hashimite Government. But if the International Board of Health sends its inspectors to visit our islands and to make recommendations, we will carry these out gladly and readily, provided their intention is not to encroach upon our rights.

Criticism levelled against the Government quarantine dues we ignore as unworthy of our attention. But what about the 300 Egyptian pilgrims whom the Hashimite Government transported gratis last year to Suez from Yambo, where they had been left like so much rubbish simply because they had chosen to visit the Prophet's tomb at Medina

The International Board of Health choose to overlook the fact that pilgrims are sent here packed in boats like sacks of beans.

Arab unity: Press comments from Egypt and Syria on recent debates in Parliament regarding the evacuation of Irak and on the general question of pan-Arab ideals and an Arab federation. The great benefit that would result from friendly co-operation between the Idrisi and the Imam, and between King Hussein and Ibn Saud (whose intention to foregather at Jauf during King Hussein's rumoured visit to Amman is mooted) finds universal encouragement and recognition. "Al Kibla" reproduces part of the leading article of its 645th number, and publishes the following telegrams which have passed between King Hussein and "one of his representatives in one of the capitals of Europe:—

To Mecca: "The British Government do not deny their promises, but state that they are still striving to make them effective, and that they are ready to recognise the unity of the Arab peoples and that this unity is achievable by the Arabs themselves."

From Mecca: "Present my heartfelt, unselfish thanks to the British Government for this confirmation of their recognition of Arab unity by Arab effort. Inform them

that in accordance with their original communication to me in the name of the Arabs, I made the known communication to the Arabs, and the requirements of these fundamental principles constrain me to issue an official notification guaranteeing that I and Great Britain have been true to our promises, with especial view to declaring to them my own fidelity to my promises. I invite them to a conference of delegates of Irak, Palestine and of all other sections of the peninsula whose co-operation in the war was real to explore the bases of this unity and to select their centre and branches to their own satisfaction and choice."

Distinguished arrivals: Emir Maulai Mustafa, member of the Royal family of Morocco. (Recognised after his departure to have been an imposter.)

Abdullah Effendi Deri Zadeh, ex-Sheikh-ul-Islam of Turkey.

Sheikh Mirza Wasfi Pasha—on Hedjaz Railway business from Transjordania.

Obituary: Sheikh Mohammed Ma'sum-al-Mujaddedi, a leading domiciled Indian, formerly of Medina.

No. 678 *of April* 12.

Decorations: Order of Al Istiklal for M. Nikolai Nadionof, the Russian aviator, and his first successful Arab pupil, Abdul Salam Sirhan.

Official notice: In view of the approach of Ramadan and the continuance of high prices, Government stores will reopen for the sale of rice, flour, sugar, &c., at Government prices.

Arab airmen: Letter from Rushdy Bey, Commandant of Jeddah, announcing the successful flight of Lieut. Abdul Salam after only ninety-two lessons, and attributing this achievement to the gracious virtues of King Hussein, with promise of news of further successes next week.

(The next week's efforts were successful in reducing an aeroplane to smithereens.)

Quarantine: An open letter: After laying down the principle that no decision of any Quarantine Board can be allowed to affect the rights of the Hashimite Government to do what they like with their own property, the (barely) anonymous writer proceeds to make a number of violent and lying charges against the Administrations responsible for the Egyptian pilgrimage and for the quarantine arrangements at Kamaran and Tor. Allegations of the failure of the Egyptian Government to provide accommodation, water, &c., for its pilgrims as required by convention come well from a writer whose other charges show complete ignorance of any quarantine convention whatever. The proposed distinction between pilgrims and non-pilgrims proceeding to Egypt after the coming pilgrimage is ridiculed as absurd and as probably having some political purpose. Egyptian pilgrims not returning by Egyptian pilgrim ships through delay by illness or a visit to Medina are said to lose not only the price of their Egyptian Government return tickets but their deposits as well, &c.

Steamship "Tawil" has been fitted with wireless.

No. 679 *of April* 16.

The Chester Concession: Details of its provisions.

The ex-Sultan: Will shortly proceed to Jeddah for reasons of health.

Medina caravan: We learn that the caravan, having accomplished its blessed purpose, is returning from Medina

Arrivals: Sheikh Abdurrahman-ez-Zayani of Bahrein.

Quarantine: Distressing experience of a member of "Al Kibla" staff quarantined last year at Moses' Wells (Suez). Comparative excellence of Abu Saad arrangements.

No. 680 *of April* 19.

The ex-Sultan: His arrival with King Hussein at Jeddah.

Occupation of Ebha: The Hashimite troops in Asir have occupied Ebha, in response to the appeal by Hassan-bin-Aidh and other leaders for the righting of their wrongs and for the termination of an evil situation.

This, says 'Al Kibla,' is clear proof that King Hussein has no ambitions of supremacy, for his troops could have taken Ebha easily at any time. In doing so now they are inspired by Arab readiness to succour a friend in need.

Nos. 681 *and* 682.

Nothing of importance, the most influential contributor being away from Mecca.

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SHIPPING INTELLIGENCE.

Steamship.	Flag.	From—	To—	Arrived.	Left.	Pilgrims disembarked.	Cargo discharged.
				1923.	1923.		Packages.
Asmara ..	Italian ..	Massaua ..	Suez ..	Mar. 29	Mar. 29	..	473
Borulos ..	British ..	Aden ..	Suez ..	„ 29	„ 30	95	1,203
Helenus ..	British ..	Singapore ..	Port Said ..	„ 31	„ 31	1,016	20 tons
Soerakarta ..	Dutch ..	Batavia ..	Port Said ..	April 1	April 2	1,643	..
Sembilan ..	Dutch ..	Batavia ..	Port Said ..	„ 1	„ 1	824	
Banda	Dutch ..	Mombasa ..	Port Said ..	„ 1	„ 1	49	5 tons
Hejaz	British	Calcutta ..	Aden ..	„ 4	„ 11	..	45,456
Madioen ..	Dutch ..	Batavia ..	Port Said ..	„ 4	„ 4	1,491	
Massaua ..	Italian	Massaua ..	Suez ..	„ 5	„ 5	..	140
Mansourah ..	British ..	Suez ..	Port Soudan	„ 6	„ 6	..	3,873
Tydeus ..	British ..	Batavia ..	Port Said ..	„ 7	„ 7	400	..
Jeddah.. ..	British ..	Karachi ..	Bombay ..	„ 7	„ 11	976	16,023
Asmara ..	Italian ..	Suez ..	Massaua ..	„ 7	„ 7	..	363
Rhexenor ..	British ..	Singapore ..	Port Said ..	„ 9	„ 10	251	100 tons
Mansourah ..	British ..	Port Soudan	Suez ..	„ 11	„ 12	69	1,876
Celebes ..	Dutch ..	Batavia ..	Port Said ..	„ 12	„ 12	795	..
Billiton ..	Dutch ..	Batavia ..	Port Said ..	„ 13	„ 13	935	
Titan	British ..	Singapore ..	Port Said ..	„ 14	„ 14	683	50 tons timber
Sealda	British ..	Singapore ..	Port Soudan	„ 15	„ 16	1,015	..
Borulos ..	British ..	Suez ..	Aden	„ 15	„ 16	..	854
Keneh	British ..	Aden ..	Suez ..	„ 18	„ 19	83	2,445
Talthybuis ..	British ..	Singapore ..	Port Said ..	„ 20	„ 20	1,011	..
Alwaki ..	Dutch ..	Zanzibar and Mombasa	Port Said ..	„ 23	„ 23	27	517 planks
Frangistan ..	British	Batavia ..	Port Soudan	„ 23	„ 25	1,893	..
Medan.. ..	Dutch ..	Batavia ..	Port Said ..	„ 24	„ 24	558	..
Mansourah ..	British ..	Suez ..	Port Soudan	„ 25	„ 25	30	2,985
Massaua ..	Italian ..	Massaua ..	Suez ..	„ 26	„ 26	..	..
Asmara ..	Italian	Suez ..	Massaua ..	„ 28	„ 28	..	..
Akbar	British ..	Bombay ..	..	„ 30	..	1,202	14.891

H.M.S. "Cornflower" arrived on the 30th April.

C 41605

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EASTERN (SYRIA AND PALESTINE). [June 18.]

CONFIDENTIAL. SECTION 1.

[E 6332/867/89] No. 1.

Consul Smart to the Marquess Curzon of Kedleston.—(*Received June* 18)

(No. 45.)

My Lord, *Aleppo, May* 31, 1923.

I HAVE the honour to report that, from conversations I have had with French officers, it would appear that the French are now becoming more alarmed by the Pan-Arabian than the Turkish menace.

There have been recently various signs of recrudescence of Moslem reaction and fanaticism. An anti-alcoholic league, under the cover of a propaganda based nominally on grounds of religion, morality and physical well-being, has, it is said, been subterraneously working against the French. There has been a movement against the wearing of European clothes and in favour of native products. This movement began to take the aggressive form of throwing of ink and sulphuric acid at persons, mainly women, wearing obviously luxurious European clothes. These demonstrations have, for the moment at any rate, been suppressed by the police. This recrudescence of reaction and fanaticism is attributed by my French acquaintances to Arabian rather than Turkish influences.

The continual reports in the press regarding negotiations between Great Britain and King Hussein and other Arab rulers with a view to the formation of an Arab federation under British auspices has excited natural anxiety among the French and premature hopes among the Arabs of Aleppo. Arabs have frequently asked me whether Syria was to be included in the forthcoming Arab federation.

At the same time, the reports appearing in the press of an Anglo-Turkish rapprochement have led pro-Turkish elements and Arab nationalists to imagine that the French might be turned out of Syria by the Turks acting with British support. These Arab nationalists doubtless think that the essential thing is to get rid of the French somehow or other, and that the Turks can be squared once their assistance has resulted in the liberation of Syria from the French mandate. The Oriental is guided by sentiment more than reason, and the Arab, in his desire to get rid of the French, is too irrational to anticipate clearly the obvious results of Turkish interference here.

I have the honour to enclose herewith a translation of a letter addressed to me by a body calling itself the National Revolutionary party. The Arabic of the text is poor and would seem to betray Turkish drafting. The proclamation enclosed in this letter was posted up in various places in the Arab quarters of the town just before General Weygand's arrival at Aleppo and at once torn down by the police. Needless to say, I have taken no notice of this irresponsible communication.

In the Alexandretta and Antioch regions there is undoubtedly a large Turkish minority whose racial sentiments naturally impel them to desire the reabsorption of those parts into the Turkish Empire. But at Aleppo the Turkish element is negligible, and there are not very many Arabs who have any sentimental yearning for reabsorption into Turkey. Pro-Turkish feeling here is either the reflex of anti-French feeling or it is due to economic uneasiness. Aleppo realises that it is doomed to decline if it is to be permanently separated from its Anatolian and Mesopotamian markets. The reconstitution of the old Turkey in Asia, or at least the reinclusion in Turkey of Syria and Mesopotamia, would restore to Aleppo its old commercial pre-eminence. A comparison between the economic stagnation of to-day and the prosperity prevailing under the Ottoman régime naturally inclines many Moslems and Christians, without any pro-Turkish sentimentality, to toy agreeably with the idea of a refound economic unity under the Turkish ægis.

All this confused ferment is not serious as long as the Anglo-French *Entente* subsists and the Allied occupation of Constantinople and the Straits acts as a restraining influence on Turkey. The fighting value of the Arab is inconsiderable, and he would only rise against the French if he saw that there was little need of heroic sacrifice. Once, however, peace has been signed and Constantinople and the Dardanelles evacuated, an effective restraint on Turkey will have been removed. Unless the French can use the Greeks as a scarecrow to keep the Turks in order it is difficult to

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believe that the latter will respect their treaty obligations and refrain from creating difficulties for the French in Northern Syria. Moreover, if we were to evacuate Mesopotamia, France here would remain isolated and surrounded by hostile Turkish and Arabian conglomerations. It is not to be wondered that many Frenchmen contemplate the future with misgiving.

In the interest of, at any rate, local Anglo-French negotiations, it would seem desirable to reassure the French that our Arabian policies are not directed against their position in Syria.

I have, &c.
W. A. SMART.

Enclosure 1 in No. 1.

"National Revolutionary Party" to Consul Smart.

(Translation.)

WE have the honour to inform you that, according to a letter which we received from Aintab, an agreement has been arrived at between your Government and our Turkish Government; in consequence our Aleppo Nationalist party, which depends directly from the Grand Assembly of Angora, begs to present its respects and thanks for this friendly union. History will revive the former alliance and mutual insurance of both Governments.

We have to bring to your consideration that our Revolutionary National party has been ordered to explain to the people of Aleppo the mission of General Weygand. We have, then, published incentive proclamations in accordance with the orders received by us from the Turkish Defence party, and we presume that you have heard of these proclamations.

But, to let you have an exact idea of the real situation, we beg to enclose herewith a copy of a proclamation, that you may know that the mission of Great Britain and that of the Turks are the same in presence of the Moslem world which looks with a discerning eye on us.

Our Revolutionary party begs from your Excellency the moral protection of certain persons. If you agree, it will be possible for you to understand our conditions from the delegate whom we will present to you. You will do better to summon him officially so as to avoid suspicion falling on him.

Our party begs to ask your Excellency's support as well as a moral and material help in the event of your Government's consent.

As our object is to remove the French and to start a revolution, we beg to tell you that all the Aleppo inhabitants have united round our party, and our internal movements are based on those of the Turkish army and the Defence party.

Under these circumstances we may communicate with you a second time with a view to discussions, and we will send you the delegate with a special signal of introduction, or we will send you his name and family's name so that you may summon him.

All our party presents its respects to you.

The Head of the National Revolutionary Party in Aleppo. Section 2.
(Four Initials.)

May 27, 1923.

Enclosure 2 in No. 1.

Proclamation.

IN THE NAME OF GOD WHO ENJOINS THE PROTECTION OF THE FATHERLAND, JUSTICE AND INDEPENDENCE!

ARISE FROM YOUR SLEEP, O NOBLE ARAB!

(Translation.)

HOW long this calm when the time for action has arrived? Here is this dog of a Frenchman (Weygand), who arrives with his armies and munitions to represent the second scene of the comedy begun by his colleague (Gouraud). He is determined to oppress you by killing your freedom, your independence and your economic life, and the first thing which he has done is to proclaim martial law, according to their own newspapers.

The Kemalist army, which has undertaken to expel the foreigners from these countries and to deliver them to their own inhabitants that they may enjoy their independence as they like, is now on the point of marching on this country, and we have had correspondence with its leaders who only ask from us the support of an internal revolution, so that the treacherous enemy should remain between two fires: the fire of the "Moujahidin" and that of the national revolution.

To work, O generous of soul! Do not lose this precious occasion accorded by Heaven. Undoubtedly God is with us. Many of the retired officers of the Turkish army have joined the Kemalist army since the beginning of this week, and they have sworn not to re-enter Aleppo but with the holy flag hoisted over their heads. Go to meet them with your goods. Life is cheap in comparison with honour. . . . Enough humiliation, each of you knows that the colonisators have humiliated us and have made us foreigners in our own country. You do not ignore their "Tergiversations." Yesterday, they were helping the Turks, but, seeing that the American (Chester) has made agreement with the Turks for the restoration of their country, they (the French) have changed and become hostile to them (the Turks), while the British Government, who was the enemy of the Turks and the friend of the Greeks yesterday, seeing the demands of former were justified, have come to reason, throwing aside every selfish interest, promising not to touch their noble principles and their independence. And Great Britain will accord complete independence to both Irak and Palestine if we will expel the French, who claim to be protectors of the Moslems as their newspapers pretend.

Consequently, let us rise up as one man to expel the superfluous colonisator.

God has said: "If you help God, God will help you." Get to work and do not lose this very precious occasion. This movement will be general in all Syria. Salam!

The Revolutionary National Party. Section 2.
(No Signature.)

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[This Document is the Property of His Britannic Majesty's Government.]

EASTERN (ARABIA). [July 18.]

CONFIDENTIAL. SECTION 1.

[E 7439/653/91] No. 1.

Consul Bullard to the Marquess Curzon of Kedleston.—(*Received July* 18.)

(No. 57. Secret.)

My Lord, *Jeddah, June* 30, 1923.

I HAVE the honour to transmit to your Lordship herewith the Jeddah report for the period the 30th May to the 30th June, 1923.

Copies of this report and despatch are being sent to Alexandria, Bagdad, Jerusalem, Aden, Simla and Damascus.

I have, &c.
R. W. BULLARD.

Enclosure in No. 1.

Jeddah Report for the Period May 30 *to June* 30, 1923.

MR. R. W. BULLARD, C.I.E., arrived on the 15th June and took over the duties of the agency and consulate from Mr. L. B. Grafftey-Smith on the following day.

There have been no developments in the treaty negotiations, Dr. Maji-el-Asil having only just reached London. King Hussein's declaration of the 17th May has borne bitter fruit in the Palestine Government's announcement that no change in the political status of Palestine should be assumed and in the scoffings of the Egyptian press. The latter have taken the declaration, with its summary of article 2 of the draft treaty, and have used it word by word to show how completely King Hussein has fallen into the British trap. The promise of British recognition of Arab independence they contrast with the fact and the certain continuance of British influence, grading into control, in the Yemen of the Idrisi, in Hadramaut, in all the Trucial States of the Persian Gulf, in Mesopotamia and in Palestine, and they find in the recent provision for four more years of the mandate in Irak proof not only of the emptiness of any simultaneous promise of Arab independence there but also of the lack of a political sense in the spokesman of the Arabs who has accepted a formula clashing with facts. The proposed confederation of Arab States they alternately scout as impracticable, owing to the known incompatibility of Riyadh, Mecca and Sanaa policies, and deplore, on the ground that a customs bond with Palestine and Irak will bring the Hedjaz within the sphere of influence of the mandatory Power. They lament that "the only independent State in Arabia" should have been condemned by King Hussein to become the chain-fellow of Arab countries already enslaved.

This and similar criticism of the article upon which the King counted to justify his conversations with His Majesty's Government has alarmed and angered him, Particularly does the question of Palestine exercise him. Dr. Naji almost certainly allowed him to assume that the Zionist policy was to cease, and he appears genuinely shocked at Sir Herbert Samuel's insistance that no political change is to be expected. In letters to this agency he is urgent that doubts on the subject of the future of Palestine may be removed, and he finds his interpolations in the draft treaty more natural and more necessary than ever in view of the criticisms evoked by his declaration. In the "Kibla" he confines himself to backing his own reading of the draft treaty against that of the Government of Palestine, and to reproachful polemics against Cairo newspapers.

All Egyptian papers arriving for private individuals in the Hedjaz by three consecutive mails were burnt at the Jeddah Post Office.

In this context, I was interested to learn confidentially from Sheikh Fuad-al-Khatib that, when the Emir Ali and himself were sent from Mecca in February last to bid Major Marshall farewell, they brought King Hussein's anthority to sign a treaty consisting of the draft communicated to the Foreign Office last year by Dr. Naji-el-Asil, but incorporating the amendments desired by the Colonial Office and with the addition of a clause providing that signature should be without prejudice to any promises made by Great Britain to the Arabs during the war. During their journey from Mecca to

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Jeddah, King Hussein received a telegram from Dr. Naji, promising His Majesty the realisation of his wider ambitions, and the matter was not raised with Major Marshall.

Rumours of the Nejd pilgrimage have led the King to repeat what he said when informed in January that no pressure would be brought to bear on Ibn Saud to curtail the number of Nejdis visiting Mecca for the Haj this year; that in no event could these pilgrims be permitted to come. He has now limited his objection, however, to those Bedouin who have only adopted Wahhabi tenets as a cloak for rapine and plunder. The old offer to hand over the Hedjaz to Ibn Saud and to abdicate has been once again revived. His attitude towards the question will not be weakened by the report, which he hastened to communicate to this agency on the 27th June, that Wahhabi troops were attacking Na'an, and by rumours of imminent Wahhabi activity against the railway repairs at Bu'eir.

The persecution of the French consulate began anew with the arrest of their cook on an absurd charge of political intrigue, on the 12th June. Orders were issued that he should be haled to Mecca in irons, and he could only be rescued from this fate by this agency's acceptance of responsibility for him (the man is a British-Indian subject) and by our undertaking to send him out of the Hedjaz. A joint protest by all the consuls in Jeddah against the revival of the practice of arresting their personal staff without warning and the consequent disorganisation of their domestic life elicited the unconvincing reply that the Hashimite Government had no knowledge of the man's national status or of the nature of his employment.

This arrest is probably due to the King's animosity against Captain "Ibrahim' Depui, of the French consulate, and to his desire to be revenged on the French for refusing to recall that officer. Another recent arrest, however, that of a 12-year-old Hausa boy, who worked as a scullion in the house of the local British firm of Gellatly, Hankey and Co., can only be ascribed to the spy mania from which King Hussein, faithful in this as in many other respects to the original on which he appears to model himself, Abdul Hamid, suffers acutely. This boy, though almost certainly a British protected person of Sokoto, Nigeria, had no papers, and I have been obliged to confine my efforts on his behalf—quite unsuccessful, so far—to unofficial enquiries. Lack of papers of identification have been an obstacle to effective intervention in another case, when a certain Nigerian, Omar, cook to a local Greek, was arrested and spirited away to Mecca by the Hashimite authorities.

Pilgrimage (Egypt).

An Egyptian Government official, Colonel Hasan Bey Muhammed, who was sent to Mecca to discuss the arrangements for this year's pilgrimage, reported on his return to Jeddah that he had been successful in securing a reduction in the Mahmal camel contract, from the iniquitous figure of 9*l.* per camel, which was charged last year, to 3½*l.* gold. This is a remarkable achievement. Hasan Bey also stated that King Hussein promised that payment of 50 Egyptian piastres passport endorsement dues to the Arab agent in Cairo would entitle a pilgrim to exemption from Hashimite landing dues on arrival. Up to the present, however, Thabit Bey, the quarantine officer at Jeddah, declares that he has received no orders to this effect, and demands payment of 50 Turkish piastres gold landing dues irrespective of the payments made in Egypt. The landing dues, he says, with humour, can always be refunded when the King's orders arrive. No one but the King has seen the Hedjaz budget, but it is safe to say that it contains no heading "Refunds by the Hashimite Government."

The transport of the Egyptian pilgrimage, which has usually been effected by the Khedivial Mail Company, has been secured this year by Messrs. Victor Schmeil, of Alexandria.

It is possible that there will be trouble between Egypt and the Hedjaz over the pilgrimage this year. The Egyptian Government telegraphed direct to King Hussein asking him to agree to their sending two hospitals with the pilgrimage—one for Jeddah, the other for Mecca In the absence of his Foreign Secretary, Sheikh Fuad-al-Khatib, who was spending a few days in Jeddah, the King sent off some typical telegrams making acceptance of the Egyptian proposal conditional on a settlement of some wholly irrelevant Wakf questions.

The High Commissioner then asked this agency to make a serious protest on behalf of the Egyptian Government, adding, for my confidential information, that both Mahmal and hospitals would be despatched, and that, if the hospitals were refused, the Mahmal would turn back. This would be so excellent a lesson to the King that it is almost to be hoped that he will harden his heart against the hospitals. In view of this disagreement I have not acted on a request received from the Egyptian Government,

that I should recommend to the Hashimite authorities a quarantine doctor who is being sent with the pilgrimage to report to Egypt on the pilgrims' health. When he arrives he will be advised to carry out his work unobtrusively, with the assistance of this agency.

India.

The Government of India have appointed Muhammed Yassin Khan, formerly registrar of the Resident's Court at Aden. to act for four months as Indian pilgrimage officer, Jeddah. This decision is most welcome, and the services of the officer will be of invaluable use during the months following the pilgrimage.

The Indian pilgrimage is likely to be considerably larger than that of last year, and Indian destitutes will this year be numbered, not in hundreds, but in thousands. Less than 2 per cent. travel with return tickets; about the same proportion make money deposits at this agency. The vast majority make no provision for their own return to India after pilgrimage. Many hundreds are destitute on landing in Jeddah, having been allowed to proceed from India to fulfil their religious duties as a nuisance to all with whom they come in contact. Destitutes who have already twice been sent back to India at charitable charge after previous pilgrimages now turn up smiling to ask that their names may be again noted for free return passages. The prospects of accumulation of Indian pilgrims in Jeddah after the Haj and of widespread destitution are, indeed, somewhat terrifying. There will be a serious shortage of shipping, for of seven Bombay–Persia company vessels, each of which will have made two, and some three, trips bringing pilgrims from India and the Persian Gulf, only five will be available for their return; while Messrs. Nemazee's big ships, which have been bringing some thousands of Indian pilgrims, are bound by the Javanese and Malay return-ticket system to remove the Far Eastern passengers whom they brought earlier in the season before they can become available for the transport of Indian pilgrims.

It is estimated that there will be some 4,000 Indian pilgrims, for the most part destitute, who will require, but will not find, return shipping immediately after the pilgrimage. Those who have the price of their return tickets will have spent it before shipping is available for them. Later gradual arrivals from Medina will, of course, increase this number considerably.

The Government of India inform me that they are considering the question of repatriation. It is earnestly to be hoped that they will come to some useful conclusion soon. The pilgrims have many legitimate grievances against King Hussein, but it is always easy for him to counter our protests by complaining of the nuisance and the real menace to public health constituted by this accumulation of Indian destitutes, for whose presence in that condition in the country the Government of India are considered by him to be directly responsible.

Nigerians, Fellata, &c.

Many of these "Takruni" pilgrims arrive by each ship from Suakin without passports. This is regrettable, since official intervention becomes impossible in the event of their conscription, kidnapping and enslavement. The matter has been raised with the authorities in the Soudan.

Lord Headley, president of the British Moslem Society, has been permitted by King Hussein to come on pilgrimage this year in the company of Khwaja Kamal-ud-Din, Imam of the Woking Mosque, on condition that his dress and deportment should be those of an Indian pilgrim. He will make a pilgrimage *de luxe* as King Hussein's guest.

Turkish Refugees.

A further batch of these refugees was sent to Cyprus during the month. The authorities in Cyprus state, however, that "there is absolutely no employment" for them in the island. Apparently only about thirty remain in Mecca, being officially boycotted by orders of King Hussein.

General.

Sir Afsur-ul-Mulk, K.C.I.E., who has returned from a long stay in Medina, reports chaos in the town and anarchy on the Medina road. Caravans are held up by the Ahamda at Bir Abbas for from seven to fifteen days, and, as the pilgrims' food supplies are insufficient, they must buy from the Arabs at famine prices or starve. A caravan of 6,000 camels paid tolls of 14–17 Mejidi dollars per camel, and spent an estimated total of 50,000*l.* on necessities supplied by their aggressors.

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Trade in Medina is at a standstill, for the pilgrims have been robbed before they arrive there. I learn that the Emir Ali, who is Governor of Medina, has refused to return to Medina until the King sanctions drastic measures to revive the Government's authority in and around the town.

Hassan Khan, the Persian consul, arrived on the 25th June. There is some hope of his being recognised by King Hussein, since the Persian Government, while making no official pronouncement in recognition of the Hashimite Government, have sent letters addressed by the Minister for Foreign Affairs, Tehran, to the Foreign Secretary to the Hashimite Government, Mecca, introducing Hassan Khan and expressing the hope that treaty relations may soon be established between the two Moslem countries, Persia and the Hedjaz.

Press ("*Al Kibla*").

No. 690 *of May* 28.—Public health in Mecca; constitution of a commission charged with sanitary inspection and similar duties in the capital.

Petitions, &c., to Government: Must be written (*a*) legibly, (*b*) in black ink.

Roofing-in the "Mas'a": A roof having been erected from Bab-ul-Abbas to Merwa, pilgrims can now perform their Sa'i in the shade. King Hussein's generosity and religious zeal suitably extolled. (The improvement is believed to have been made at the request and sole expense of the ex-Sultan of Turkey.)

Palestine: An Egyptian paper quotes the High Commissioner for Palestine, whose comments on King Hussein's declaration regarding the treaty ends with the words: "It "should not be assumed that any change has occurred in the political situation of "Palestine." Compare this with what the British Foreign Minister has said in article 2 of the treaty about His Britannic Majesty recognising and assisting the independence of the Arabs in Transjordonia and other Arab countries of the peninsula (except Aden), and about the British Government undertaking not to act in Palestine against the rights of the inhabitants. The two declarations are contradictory. Which is right? The specific exception of Aden alone in the article helps us to judge what weight is to be attached to the Palestine Government's pronouncement.

Egyptian press criticisms: "Al Ahram" and "Al Siyasa" are reproved for publishing articles hostile to King Hussein's version of treaty promises and of the retreat from Ebha. An Egyptian paper, which states that Sultan Wahid-ud-Din could find no dentist in Taif, is recommended to add that His Majesty also found in Taif no theatre run by Mdlle. Munira—a popular favourite in Cairo.

Aviation: Commendable behaviour of Bedouin towards a Hashimite aviator who crashed on the way to Taif. (Actually, a machine carrying two Russian aviators and an Egyptian observer crashed, and the men were only rescued by a local detachment after having been held for ransom by the Bedouin.)

Medina caravans: Departure of a pilgrim caravan of 6,000 camels from Mecca.

No. 691 *of May* 31.—"Al Kibla" congratulates itself on its eighth birthday, and prays for the King.

Departure: The Emir Abdullah-bin-Mohammed, Minister of the Interior, has left for Egypt.

Mutilations: Two persons caught stealing from pilgrims in the Medina caravan have been brought to Mecca, where their hands were cut off, as prescribed by Shar'ia Law, in public.

Hedjaz Railway: Repairs from the Medina end have reached Bueir; from the Maan end, Tebuk. God bless those working in the shadow of Hashimite Majesty!

The Mosque in Paris: Short note of appreciation.

No. 692 *of June* 4.—Egyptian press criticisms: Various Cairo journals are referred to the condemnation of conscience.

Ebha: A telegram from Kunfuda reporting imminent hostilities between the Idrisi and the Imam serves to prove by what humane motives the Hashimite withdrawal from Ebha was prompted. King Hussein holds aloof from any situation likely to lead to Arab bloodshed.

Medina caravans: 700 more camels have left Mecca.

No. 693 *of June* 7.—Official announcement forbidding pilgrims to travel to Medina on foot or without official escort.

Deputation from the Khilafat League: An "Islamic deputation" under Maulvi Abdul Bari is expected to arrive in Mecca this year from the Khilafat League in India. They are warmly welcomed.

The mosque of Omar: Publicity is given to an appeal by the Grand Mufti of Palestine for 150,000*l.* for repairs to the mosque.

No. 694 *of June* 11.—A sermon deploring the state of Western civilisation as shown by the French Government's contracting for armoured trains to defend the railway line against sabotage and banditry. The extreme comfort and security of roads in the Hedjaz is happily contrasted with these shocking conditions. The murder of M. Vorowsky in Lausanne is taken as another sample of what life is like in Europe to-day.

No. 695 *of June* 14.—Transjordania: A long account, copied from "Esh-Shark-el-Arabi," of the declaration of the independence of Transjordania, notable for the reference by Abdullah to King Hussein as the "Amir-ul-Mu'minin."

No. 696 *of June* 18.—Decorations: The 1st Class of the Order of "Al Istiklal" for Mr. Philby.

Official announcement: The use of the titles "Bey," "Pasha," &c., for Hashimite officials must cease. They should henceforward be styled "Sahib-el-Jah," "Sahib-el-Ikbal," "Sahib-el-Nebaha," &c.

British promises: Taking as text a hope expressed in the press that King Hussein's declaration of Arab independence and unity will not turn out to be like the British promises made during the war, "Al Kibla" reproduces this agency's letter of the 8th February, 1918/27.4.1336, communicating the Foreign Office message first published in No. 555 of "Al Kibla" of the 28th January, 1922/28.5.1340.

Also relevant quotations from Mr. Lloyd George's request in the House of Commons for the publication of the MacMahon documents.

Also what purports to be a telegram addressed by the Foreign Office to King Hussein disclaiming the Sykes–Picot Agreement, in the form of a statement that the documents published by the Bolsheviks in Petrograd were records of conversations and undertakings between Great Britain, France and Russia of temporary force only, and that the collapse of Russia and the success of the Arab revolt have created an entirely new situation.

With these charters of Arab independence before her, the Hedjaz cannot be insulted. She cannot suspect her great allies of trickery and guile; but, if she has been deceived, was not America also deceived in her hopes for peace on the lines of the fourteen points?

Publication of the treaty: The publication of the text of the treaty by the Palestine Government aroused anxiety in the breast of the editor, which was, however, readily appeased by the King's private secretary, who quoted the article which appeared in No. 690 of "Al Kibla." The journal continues to confront Sir Herbert Samuel with the words of article 2 as convincing proof that King Hussein's declaration was justified by the text. As to the Palestine Government's statement that the treaty is not yet ratified by King Hussein, whose amendments are still under consideration, while "Al Kibla" allows it on one hand to be suggested that this statement is untrue, on the other it uses the statement to calm those critics whose hostility has been most violent.

No. 697 *of June* 21.—Official notice: Many pilgrims on arriving in Jeddah start off on foot to Mecca, carrying their luggage. For the last three years a committee has been formed to assist these pilgrims on their march, but the task is difficult owing to the pilgrims' weakness for resting at odd moments. Now instructions have been given to Government employees along the Mecca–Jeddah road to assist and speed-up stragglers, who run (carefully unspecified) risks by proceeding on foot without escort to the capital.

Pilgrims should only hire camels through official Mukawwimin. Those who engage camels from casual Bedouin are likely not to see their luggage again. The Government cannot, in such cases, accept responsibility.

Promises and pledges: "A Reader in Mecca" endorses the article in the previous number as proof that the Arab revolt rested on a firm foundation, and reproduces, as additional evidence, the Anglo-French Declaration of 1918. "Al Carmel's" proposal that the Palestinian Arabs should discuss matters directly with Great Britain is commented on by the royal correspondent.

No. 698 *of June* 25.—Thanks to the King: El Sheikh Mansour Salaam, an Egyptian schoolmaster, thanks His Majesty in prose and verse for his care of pilgrim interests.

Hashimite Mint: Gold, silver and nickel coins are promised for the beginning of the new year (August).

Electricity in Mecca: The mosque and surroundings are to be lit by electricity.

Military stores: A factory for military equipment, cartridge-cases, &c., is to be opened in Mecca.

Sheikh Fuad-al-Khatib left Mecca on a visit to Jeddah on the 21st June.

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Sir Afsur-ul-Mulk has returned to Mecca from Medina, and has now left for Taif.

Medina caravans: A caravan of 250 camels has left for Medina; the first Shawwal caravans are now returning, in great comfort and security, to Mecca from Medina.

R. W. BULLARD.

APPENDIX.

Shipping Intelligence.

Steamship.	Flag.	From—	To—	Arrived.	Left.	Pilgrims disembarked.	Cargo discharged.
							Packages.
Keneh ..	British ..	Aden ..	Suez ..	May 29..	May 30..	..	1,619
Asmara ..	Italian ..	Suez ..	Massowa ..	June 2..	June 2..	..	222
Zayani ..	British ..	Bombay ..	Bombay ..	„ 4..	„ 5..	1,005	..
Jeddah ..	British ..	Bombay ..	Karachi ..	„ 5..	„ 7..	1,187	6,565
Mansourah ..	British ..	Suez ..	Port Soudan ..	„ 5..	„ 6..	344	3,066
Dara.. ..	British ..	Bombay ..	Bombay ..	„ 6..	„ 9..	1,325	20,343
Massaua ..	Italian ..	Suez ..	Massowa ..	„ 9..	„ 9..	..	175
Atreus ..	British ..	Singapore ..	Port Said ..	„ 11..	„ 11..	211	..
Aludra ..	Dutch ..	Mombasa ..	Port Said ..	„ 11..	„ 11..	17	10
Mansourah ..	British ..	Port Soudan ..	Suez ..	„ 11..	„ 12..	566	1,392
Shushtar ..	British ..	Bombay ..	Bombay ..	„ 12..	„ 13..	812	..
Shuja ..	British ..	Bombay ..	Aden .	„ 13..	„ 15..	1,401	2,461
Sarvistan ..	British ..	Bombay ..	..	„ 14..	..	1,507	..
Keneh ..	British ..	Suez ..	Aden ..	„ 15..	„ 16..	306	793
Meriones ..	British ..	Singapore ..	Port Soudan ..	„ 18..	„ 18..	335	..
Borulos .	British ..	Aden ..	Suez ..	„ 18..	„ 19..	522	3,313
Glaucus ..	British ..	Singapore ..	Port Said ..	„ 19..	„ 19..	232	..
Englestan ..	British ..	Bushire ..	..	„ 22..	..	1,853	21,115
Massaua ..	Italian ..	Massowa ..	Suez ..	„ 22..	„ 23..	121	1,683
Homayun ..	British ..	Bombay ..	Aden ..	„ 24..	„ 26..	950	3,535
Accra ..	British ..	Karachi ..	Karachi ..	„ 24..	„ 26..	551	..

H.M.S. "Cornflower" arrived on June 11 and left on June 12, 1923.

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C 41614

The Committee of the Privy Council has had before it a memorandum of the Right Honorable the Prime Minister dated the 21st day of August 1922 relating to the proposed visit to Canada of Mr. Harry Biggar, the representative of the Public Archives in Europe. It is represented that for many years past Mr. Biggar has been engaged in research in connection with the Voyages of Jacques Cartier, the discoverer of the Saint Lawrence. That the existing texts of these voyages have been revised as the result of the researches of Mr. Biggar. The copy is now ready for the printer and it is proposed to issue the work as one of the publications of the Public Archives.

That it is a work of great historic value and that it will redound to the credit of Canada to publish the first authentic version of these voyages. In consideration of Mr. Biggar's services in connection with the said volume it is proposed to allow Mr. Biggar the sum of Two hundred and fifteen pounds sterling towards the expenses of coming out to Canada to superintend the printing of the volume under the King's Printer.

That as the decision to print this volume could not be made during the session of Parliament it is recommended that the said sum of Two hundred and fifteen pounds sterling be paid to Mr. Biggar out of the appropriation known as Unforeseen Expenditure.

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IH/6

P.C. 1745 C 41615 H-1101

Certified copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the The Deputy of 14TH SEPTEMBER 1922

PRIVY COUNCIL CANADA

The Committee of the Privy Council have had before them a Report, dated 18th August, 1922, from the Right Honourable, the Prime Minister, for the Secretary of State, representing as follows:-

That there is in the Public Archives of Canada a collection of paintings, drawings and prints, relating to the history of Canada, and amounting in number to many thousands;

That these pictures are of the greatest value to all students of Canadian history and are indispensable for the adequate and accurate pictorial illustration of the story of the country's development;

That requests are constantly being made to the Public Archives for information regarding such pictures, and for permission to examine and to reproduce those of them in which each particular enquirer may be interested;

That such use of these pictures by persons interested is very seriously hampered by the want of any printed catalogue, and that the people of Canada cannot derive more than a small part of the full benefit which should be derived from the collection, which has been assembled as a result of a great expenditure of time and money during a period of many years, until an adequate catalogue thereof is made available;

That the Public Archives has in preparation such a catalogue, of which the first portion will shortly be/

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be ready for printing;

That this catalogue should include careful descriptions of the pictures, which are of many kinds, and accurate reproductions of the titles, which are in many languages and many styles of type, in order that it may be a trustworthy guide to scholars and collectors in identifying and making reference to the several pictures; and should include illustrations from the more important and more rare of the pictures;

That a number of sample pages of the proposed catalogue have been prepared and are annexed hereto;

That, because of the peculiar and unusual character of the type-setting, and the inclusion of illustrations, it is proposed that the work of printing this catalogue should be done outside the Department of Public Printing;

That it is proposed to publish at present a first part of this catalogue, to consist of about 100 to 150 pages;

The Prime Minister therefore recommends that authority be given for such publication in accordance with the above representations.

The Committee advise that the requisite authority be granted accordingly.

Clerk of the Privy Council.

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C 41617

INDEXING OF ARCHIVES PAINTINGS.

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C 41618 27-1101

P.C.1551.

The following is a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by his Excellency the Governor General on the **14th August, 1923.**

The Committee of the Privy Council have had before them a report, dated 10th August, 1923, from The Secretary of State, submitting that during the recent visit of the Deputy Minister of the Public Archives in Europe, he ascertained that the well known collection of original French documents made by Sir Thomas Phillips, seventy-five years ago, had been sold in May 1923 to Dr. Rosenbach of New York;

That this collection consists of two large folio volumes and four quarto volumes of documents, making over three thousand pages of so far unknown material;

That they include over one hundred and fifty letters of Montcalm, and hundreds of letters of Vaudreuil, Levis, Malartic, Bigot and others, with a large number of memoirs, instructions and orders;

That this collection has been long and eagerly sought after by collectors and students in England, France and the United States, and that twenty years ago Canada made an unsuccessful effort to obtain copies of it;

That the collection was already on the way to New York to be broken up and sold, when Mr. Kashnor, who had extensive dealings with Mr. Rosenbach, offered to try to secure it for Canada;

That a letter was written to Mr. Rosenbach asking him for his lowest price, to which he replied on the 18th June, as follows:

> "Thirty thousand dollars net includes over hundred fifty Montcalm letters in one volume and five containing letters, documents Levis Vaudreuil Bigot and others please cable reply as two institutions considering Rosenbach".

That on the 20th June, the Deputy Minister of the Public Archives cabled to the Right Honourable the Prime Minister recommending the purchase at £6000, and that on the 22nd June the Prime Minister replied as follows:

> "Your cable June twentieth. Colleagues in Government join with me inauthorizing your exercising option for purchase French regime papers. Mackenzie King".

That....

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That the offer of £6000 through Mr. Kashnor was accepted by Dr. Rosenbach on the 27th June;

That on the 10th July the Deputy Minister received in New York delivery of the collection, which is now in the Public Archives;

That as this transaction was completed only after the closing of the House, no provision had been made for it in the estimates and it is desirable to provide for it out of unforeseen expenditure, especially as it was purchased for spot cash by Dr. Rosenbach.

That this collection was bought through Mr. Kashnor, an agent, and it is necessary to pay him a commission, the usual fee for which is ten per cent, Mr. Kashnor however agreed to accept five per cent as he has had extensive dealings with the Department for many years;

The Minister therefore recommends that a special warrant be issued for £6000, and a commission of five per cent on that amount in payment for this collection.

The Committee advise, the necessity being urgent, and the Minister of Finance having reported that there is no Parliamentary provision for the above expenditure, that a Special Warrant of Your Excellency do issue for the sum of $30,660 accordingly.

E. J. Lemaire

Clerk of the Privy Council.

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C 41620 9t - 1101
Expenses to Canada

P.C. 91/1628.

Certified Extract from the Minutes of a Meeting of the Treasury Board, held on the 10th August, 1923, approved by His Excellency the Governor General in Council, on the 17th August 1923.

SECRETARY OF STATE -

The Board had under consideration a memorandum from the Honourable the Secretary of State, reporting that on the 19th August 1922, the Right Honourable the Prime Minister, by cable advised Mr. H.P. Biggar that he would be paid certain expenses to the extent of $215 in connection with the publication of a new version of the Voyages of Jacques Cartier; that Mr. Biggar has been at work on this publication for the last twenty years, and finally came out to Canada and put the volume through the press; that Mr. Biggar has now completed his work and will be ready to return to his duties in England in October 1923.

Considering the fact that Mr. Biggar has been put to considerable expense in coming over to undertake this work for the benefit of historical students, and considering the fact that all investigations in Spain and other countries necessary to complete this work were made at his own expense, and that he is giving this manuscript to the Dominion Government, it is recommended that Mr. Biggar be paid the sum of $812 to pay for his return to England, and other expenses which he has had to incur as a result of his visit to this Country. $ 965. $ 965

The Board concurring in the above recommendation, submit the same for the favourable consideration of Council.

E. J. Lemaire
Clerk of the Privy Council.

The Honourable
The Secretary of State.

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The year that has just closed has been a history making year for the Dominion. It has seen the first treaty signed by Canada alone and it has witnessed the great achievement of the Imperial Conference, namely the recognition of the sovereignty of the parliament of each nation within the British Commonwealth. The people of Great Britain are turning their attention to Canada in a way they have never done before. The presence of the Canadian Ministers in London focused British interest not only in the present of our country, but in its past. The campaign that was begun last year to arouse an active interest in Canada and its institutions appealed to the imagination,and historical treasures which were unsuspected were revealed. First there was announced the discovery of the document and plan showing that as early as the year 1542 the Marquis de Roberval exercised his judicial powers in the little Fort Francis on the banks of the St. Lawrence, thus carrying back our recorded history nearly four centuries. Then came the papers linking up Canada with the protectorate of England under Oliver Cromwell. From the court at Whitehall in 1656, Cromwell under his hand and seal gave instructions for the taking over of the forts of Nova Scotia which had surrendered to his arms. Then followed the dapture of Fort St John, and the fighting in the woods where they came "to hard blowes in which encounter God gave such spirit to our soldiers". Following this was a series of documents relating to early voyages under the French regime. Accounts of Nova Scotia and of the North West, the actual plan that was used to bring up the ships of Wolfe's expedition,and the painting describing the attempt of the enemy to destroy that fleet. Shortly after Lord Durham donated to Canada the whole of the papers of his grandfather's administration

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in 1838. Signed by the Queen there are the various instructions defining his powers, and the first draft traced by Durham's own hand of the document suspending the constitution. In the thousands of pages which compose this collection we may follow Durham step by step in the difficult task he undertook and we learn for the first time who were his trusted advisers: There is a remarkable letter by Robert Baldwin dated August 1838 from which I may make a quotation "Your Lordship must adapt the government to the genius of the people upon whom and among whom it is to act. It is the genius of the English race in both hemispheres to be concerned in the government of themselves. I would ask Your Lordship, would the people of England endure any system of executive government over which they have less influence than that which at present exists? Your Lordship knows that they would not. Can you then expect the people of these colonies with their English feelings and English sympathies to be satisfied with less. If you do you will assuredly be disappointed. They can see a reason why their relations with foreign countries should be placed in other hands, but none why their domestic concerns should not be managed on similar principles to those applied in the administration of the Imperial Government."

"It is in vain to direct their attention to this or that grievance. Many that have been harped upon in the political heat of the day as evils of appalling magnitude, are no grievances at all, and many others would cease to be such under the system proposed."

"You must place the Government in advance of public opinion. You must give those in whom the people have confidence an interest in preserving the system of your Government, and maintaining the connection with the Mother

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Country and then you will hear no more of grievances because real ones will be remedied- imaginary ones will be forgotten."

The gift of Lord Durham was followed by a princely donation of manuscripts from Sir Liecester Harmsworth as a memorial to Lord Northcliffe. It was my privilege while in England to receive these volumes in the name of Canada. The bulk of the papers were accumulated by Robert Monckton while serving under Lawrence at the time of the Acadian expulsion and while Lieutenant Governor of Annapolis Royal and Governor of Nova Scotia and later when second in command under Wolfe at the Siege of Quebec. There are also papers referring to his subsequent career in New York. Great as is the value of these manuscripts for the history of Nova Scotia, particular interest is attached to them for the light they throw on the operations before Quebec and on the activities of Wolfe. On the fall of the Commander on the 13 September 1759, many of Wolfe's own papers came into Monckton's possession, which seem hitherto to have escaped notice.

Here we find the letter of the Secretary of War announcing to Wolfe that he had been appointed to command a Special Service. Next there is the secret instructions of the King which were not to be opened until he was at sea. From these he learned that if fortune favored his arms he was to make provision for the administration of the country. Accordingly on the voyage he prepared a scheme for the administration of the only part of the country he knew, namely, Nova Scotia, where he had been the year before. He proposed radical changes in the army and was evidently a prohibitionist, "The immoderate use of rum is the bane of industry and the destruction of the seamen and soldiers. They are poisoned even in

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their very hospitals by that pernicious spirit".

On the way up the St. Lawrence to Quebec we find a letter indicating what Wolfe hoped to accomplish and the place or places he proposed to attack. And at a time, when he could have little hope of success, he drafted terms for a capitulation. The study of his orders and journals shows that he was thoroughly efficient and provided for every emergency.

Amongst the papers of the Harmsworth collection are the general orders of Wolfe from 1745 until the 12 September 1759, the eve of the battle of the Plains. There is also a letter written by Montcalm a few days before his death in which he urges that special precautions should be taken at the Fülon, or place where Wolfe actually landed. If this place had been properly guarded as Montcalm suggested, the story of the 13 September might have been different. There are five journals of the siege in French which fell into the hands of Monckton which hitherto have not been published. It is impossible to give any details of this large collection. There are one hundred and twenty volumes beautifully bound and I understand that additions to the collection are proposed.

But the crowning effort of the year was the creation of the Canadian History Society which was successfully launched in November last. I wish to dwell for a moment on what this society means to Canada. Sir Campbell Stuart who is ever seeking for means to promote the interests of his native land was desirous to further the efforts of the Canadian Government to elucidate its history, and conceived the idea of uniting in a living bond those still living, and the descendants of those who from early times had contributed to the upbuilding of Canadian institutions. The Society was formed with the King as Patron and the

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Duke of Connaught as President and Lady Minto as Vice-President. At the inaugural dinner at which I had the privilege of being the guest, there was some eighty members present. It was truly a remarkable gathering at which the past of Canada seemed to live again. Durham, Grey, Minto, Murray, Elgin, Devonshire, Townshend, Wolfe, Arthur, Cathcart, Prevost, Pro-Consuls and Generals, names with which we are familiar in the pages of history were seated around the table. Speeches were made by the Duke of York, by the Duke of Devonshire and by others and all were enthusiastic in their desire to help on the cause of Canadian history. At the conclusion of the banquet, several families intimated that their papers would be at the disposal of the Government and those of Lord Dartmouth have already been handed over. The Society is pledged to search for historical material and to trace up family connections. But its work does not cease there, Messrs Hodder & Stoughton have arranged to publish a series of biographies under the editorship of that distinguished scholar and author Mr. John Buchan. Volumes on Durham, Elgin, Sydenham, Simcoe and Dorchester have already been arranged for. The Society is not confined to the English regime. In France a similar organization is being launched under the direction of the Marquis de Montcalm and the Marquis de Lévis and it is hoped that before long, plans will be complete for the publication of a series of volumes on the principal characters of the French regime. Thus in England and in France hundreds of men and women are banded together with the sole object of helping on the cause of Canadian history and of reviving those ties of interest which united them in the past for a period of nearly four hundred years.

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The Society is at present composed of a few hundred members, but gradually it will increase to large proportions as family connections are discovered. There is no other ~~Similar~~ organization that I am aware of and since there is no expense whatever to Canada in connection therewith, we naturally reap the benefit not only in the acquisition of historical material but the enrichment of Canadian literature.

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ANONYMOUS

Pub. Archives of Canada
Webster, J.C.

(17.)

PRIME MINISTER'S OFFICE

C 41627

.....December 21st...1923....

SUBJECT:

Archives Building in Halifax
(Advocated by Dr. J. Clarence Webster).

PRECIS:

Correspondence from Dr. J. Clarence Webster urging Government to establish Archives Building in Halifax "which would serve not only as a safety storehouse, but as a cultural center and a place for historical research".

Dr. Webster points out that next year would be an appropriate time, as it will be the 175th anniversary of the founding of Halifax.

ACTION BY COUNCIL:

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C 41628

C

Extract from
"The Canadian Archives and Its Activities"
by (Sir) Arthur G. Doughty,
Ottawa, King's Printer, 1924.

"Of all national assets, archives are the most precious; they are the gift of one generation to another and the extent of our care of them marks the extent of our civilization."

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C 41629 3 1700 - H.

499

Mss Eng - Request for Assistance
Public Archives of Canada

Confidential.

The Honourable Raoul Dandurand,
The Senate,
O t t a w a.

MEMORANDUM:

The Prime Minister has asked me to convey to you the following memorandum of Dr. Doughty's comments with respect to Arnold Haultain:

"What we need in England is a live man, and I am looking about now to find one; it is no good making permanent a man who is not satisfactory. Haultain is as antiquated and useless as Biggar himself is, except that Biggar is a scholar.

Haultain has got into Biggar's plodding ways and has persuaded him to support his application for permanent appointment; Haultain is trying to arrange it over my head. I would not place any reliance in anybody Biggar recommends.

Professor McArthur of Kingston has just returned from England; he says Biggar was a great help to him, but that 'we ought to be doing something in England.'"

[illegible]/C

Private Secretary.
(F.A. McGREGOR)

Ottawa,

February 4, 1925

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C 41630 H-1101-C

Duplicate.

Ottawa, February 7, 1925

MEMORANDUM FOR MR. ROBB.

Re: E. de Cathelineau - Archives, Paris.

The attached comes from the Archives and has nothing to do with Mr. Roy's office in Paris. Dr. Doughty says that Mr. de Cathelineau (who is not a Canadian but is most efficient) was appointed:

Copyist, February 2, 1920, at five hundred francs per month;

Assistant Archivist, October, 1920, at $1080 a year.

The permanent position of Assistant Archivist in Paris was created under Order in Council, P. C. 8/585, April 5, 1923, and on December 9, 1924, the Archives (Dr. Doughty) requested the Civil Service Commission to fill the position by the appointment of Mr. de Cathelineau. Dr. Doughty strongly approves of the appointment.

F. A. McGREGOR

Private Secretary.

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C 41631

PRIME MINISTER'S OFFICE

MEMORANDUM

To Dr. Doughty:

The following original documents, kindly lent to Mr. King by Dr. Doughty, are herewith returned, with Mr. King's thanks:

1. Lottery ticket for building prison at Montreal

2. Confession of Charles LeFrancois, printer of Le Canadien

3. Affidavit of Josias Styles re subscription to Le Canadien, etc.

Laurier House,
April 28, 1925.

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C 41632

P.C. 1059.

COPY

Privy Council Canada

AT THE GOVERNMENT HOUSE AT OTTAWA

FRIDAY, the 17th day of JULY, 1925.

PRESENT

THE DEPUTY OF
HIS EXCELLENCY
THE GOVERNOR GENERAL IN COUNCIL ---

WHEREAS the Secretary of State of Canada represents that the late Sir Edmund Walker, Chairman of Historical Manuscripts Commission and Chairman of the Art Gallery, sought to establish in the Public Archives a National Portrait Gallery similar to the British National Portrait Gallery in London;

THAT in furtherance of this plan he transferred from the National Gallery of Canada several historical portraits and historical paintings to the Public Archives; that moreover, he obtained from the Stuart family in Scotland portraits of the Attorney General and Chief Justice of Canada and deposited them in the Public Archives;

THAT in a scheme prepared for a new National Gallery he provided (as an annex to the Archives) a building for purely historical paintings;

That during the late war the Right Honourable Lord Beaverbrook wasinstrumental in obtaining for Canada certain historical paintings, in particular:

The death of Wolfe by Benjamin West
Portrait of Brant by Romney
Portrait of Amherst by Reynolds
Portrait of Sir Alexander Mackenzie by Lawrence

with the intention of their being deposited in the Public Archives;

That owing to lack of space at the time, the transfer of these paintings from the National Gallery to the Public Archives was not effected;

AND THAT the paintings referred to form a natural part of the Archives, and in fact the Archives for many years had been trying to obtain the portrait of Brant and it was probably through the efforts of Sir Edmund Walker that the painting of Brant was transferred to Canada;

The Honourable
the Secretary of State,
(Archives)

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THEREFORE the Deputy of His Excellency the Governor General in Council, on the recommendation of the Secretary of State, and pursuant to the provisions of Section 8 of the Public Archives Act, of 1912, is pleased to order and doth hereby order and direct that the above-mentioned paintings be transferred from the National Gallery of Canada to the Public Archives.

(Signed) G.G. Kezar

Asst. Clerk of the Privy Council.

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C 41634 H-1101 - Audit to act

PRIME MINISTER'S OFFICE

MEMORANDUM

11 a.m.
Tuesday,
Aug. 18,
1925

MR. KING:

In compliance with your directions, I have just intimated to Mr. Eric Brown, Director of the National Gallery, that you do not intend to interfere with the Acting Minister of Public Works, in carrying out the action authorized by the Order in Council, providing for the removal of four pictures to the Archives.

It might be advisable for you to send telegraphic acknowledgments of the telegrams of protest which you have received during the last two or three days, from the Trustees of the National Gallery.

LCM
(L.C. MOYER)

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H-1101-B C 41635
Dec 1928

Ottawa, July 9, 1929

MR. KING:

Dr. Doughty reports that he sees no reason why Dr. Biggar should come to Canada so far as work for the Archives is concerned. As a matter of fact, Dr. Biggar had suggested that the Cartier documents should be published from England. Inquiries were made and it was ascertained that the cost of publication there would effect a saving of about $2000.00. This being the case the Minister, Mr. Rinfret, agreed that Dr. Biggar's suggestion be accepted.

Dr. Doughty points out that the Department has brought Dr. Biggar to Canada on two or three former occasions and he does not see any reason why this additional expense should be incurred this year.

H.McL.R.

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PIERRE CORNELLE, (1606 - 1684) **C 41636**

21. Que la Vérité parle au dedans du Coeur sans aucun Bruit de paroles.

" Parle,parle,Seigneur, ton serviteur écoute:
Je dis ton serviteur,car enfin je le suis;
Je le suis,je veux l'être,et marcher dans ta route
Et les jours et les nuits.

Remplis-moi d'un esprit qui me fasse comprendre
Ce qu'ordonnent de moi tes saintes volontés,
Et réduis mes désirs au seul désir d'entendre
Tes hautes vérités.

Mais désarme d'éclairs ta divine éloquence,
Fais-la couler sans bruit au milieu de mon coeur:
Qu'elle ait de la rosée et la vive abondance
Et l'aimable douceur.

Vous la craigniez,Hébreux,vous croyiez que la foudre,
Que la mort la suivit,et dût tout désoler,
Vous qui dans le désert ne pouviez vous résoudre
A l'entendre parler.

"Parle-nous,parle-nous,disiez-vous à Moïse,
Mais obtiens du Seigneur qu'il ne nous parle pas;
Des éclats de sa voix la tonnante surprise
Serait notre trépas.

Je n'ai point ces frayeurs alors que je te prie;
Je te fais d'autres voeux que ces fils d'Israël,
Et plein de confiance,humblement je m'écrie
Avec ton Samuel:

"Quoique tu sois le seul qu'ici-bas je redoute,
C'est toi seul qu'ici-bas je souhaite d'ouïr:
Parle-donc,ô mon Dieu! ton serviteur écoute,
Et te veut obéir."

"Je ne veux ni Moïse à m'enseigner tes voies,
Ni quelque autre prophète à m'expliquer tes lois;
C'est toi qui les instruits,c'est toi qui les envoies,
Dont je cherches le voix.

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" Comme c'est de toi seul qu'ils ont tout ces lumières
Dont la grâce par eux éclaire notre foi,
Tu peux bien sans eux tous me les donner entières,
Mais eux tous rien sans toi.

Ils peuvent répéter le son de tes paroles,
Mais il n'est pas en eux d'en conférer l'esprit,
Et leurs discours sans toi passent pour si frivoles,
Que souvent on s'en rit.

Qu'ils parlent hautement, qu'ils disent des merveilles,
Qu'ils déclarent ton ordre avec pleine vigueur:
Si tu ne parles point, ils frappent les oreilles
Sans émouvoir le coeur.

Ils sèment la parole obscure, simple et nue;
Mais dans l'obscurité tu rends l'oeil clairvoyant,
Et joins du haut du ciel à la lettre qui tue
L'esprit vivifiant.

Leur bouche sous l'énigme annonce le mystère,
Mais tu nous en fais voir le sens le plus caché:
Ils nous prêchent tes lois, mais ton secours fait faire
Tout ce qu'ils ont prêché.

Ils montrent le chemin, mais tu donnes la force
D'y porter tous nos pas, d'y marcher jusqu'au bout;
Et tout ce qui vient d'eux ne passe point l'écorce,
Mais tu pénètres tout.

Ils n'arrosent sans toi que les dehors de l'âme,
Mais sa fécondité veut ton bras souverain;
Et tout ce qui l'éclaire, et tout ce qui l'enflamme
Ne part que de ta main.

Ces prophètes enfin ont beau crier et dire:
Ce ne sont que des voix, ce ne sont que des cris,
Si pour en profiter l'esprit qui les inspire
Ne touche nos esprits.

Silence donc, Moïse! et toi, parle en sa place,
Éternelle, immuable, immense vérité;
Parle, que je ne meure enfoncé dans la glace
De ma stérilité.

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" C'est mourir en effet, qu'à ta faveur céleste
Ne rendre point pour fruit des désirs plus ardents;
Et l'avis du dehors n'a rien que de funeste
S'Il n'échauffe au dedans.

Cet avis écouté seulement par caprice,
Connu, sans être aimé, cru sans être observé,
C'est ce qui vraiment tue, et sur quoi ta justice
Condamne un réprouvé.

Parle-donc, ô mon Dieu! ton serviteur fidèle
Pour écouter ta voix réunit tous ses sens,
Et trouve les douceurs de la vie éternelle
En ses divins accents.

Parle pour consoler mon âme inquiétée;
Parle pour la conduire à quelque amendement;
Parle, afin que ta gloire ainsi plus exaltée
Croisse éternellement."

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Gethsemane

PIERRE CORNEILLE. (1606 - 1684) C 41639

21. How Truth may be implanted in the heart without any war of words.

" Speak Thou, O Lord, Thy servant hears Thy voice:
I say Thy servant, and as such I stay;
Both mind and body make Thy paths my choice
At night-time, as by day.

Store Thou my mind with what makes truly clear
What Thou providest by Thy holy will;
Quell Thou desire, that I may only hear
And Thy great truths fulfil.

May from Thy voice divine no lightnings gleam,
But, noiseless, may into my heart's core, flow;
Watered by dew, may it with plenty teem,
And with Love's sweetness glow!

The Hebrews feared the sound Thy thunders made,
Felt Death was in its path, and ruin near;
There, in the desert, naught could them persuade
'Twas Thy voice that they hear.

"Speak to us, speak!" to Moses rose their cries,
"Pray thou the Lord, for we, unheeded, wait;
Or, of His voice, the thunderous surprise
Shall, in death, seal our fate!"

Such fears no more lead me in pray'r to Thee,
Than Israel's sons, Thee other vows I bring;
But, full of confidence and deep humility,
Give Samuel's offering:

"Altho" 'tis Thou alone whom here I fear,
I would hear only Thee from day to day;
Speak Thou, O Lord, so may Thy servant hear,
And ever Thee obey."

Nor Moses needs to teach Thy ways to me,
Nor other prophet Thy laws to explain;
Thou teachest them, they all are sent by Thee,-
-Their voice to seek I'm fain.

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" As 'tis from Thee alone the light they see,
Which means of grace to our faith clearness brought;
Without it, Thou can'st well give all to me,
Without Thee, it is naught.

They may the sound repeat of Thy great word,
But cannot voice the spirit's high behest;
And without Thee, their speech seems so absurd,
'Tis taken as a jest.

Tho' loud they speak, and we of wonders hear,
Tho' they with might, attempt to play Thy part,
If Thou speak'st not, they only charm the ear,
Nor touch at all the heart.

Simple and bare, the word they sow lacks light,
But, in the darkness, Thou dost seeing give;
The letter kills, - the Spirit's heav'n-sent might
Maketh all things to live.

Full is their darkened speech of myst'ry deep,
But Thou all hidden things mak'st us to see;
Thy laws they preach, but Thine aid makes us keep
The spoken word in fee.

They show the pathway, but Thy strength reveals
What aids our steps, 'till we the end attain;
Their application but the surface heals,
Thy saving pow'rs remain.

Just the soul's fringe, without Thee, feels their show'rs,
Since her fertility depends on Thee;
For, of all light, and, of all flame, the pow'rs
By Thy hand guided be.

In short, these seers may speak or cry in vain,
Theirs are but voices, and theirs are but cries;
If for their selfish souls they seek but gain,
And our hearts do not rise.

Moses, be silent! and speak Thou instead,
That we Thy truth, eternal, changeless, see;
Speak! that we flee the icy-cold death-bed
Of our sterility.

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C 41641

" Favoured by Thee, it is indeed to die,
If we return not Thee our ardent love;
And outward show brings but fatality
If inward fires remove.

If we good counsel hear through whim alone,
- Knowledge,not love,- faith without works as mates;-
This truly kills,- for from Thy judgment-throne,
Condemned are reprobates.

Unto Thy servant speak, O Lord most kind,
Who,towards Thy voice brings all his mind in train;
May he the sweets of life eternal find
In its divine refrain.

Speak,and bring solace to my restless soul,
Speak Thou, and lead it to a better way;
So may Thy glory find its highest goal,
And grow eternally."

tr. Geo.A.S.Gillespie.

161 Laurier Avenue, HULL,P.Q.
14th. February, 1924.

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C 41642 2-1700-S 2-1405-B

PRIME MINISTER'S OFFICE

MEMORANDUM

Thursday,
July 9,
1 9 2 5

MR. KING:

John Bassett 'phoned me today to say that he is giving a little dinner at the Country Club next Tuesday evening July the 14th at 8:00 o'clock, in honour of Major the Honourable John Jacob Astor, proprietor of the London "Times", and Lady Violet Astor. He hopes that you may be able to be present, and has asked me to let him know within the next day or two whether you will find it possible.

Dinner jackets will be worn.

LCM.

Accepted

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P.C.473. E-1107 C 41643

to be a true
Certified copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the **27th March, 1926.**

PRIVY COUNCIL
CANADA

The Committee of the Privy Council have had before them a report, dated 25th March, 1926, from the Right Honourable W. L. Mackenzie King, Prime Minister, submitting that the House of Commons has by an address represented to Your Excellency that a petition has been within the time specified in the Corrupt Practices Act, being Chapter 8 of the Revised Statutes of Canada, 1906, as amended, presented to the House of Commons by more than twenty-five electors of the Electoral District of Athabasca stating that no petition charging the existence of corrupt practices has been presented under the Dominion Controverted Elections Act and that corrupt or illegal practices have, or that there is reason to believe that corrupt or illegal practices have prevailed in the election holden in the Electoral District of Athabasca on the 29th day of October, 1925; that the said petition was presented to the House of Commons on the 29th day of January, 1926, and on the 1st day of February, 1926, was laid upon the table of the said House of Commons with the report of the Clerk of Petitions stating that he had examined the petition of the more than twenty-five electors of the said Electoral District and that all the requirements of the said Corrupt Practices Inquiries Act in respect of such petition had been complied with; and that

The Right Honourable
The Prime Minister.

MAR 29 Recd

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the said address humbly prays that Your Excellency shall cause inquiry to be made, under the said Corrupt Practices Inquiries Act as amended, by one or more of the Judges in the said address named.

The Minister, deeming it expedient that an inquiry pursuant to the said Corrupt Practices Inquiries Act be made, recommends that the Honourable Nicholas Dominac Beck, a Justice of Appeal of the Supreme Court of Alberta, named in the said address, be appointed, pursuant to the said Corrupt Practices Inquiries Act, a Commissioner for the purpose of making inquiry into the existence of such corrupt or illegal practices and to report as provided by the said Act.

The Committee concur in the foregoing and submit the same for Your Excellency's approval.

E. J. Lemaire

Clerk of the Privy Council.

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C 41645

Memorandum re salary of the Auditor General
since the Audit Act came into effect

From August 1, 1878 to June 30, 1887 the salary of the Auditor General was $3200. per annum.

	Salary	Expenditure	Revenue
1887-8	$4000.	$43,550,730.00	$35,908,464.00
1908-9	5000.	132,757,906.00	85,093,405.00
1919-20	6000.	741,712,993.00	349,746,335.00
1922-23	6000.	460,642,677.00	394,610,485.00

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MEMORANDUM.

There are strong grounds for the appointment of a first-class financial controller under the Government, and it is doubtless impossible to obtain an officer of the necessary experience and calibre for $6,000.

Under the terms of the recent appointment, the Auditor General is to assume greatly increased duties and responsibilities as regards government expenditures on personnel and otherwise. The proposed Board of Audit, of which the Auditor General is Chairman, is designed to reorganize the public service and to maintain economic methods in the despatch of public business. For a similar service the Griffenhagen organization, it was understood, was paid $20,000 a month. Attached hereto is a list of the salaries of Provincial Auditors.

In addition to these, it may be pointed out that the Commissioner of Finance at Toronto is paid $15,000 a year, and a recent incumbent relinquished the position for a much higher salary in private employment. In Montreal the Assistant Treasurer gets $8,000 a year and the Comptroller up to $12,000. The Vice President in charge of Finances of a railway of any size is invariably in receipt of a salary of $20,000 and $25,000 per year. The City Manager of Edmonton obtains a salary of $10,000 per year. In the cognate field of engineering, in which prevailing salaries for high officers are lower than in the field of finance, $15,000 a year is a common salary.

The volume of public business under the control of the Auditor General has vastly increased in recent years. In 1901, the revenue of the country was $52 millions; in 1911 it was $117 millions, and in 1921, $434 millions; and last year $402 millions. Dominion ordinary expenditures rose from $46 millions in 1901 to $87 millions in 1911, to $361 millions in 1921, and to $332 millions last year.

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C 41647

SALARIES OF PROVINCIAL AUDITORS
1922.

Province.	Salaries. $
Prince Edward Island	1,800
Nova Scotia	4,000
New Brunswick	3,000
Quebec	5,000
Ontario	5,000
Manitoba	6,000[1]
Saskatchewan	4,250[1]
Alberta	6,000[1]
British Columbia	6,000

[1] 1923.

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C 41648

PRIME MINISTER'S OFFICE

MEMORANDUM

Mr. McGregor:

Justification for increased salary to Auditor-General.

I think perhaps the attached clippings---

Ottawa Journal, Conservative, practically approving Conthier's appointment and his salary,

and---

Montreal Star re new auditor or audit board to check up C.N.R. finances,

might be useful to Mr. King.

Information received from Auditor-General's office indicated that office had little or nothing in the way of increased work on account of C.N.R. but what is mentioned in Star article may be contemplated. Of course Mr. King will know.

G. Feb. 29

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C 41649

9

APPOINTMENT OF AUDITOR GENERAL

Mr. George Conthier - a gentleman of high standing in his profession.

One of most important offices in public service.

Significance and usefulness of office depends on experience and calibre of man.

Important to secure a man from outside Service -
an outside Chartered Accountant difficult to secure.
Mr. Fielding's search.

Auditor General responsible directly to House of Commons.
Removeable only by 2/3 vote - challenge to test House.

Public Finances very large - volume of business under Auditor General has greatly increased -

Salary	Year	Ordinary Expenditure	Revenue
$ 4,000	1887-8	$ 43,550,730	$ 35,908,464
	1901	46,000,000	52,000,000
5,000	1911	87,000,000	117,000,000
6,000	1921	361,000,000	434,000,000
	1923	332,000,000	402,000,000

Greatly increased duties and responsibilities - as regards Government expenditure, personnel, etc.

Chairman, Board of Audit (See Board of Audit Act)

Asstst reorganize public service.

For similar work, Griffinhagen organization paid $20,000 a month.

COMPARISONS:

Provincial Auditors			
Manitoba -	$ 6,000	Asst.Treasurer, Montreal	$8,000
Alberta	6,000	Comptroller	" up to 12,000
British Columbia	6,000	City Manager, Edmonton	10,000
		Comm'r. Finance, Toronto	15,000

Comment of Ottawa "Journal" - attached

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C 41650

Auditor General's Salary.

Inquiry from Mr. Yates, assistant deputy minister of Railways and Canals, elicits the information that there is now a continuous and complete audit of the finances of the Canadian National Railways by outside chartered accountants, mainly Toronto firms, who do the work under contract and so far as Mr. Yates knows there is to be no change in this regard.

Under Section 9 of the Board of Audit Act, 1923, the Board is empowered to inquire into the systemsof accounting employed by the Canadian National Railway Company and subsidiaries and to make recommendations, but it does not seem to be contemplated that the Auditor General shall have any further duties in connection with auditing finances of the railways than have been performed in the past.

The real explanation of why the new Auditor General is being paid $15,000 per annum would seem to lie in the fact that it would be impossible to secure an outside chartered accountant of any standing to do the work for less money. Officers of the Finance Department tell me that outside chartered accountants would laugh at an offer of $6,000 per annum; that first-class accountants in places like Toronto and Montreal are earning much more than this salary and that men who would not secure the cream of accounting business would make that much. It might be mentioned in passing that accountants have increased their business considerably through the demand for their services in handling questions of income and sales tax and that businesses which formerly kept a simple or indifferent set of books have now to employ expert accountants to keep right in regard to taxation matters. This is one element accounting for increase in the business of chartered accountants.

March 1, 1924.
G.

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C 41651

Form A. 64.

MEMORANDUM.

8

LAURENT BEAUDRY.

To Mr Beaudry

DEPARTMENT OF TRADE AND COMMERCE.

OTTAWA, Mar 11 1922

Mr Cullen informed me that you desired 4 copies of our Australian correspondence in so far as Mr Meighen was concerned. I am enclosing same herewith.

F.C.S. O'Hara

F.C.T. O'HARA

Dpy Minister

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C 41652

Hon. Sir Geo Foster – N.S.W. – Hon
Hon Mr Lawson – Victoria Hon
Welcome to Canada.
Hospitality to the Royal
Distinguished Guests
Long service in R. Life
Reminiscences of Chas
Sir Geo. – Commonwealth Parl.
Lawson – Governor

Reasons of interchange in Common
Coming of Gov. Nelson
Sir Geo Foster. – Stamp Govt.
Federal Govt
Railroads
Immigration
Criminal Immigr
Labour – industrial disputes
Language
Miscellaneous

German Clerking titles. – Hon.
Secretaries
Trade Commissioners. Newfound

Copy Speech titles. Women
Effect upon Elections

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C 41653

MR. KING:

Attached are a few notes which may be useful in connection with the visit of the Australian State Premiers.

Certain contrasts are shown between areas, population and institutions, as between Australia and Canada, N.S.W. and Victoria.

There are some miscellaneous notes which may be suggestive, together with biographical details of the visitors, and the Prime Minister of Australia.

Sources of information consulted:

Statemen's Year Book - 1923.
Colonial Office List - 1922.
Whittaker's Almanac - 1922.
Canadian Almanac - 1923.
Federal Guide of Australia.

Ottawa,
June 9, 1923.

W.L. Mackenzie King Papers
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NEW SOUTH WALES

EXECUTIVE COUNCIL

Premier.	£2000
Colonial Secretary & Minister for Public Health.	
Minister for Agriculture.	
Secretary for Lands and Minister for Forests.	
Secretary for Mines and Minister for Local Govt.	
Minister of Labour and Industry.	
Colonial Treasurer	
Attorney General	£1600
Secretary for Public Works and State Industrial Enterprizes.	
Minister for Public Instruction.	
Minister for Justice.	
Solicitor General.	
Vice-President of the Executive Council.	

Salaries of Ministers - £1500

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C 41655

V I C T O R I A

THE MINISTRY:

Premier and Minister of Agriculture and Water Supply.....-£1400

Chief Secretary, Minister for Public Health.....-£1200

Treasurer.....-£1000

Attorney General and Solicitor General.....-£1000

Minister for Public Works.....-£1000

Commissioner of Public Works ~~and Minister of Water Supply~~.....-£1000

Education, Forests and Labour.....-£1000

Minister of Railways and Mines.....-£1000

Minister for Lands.....-£1000

Honourary Ministers - 4 ----------Unpaid.

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C 41656

Honourable Sir George W. Fuller, K.C.M.G., M.A., M.L.A.

Barrister-at-Law.

Born - January 22nd, 1861. - Dunmore.

Education - Kiama Public School; St. Andrew's College; Sydney University.

Married - 1893 : 1 son, 2 daughters.

1889-91 - Returned for New South Wales Parliament.

1894 - Defeated.

Returned to 1st, 2nd, and 3rd Federal Parliaments.

1909 - Minister of Home Affairs in Deakin-Cork Ministry; represented the Free Trade interests of N. S. Wales on Tariff Commission.

1916 - Member for Wollondilly, re-elected 1920.

1916-20 - Chief Secretary and Acting Premier, N. S. Wales.

1920 - Leader of Opposition. N.S.W. Parliament, since 1920.

Recreations : Cricket, fishing, billiards, gardening.

Address : Bowrah, N.S.Wales.

Clubs : Australian, Sydney.

Note: The Prime Minister's Secretary - Mr. Clifford Hay, is accompanying him.

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CANADA

E-1500 C 41657

Honourable Harry S. W. Lawson, M.L.A.

Barrister and Solicitor.

Born - Dunolly, 1875.

Education - State Schools; Grammar School, Castlemaine; Scotch College, Melbourne; University of Melbourne.

Married - 1901 : 4 sons
4 daughters.

1899 - Elected Member of Municipal Council of Castlemaine; Member Legislative Assembly for Castlemaine, Victoria.

1904 - Member for enlarged constituency of Castlemaine and Maldon.
Sat continuously in State Parliament since 1899.

1905-06 - Mayor - Castlemaine.

1913-15 - Minister of Lands.

1915-17 - Attorney General and Minister of Education.

1918-19 - Premier, Attorney General, Solicitor General, and Minister of Labour.

1919-20 - Premier, President of the Board of Land and Works, and Commissioner of Crown Lands and Survey.

1920 - Premier and Minister of Agriculture, Victoria, and

1921 - Minister of Water Supply.

Address: Castlemaine, Victoria, Australia.

Note: Mrs. Lawson is accompanying her husband; Also his Secretary - Mr. McLean.

W.L. Mackenzie King Papers
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C 41658

MISCELLANEOUS NOTES

Ex-Premier, the Rt. Hon. W. M. Hughes, contributed a series of articles early in May to the "Morning Post", describing the World Policy which animates the British Commonwealth of Nations, and his own views as to methods to be adopted to make that Policy triumphantly successful.

The present standing of political parties:

Labour	-	29
Nationalists	-	27
Country & Liberals	-	19
Total		75

Australia has 78,000,000 sheep.

Australia's population is now equal to Canada's in 1901.

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PRIME MINISTER'S OFFICE

C 41659
E-1500

Subject Visit of Australian Premiers

Date June 12, 1923 *Publication* Ottawa Journal

MINISTERS HONOR GUESTS AT DINNER

Sir George Fuller and Hon. H. S. W. Lawson Meet Canadian Parliamentarians.

Hon. James A. Robb, Minister of Trade and Commerce, gave a dinner last night to Sir George Fuller, Premier of New South Wales, and Hon. H. S. W. Lawson, Premier of Victoria, at which were present the different Parliamentary leaders and a number of other prominent Parliamentarians including Premier Mackenzie King, Hon. W. S. Fielding, Hon. H. Bostock, Hon. George Graham, Hon. Charles Murphy, Hon. Charles Stewart, Hon. E. M. McDonald, Hon. Dr. King, Hon. W. R. Motherwell, Hon. Arthur Meighen, Mr. Robert Forke, and Clifford Hay and George Maclean, secretaries to the visiting Premiers.

The health of the guests was proposed by Premier King, and seconded by Messrs. Meighen and Forke. The visiting Premiers replied in felicitous terms, and finally Hon. W. S. Fielding said a few kindly words of farewell to the visitors who sail for home from Vancouver on June 29.

Premiers Lawson and Fuller said they were returning home this way specially to see Canada and had been delighted with the reception they had received and the impressions they had gained of the country. They spoke of the visit Mr. Robb had paid them last autumn and the good impression he had made everywhere. They referred to the offer of preference which Canada had made on dried fruits, which was of special interest to their states as they produced large quantities of such fruits of the highest quality. Both Premiers expressed the greatest anxiety to see the preferential idea extended in trade between Canada and Australia.

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PRIME MINISTER'S OFFICE

C 41660

E-1500

Subject....Visit of Australian Premiers.....

Date....June 12, 1923..... *Publication*.....Toronto Globe.....

CANADA IMPRESSES VISITING PREMIERS

Australian Ministers Hope for Wider Preference Between Two Dominions

ENTERTAINED AT OTTAWA

(By F. C. MEARS.)
(Staff Correspondent of The Globe.)

Ottawa, June 11.—Hon. James A. Robb, Minister of Trade and Commerce, gave a dinner tonight to Sir George Fuller, Premier of New South Wales, and Hon. H. S. W. Lawson, Premier of Victoria, at which were present the different Parliamentary leaders and a number of other prominent Parliamentarians, including Premier Mackenzie King, Hon. W. S. Fielding, Hon. H. Bostock, Hon. George Graham, Hon. Charles Murphy, Hon. Charles Stewart, Hon. E. M. Macdonald, Hon. Dr. King, Hon. W. R. Motherwell, Hon. Arthur Meighen, Robert Forke, and Clifford Hay and George McLean, secretaries to the visiting Premiers.

Given Kindly Farewell.

The health of the guests was proposed by Premier King, and seconded by Messrs. Meighen and Forke. The visiting Premiers replied in felicitous terms, and finally Hon. W. S. Fielding said a few kindly words of farewell to the visitors, who sail from Vancouver on June 29 for home.

Premiers Lawson and Fuller said they were returning home this way especially to see Canada, and had been delighted with the reception they had received and the impressions they had gained of the country. They spoke of the visit Hon. Mr. Robb had paid them last autumn, and the good impression he had made everywhere.

Hope for Greater Preference.

They referred to the offer of preference which Canada had made on dried fruits, which was of especial interest to their States, as they produced large quantities of such fruits of the highest quality. Both Premiers expressed the greatest anxiety to see the preferential idea extended in trade between Canada and Australia.

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C 41661 E-1928

[This Document is the Property of His Britannic Majesty's Government.]

[C 2262/74/3] No. 1.

M. Franckenstein to the Marquess Curzon of Kedleston.—(*Received February* 15.)

My Lord, *Austrian Legation, London, February* 15, 1922.

THE news that Great Britain has granted an advance of 2,000,000*l.* to Austria, and especially the fact that this first and momentous aid comes from His Majesty's Government, has filled the Austrian people with great joy.

That the British Government decided to take this course at a moment when so many great claims are made on the Treasury and when economy is the leading principle has not failed to make a deep impression on our population.

Our people are aware that, in the event of a refusal of the credit, Austria would have been threatened by the greatest dangers and that unbearable suffering would have fallen to their lot.

By the generous help of Great Britain this danger is averted, and the way is opened for my country towards a happier future. This way the Austrian people and their Government are determined to follow, eager to work and with confidence.

I have been instructed by my Government to express to the British Government, in their name as well as in the name of the Austrian population, our deep gratitude. It causes me great pleasure to have the privilege of transmitting their thanks.

I have the honour to request your Lordship, who have with so much sympathy advocated aid to Austria, to bring this expression of gratitude on the part of my country to the knowledge of the British Government.

I have, &c.

G. FRANCKENSTEIN.

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C 41662 E-1925.

[This Document is the Property of His Britannic Majesty's Government.]

CENTRAL EUROPE. [June 27.]

CONFIDENTIAL. SECTION 1.

[AMENDED COPY.*]

[C 5159/5159/62] No. 1.

Memorandum respecting the State of Execution of the Reparation Clauses of the Treaties of Saint-Germain, Neuilly and Trianon, and the Question of Austrian Relief.

(*a.*) SAINT-GERMAIN.

IT soon became apparent that, far from obtaining any reparation payment from Austria, the Allies would have to give her some degree of financial assistance to enable her to maintain an independent existence.

The Vienna Section of the Reparation Commission at the end of 1920 submitted recommendations for the economic and financial rehabilitation of Austria, the main feature of which was to be an Inter-Allied credit of 250,000,000 dollars spread over five years. The Allied Governments decided that this scheme was inapplicable in the circumstances, and expressed the opinion that it would be preferable to take steps to enable Austria to take advantage of the so-called Ter Meulen scheme, the principles of which had already been adopted by the League of Nations. This scheme provides for the grant of credits against the gold value of assets of certain categories, the value to be estimated by a special Financial Committee appointed by the League. These credits would be applied only to purposes approved by the committee—mainly the purchase of raw material. In order that Austria might benefit by such a scheme, it was necessary to abandon, or at least to postpone, the liens on Austrian assets granted to the Allies by the Treaty of Saint-Germain, in respect of reparations and the costs of occupation, and to certain neutral Powers, in respect of advances made to Austria under the International Relief Credits Scheme.

On the 17th March, 1921, a meeting took place at the British Treasury between representatives of His Majesty's Government, the French, Italian and Japanese Governments on the one hand, and the Austrian State Chancellor, Herr Mayr, and other Austrian Ministers on the other hand, when the former agreed to abandon for a certain period (later fixed at twenty years) their liens on Austrian assets, provided all other interested Governments agreed to do likewise. (For the actual text see Annex I.)

His Majesty's Government, in concert with the French Government, proceeded to invite the concurrence in this proposal of all the other Governments concerned. The Governments concerned on the score of reparations, besides Great Britain, France, Italy and Japan, were (*a*) those of the signatories of the Treaty of Saint-Germain who had a possible claim to reparation payments, *i.e.*, Belgium, Greece, Poland, Portugal, Roumania, the Serb-Croat-Slovene State and Czechoslovakia (the other signatories of the treaty, *i.e.*, China, Cuba, Nicaragua, Panamá and Siam were informed of the proposal: it was not considered that their concurrence was essential); (*b*) the Governments concerned on the score of relief credits, *i.e.*, the United States of America, Sweden, Norway, Denmark, Holland, Switzerland and Argentina. The proposals were put before these two groups in the form of two resolutions (Annexes II and III).

The following is the present state of affairs:—

Of class (*a*), Great Britain, France, Italy, Japan, Belgium and Czechoslovakia have agreed to the scheme.

Greece and Poland have given conditional assent.

The Portuguese Government have indicated assent, but Parliament does not appear yet to have given its sanction.

Roumania and the Serb-Croat-Slovene State have not yet agreed.

Of class (*b*), Sweden, Denmark, Holland and Argentina have agreed. Norway and Switzerland have indicated assent, but legislative sanction seems still to be required.

As regards the United States of America, the Lodge resolution has passed both Houses of the American Legislature, and it is therefore to be expected that the United States Government will agree without further delay.

* Previously April 4, Section 1.

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The chief obstacles are thus, Roumania and the Serb-Croat-Slovene State. We, in concert with the French, have recently made renewed representations both at Bucharest and Belgrade, but so far without definite result.

(*b.*) NEUILLY.

By article 121 of the Treaty of Neuilly, Bulgaria undertook to begin making reparation payments on the 1st July, 1920. She was granted one year's postponement last year, but in September 1921 the Bulgarian Government asked for a further postponement for three years as from the 1st January, 1922. The Inter-Allied Commission (after considerable haggling, in the course of which the British delegate advocated a five years' postponement, and the Italian was very suspicious of allowing any postponement at all, while the French delegate followed a middle course between the two) finally reached an agreement and submitted proposals to the Reparation Commission, which the latter have approved with minor alterations. The main points of these proposals are :—

1. Three years' postponement from the 1st July, 1921.
2. For 1921–22 Bulgaria will be required to make no contribution towards her obligations, but for 1922–23 she must pay 10 million gold francs, and for 1923–24 30 million gold francs, these sums to cover the expenses of the Inter-Allied Commission, the Frontier Commissions, Military Occupation, including Commissions of Control, and service of the part of the external pre-war Ottoman Public Debt attributed to her.
3. In return for this partial postponement, Bulgaria must provide guarantees of payment, and the Inter-Allied Commission therefore embodied its proposals in the form of a convention to be signed by the Bulgarian Government.
4. The chief guarantees provided are :—

(*a.*) Increase of direct taxation up to 25 per cent. of total budget receipts.
(*b.*) Regulation and limitation of circulation of paper money.
(*c.*) All revenues or receipts from State mines to be assigned to the payment of reparations. The Inter-Allied Commission to control the administration of these mines.
(*d.*) All customs revenues to be assigned to the payment of reparations. The Inter-Allied Commission to assume control of the customs administration.
(*e.*) A foreign loan, the substantial part of which to be assigned to reparation payments.

It is to be noted that the Bulgarian Government has not yet signed this Convention, and there is every likelihood that they will refuse to do so, at any rate until they are convinced that the Genoa Conference is going to do nothing for them.

(*c.*) TRIANON.

There is a small section in Budapest of the Reparation Commission, consisting of four or five officials. The Commission have not yet determined the amount of the reparation debt to be paid by Hungary, as they have at present no reliable data concerning Hungary's ability to pay.

The Hungarian Government have, however, been required to deliver immediately certain quantities of livestock, the delivery of which must, in principle, take place before the end of May.

Foreign Office, April 4, 1922.

RELEASE OF AUSTRIAN LIENS.

Memorandum by Sir B. Blackett.

The above Foreign Office note summarises the position as it was at the opening of the Genoa Conference.

At Genoa a meeting was arranged of all the Powers having claims on Austria in respect of relief credits and reparations, with a view specially to pressure being brought on Roumania, Jugoslavia and Czechoslovakia. This effort, however, failed, the only result being that the three Powers mentioned appear to be co-operating more closely than before in obstructing further progress.

We therefore agreed early this month to a proposal made by France before Genoa that the Reparation Commission should be asked to proceed to a decision postponing the claims against Austria for a period of twenty years. The Austrian Government, on the 23rd May, submitted a formal application to the commission to that effect, and also forwarded a copy of this application to the Ambassadors' Conference. On the 14th June the Ambassadors' Conference approved draft letters to the diplomatic representatives of (*a*) the neutral creditors in respect of relief credits asking for a formal signification of their willingness to suspend their liens, and (*b*) the Allied creditors represented on the Reparation Commission asking for instructions to be given to their representatives on the commission not to oppose the Austrian request. (See Lord Hardinge's telegram No. 324 and despatch No. 1411 both of the 14th June.) The Austrian Minister was to be informed of the action taken by the Conference of Ambassadors.

The Italian Ambassador at Paris has now withdrawn his approval of the report of the Conference of Ambassadors on the ground that the Italian Government have never yet agreed to the suspension of their liens but only to the postponement of reparation payments. The Italian Ambassador has asked for instructions from his Government. (See Sir M. Cheetham's telegram No. 335 of the 24th June.)

In these circumstances no decision has yet been taken by the Reparation Commission.

The action of Italy is outrageous, and Signor Schanzer, as the convener of the meeting at Genoa to put pressure on recalcitrants, ought to be the last the associate himself with a new Italian manœuvre to delay settlement. Possibly deeper Italian motives lie behind this action, but it ought not to be difficult to secure a categorical promise from Schanzer to put a stop to it.

B. P. BLACKETT.

June 27, 1922.

ANNEX I.

Statement handed to the Austrian Delegation by the Chancellor of the Exchequer at the Financial Experts' Meeting on Thursday, March 17, 1921, *at* 11 A.M.

ON the understanding that the Austrian Government desire the application to Austria of the International Credits Scheme, as approved by the League of Nations, and are prepared to place, as provided under clause 7 of that scheme, the administration of the assigned assets in the hands of the Financial Committee of the League of Nations.

2. The Governments of Great Britain, France, Italy and Japan have decided to release for a period of years, to be determined later, their liens under the Treaty of Saint-Germain in respect of claims against the Austrian Government for the cost of armies of occupation, for relief credit bonds and reparations, provided other interested Governments will agree to similar postponement.

3. The four Allied Governments are taking, through their representatives on the Reparation Commission, the steps necessary to obtain the release of these liens on the part of the other Powers represented on the Reparation Commission, and are communicating in the same sense with the Governments who participated in relief loans to Austria but are not represented on the commission.

4. The Financial Committee of the League of Nations will hold a meeting within the next fortnight in order to present to bankers for examination the proposals made by the Austrian Ministers with regard to the amount of the loans required, the character of the securities available and the services which the Financial Committee are in a position to offer in the matter.

5. The plan may be briefly summarised as follows :—

The four Allied Powers are prepared to postpone payments (as enumerated in article 2) which they are entitled to demand under the Treaty of Saint-Germain and also the payment of capital and interest on the advances which they have made to Austria since the armistice in order to avert starvation in that country. The whole of the assets of Austria are at present pledged as security for these payments. It is now proposed that the charges in respect of them against the Austrian assets shall be formally released and that no specific charge or security shall be substituted, although the debt of the Austrian Government, while suspended for a definite period

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of years, will remain, and the respective priorities will not be affected. The Financial Committee of the League of Nations would take steps immediately to determine the gold value of the advances which it could, under the Ter Meulen Scheme, approve against the security of such assets which the Austrian Government would then be free to pledge, such as the customs revenues, tobacco monopoly, &c. The assets would be administered under the control of the Financial Committee and the Ter Meulen bonds issued against these assets would be held by the lenders as collateral for their advances. By the utilisation of this machinery additional protection will be afforded both to the lender and the borrower and some of the principal obstacles in the way of the participation of private capital would be removed.

The four Allied Powers, in consultation with the other Powers concerned, will consider the possibility of placing under one trusteeship the suspended interests of the Powers and the interests of those who participate in credits provided under the present proposal.

It is hoped that, in addition to facilitating external borrowing, the release of their liens and the suspension of their claims by the Allied Powers will assist the Austrian Government to hasten the date at which it will be in a position to arrive at a balanced budget, and by means of internal borrowings to reduce the amount of outstanding paper currency.

6. The four Allied Governments will use their good offices at the conference shortly to be held at Porto Rosa to bring about an improvement in the economic conditions which at present adversely affect the countries of Central and South-Eastern Europe.

7. The Allied Governments will also take such steps as are in their power to assure to Austria a continued and increased supply of coal.

Annex II.

Austria.

Postponement of Allied Claims.

(Draft) Resolution of the Reparation Commission.

THE Reparation Commission, taking note of the engagement of the Financial Committee of the League of Nations to exercise its powers over the finances of Austria in the interest, both of the existing creditors of Austria (including creditors for reparation), and of any new creditors, in exercise of the powers conferred upon the committee by articles 180 and 197 of the Treaty of Saint-Germain, and of every or any other power it thereunto enabling deciares that no payments or deliveries in respect of reparation or reparation bonds under Section I of Part VIII, or under article 211 of the Treaty of Saint-Germain, or in respect of proceeds of sale of war material shall be claimed or enforced before the 1st January, 1941, and that any sale, mortgage, charge, lien or other disposition or security of or upon all or any part of the assets and revenues of Austria (but subject to the provisions of Section II of Part VIII (Reparations) of the said treaty, as to the objects referred to therein, may be made or created by Austria before the said 1st January, 1941, with the previous consent of the Financial Committee of the League of Nations, free from and in priority to any claim in respect of such payments and deliveries, or of the costs of the armies of occupation, or of the costs of the Reparations Commission, but this resolution is not to prejudice claims under article 184 (Restitution), or under Section II of Part VIII (special provisions as to reparation) of the said treaty; nor to be construed as modifying (except as expressly modified) the provisions of Part IX (Financial Clauses) of the said treaty.

Annex III.

Austria.

Postponement of Claims in Respect of Relief Bonds.

(Draft) Declaration to be made by a Power entitled to a Claim under Relief Bonds.

THE Government of agrees that it will not before the 1st January, 1941, make or enforce against Austria any claim for any payment in respect of the relief bonds now issued or hereafter to be issued by Austria and held by the said Government, particulars of which bonds, so far as already issued and held, are given in the schedule hereto,* and that any sale, mortgage, charge, lien or other disposition or security that may be made or created by Austria before the 1st June, 1926, with the previous consent of the International Commission of Control, set up or to be set up by arrangement between Austria and her creditors of or upon all or any part of the assets and revenues of Austria (other than the objects referred to in Section II of Part VIII (Reparations) of the Treaty of Saint-Germain) may be free from and have priority over all principal monies or interest that may at any time be owing in respect of the relief bonds held by the said Government, provided always that nothing herein contained shall prejudice the right of the said Government on the 1st January, 1941, to claim simple interest on the capital amount of the said bonds at the rate therein mentioned in respect of the period to the said 1st January, 1941.

The said Government further agrees that an endorsement to the effect of this declaration shall be placed upon the said relief bonds so held by the said Government.

June, 8, 1921.

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* Not printed.

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C 41667 E-1/125

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[C 8723/394/3] No. 1.

Mr. Akers-Douglas to the Earl of Balfour.—(*Received June* 19.)

(No. 175.)

My Lord, *Vienna, June* 16, 1922.

WITH reference to my despatch No. 167 of the 9th instant, I have the honour to report that the excessive pessimism and almost panic of last week in Vienna has yielded to a slightly more hopeful feeling, and to a slight improvement of the krone exchange, as the result of two items of news reported the day before yesterday—the final sanction of the French Government's credit of 55,000,000 fr., and the announcement that the leading bankers of Vienna are co-operating with the Austrian Government to attempt to form a fund of foreign securities and establish a new bank of issue. This latter step came as a surprise, and is greeted with relief, although with some scepticism in certain quarters. It was doubtless motived by the fear that the situation was fast approaching a danger point, and by the serious view presented by the Social Democratic leaders (who largely control the situation in the capital itself) when they called upon the Chancellor two days ago. The latter acts with greater energy and decision than one has been accustomed to see in Austrian statesmen.

I understand the Socialists talked alarmingly of the effect on the population of any further fall of the value of the krone, and of the continued rise of the cost of living, the index figures of which have risen from 594 in December to 1093 in May, while it is reported that there has been a 71 per cent. increase between the 16th May and the 14th June.

I transmit a memorandum (a copy of which is being sent also to the Treasury) by Mr. Young upon the Austrian budget, and I would draw your Lordship's attention in particular to paragraphs 5 and 6, which succinctly describe the financial and political atmosphere of this present moment.

I have, &c.
A. AKERS-DOUGLAS.

Enclosure in No. 1.

Memorandum respecting the Austrian Budget.

1. THE basis of the following statement is the estimates for the calendar year 1922, first prepared in 1921 and twice revised, viz., in April 1922 and again in June:—

(A.) Original estimate—

Receipts	209,763,000,000	kronen.
Expenditure	347,533,400,000	,,
Deficit	137,770,400,000	,,
	(Say, 48,000,000 dollars.)	

(B.) Revision in April—

Receipts	542,786·9	kronen.
Expenditure	970,854·1	,,
	428,067·2	,,
	(Say, 57,000,000 dollars.)	

(C.) Second revision—

Receipts	575,234·9	kronen.
Expenditure	1,207,542·6	,,
	632,307·7	,,
	(Say, 63,000,000 dollars.)	

As regards the second revision, the Treasury admit that the expenditure, and therefore the deficit, may (and probably will) be increased by a further sum of, say,

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160 milliards, representing increases in wages and salaries to meet the cost of living. This would raise the deficit to about 800 milliards (say, 80,000,000 dollars).

2. Itemised, the expenditure appears as follows :—

Salaries and wages	484,708·3	kronen	
or	648,508·3	„	(as above).
Material	441,051·1	„	
Provision against loss on exchange ...	281,783·2	„	

The last item needs explanation. The rate of exchange affects the departmental budget in two ways :—

(1.) Direct, in the matter of foreign payments, *e.g.*, for coal.

(2.) Indirect, in the matter of wages and salaries, which vary with the index figure of the cost of living.

Then, if the exchange has altered between the presentation of the departmental estimates and their passing by the Treasury, an additional sum is taken to represent the difference as regards foreign payments. On the income side corresponding entries appear, to represent, for instance, such transactions as passport fees received in foreign currency and subsequently converted into kronen.

3. The original estimate was made with a dollar at 2,866 kronen, the first revision at 7,500 and the second at 10,000. It will be observed that the deficit has increased absolutely with the fall of the krone, the reason being that prices and wages rose faster than taxes, fares and freights could be raised to meet them. It will also be seen that between the end of 1921 and April 1922 receipts in kronen were more than doubled, while no great increase appears in the June revision. The explanation is that, partly under the pressure of the British Treasury, special efforts were made to increase revenue in the spring. Then the interruption caused by the Genoa Conference and the fall of the Government delayed further progress, and in the meantime the krone had taken a panic turn for the worse.

4. It remains to be considered how far the last revision can be accepted as a trustworthy presentation of the position. In the first place it was calculated on a dollar of 10,000 kronen, a figure which was immediately passed in the general collapse of the exchange. In the second place it probably makes inadequate allowance for fresh demands for increased wages and salaries. This second factor might add another 200 milliards to the deficit, bringing the Treasury figures up to 1,000 milliards (deficit). This estimate is confirmed by an investigation made by a private expert on the basis of the Treasury data, which arrived at a deficit of 964 milliards.

5. It has already been remarked that the revised budget includes practically no new taxation. The explanation is that the new Government are now engaged on their plans, and no definite proposals, still less figures, have been issued. What will come of their deliberations depends very largely on political considerations.

The population is undoubtedly excited by the fall of the krone, and serious trouble is apprehended, even by the cool-headed. The Social Democrats have published an appeal to their members setting forth the demands of the party, and as the maintenance of order is very largely in their hands, these demands will have to be seriously considered by the Government. On the other hand, the Government parties rest on the support of the financial, business and agricultural classes, whose interests are of course assailed by the Socialist proposals. There is therefore a danger that between the two a deadlock will come about and the reforms postponed until the krone has taken another plunge. Against this, the encouraging symptoms are, first, an air of resolution which is strange in Austrian Government circles, and next, the extreme moderation of the Socialist demands, which are accompanied by an appeal to the party to maintain its discipline and refrain from all unauthorised demonstrations. It almost looks as if the Austrians were learning from their foreign friends to regard their situation seriously.

6. Apart from the budget, the financial position is very disagreeable. The country is going through one of those attacks of despair to which it is liable. It is difficult to say what gave the signal—the political crisis, the failure at Genoa over the liens or at Paris over the international loan, the exhaustion of the English credit or the non-arrival of the French and Italian. But for the last week the flight from the krone has been in full swing. Every shop was crowded, and peasants were trooping in thousands into Vienna to get rid of their money before it lost its value. On Tuesday the Socialist leaders appeared before the Chancellor with an ultimatum : either he must seize the banks' holdings of foreign currency or find another means of extracting them. In answer to this demand the Chancellor sent for Rothschild and the leading bankers, and

secured from them a promise to consider the establishment of a bank of issue. The bankers have appointed three committees to consider the statutes, capital, and policy of the new bank.

The president of the Union of Banks explained to me this morning his personal ideas as to the future. His proposal is that the banks should find approximately 1 million sterling, and the public another million, to which must be added the French and Italian credits and the gold remaining with the Austro-Hungarian Bank ; this in all to make a fund of some 5½ millions sterling, which could be used, not for the issue of new notes, and not for the absolute stabilisation of the existing krone, but only for the support of the market. On two conditions, namely, (1) drastic efforts by the Government to balance the budget and (2) assistance of foreign capital, he believed that we might hope for a period of comparative quiet for eighteen months or two years. It would then be possible to say whether or not Austria as an independent entity could survive. If the answer was unfavourable, then the foreign credits would become an obligation of Germany or whatever Power or constellation of Powers took over the defunct republic.

As regards the existing currency, his idea was that during the interim period, while the new economies and taxation are coming into effect, further issues of paper money would of course be required, and he thought that the Government should assign to the bank special securities against any issue beyond the present amount of 400 milliards.

G. M. YOUNG.

June 15, 1922.

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CENTRAL EUROPE. [June 26.]

CONFIDENTIAL. SECTION 3.

[C 9175/394/3] No. 1.

Mr. Akers-Douglas to the Earl of Balfour.—(*Received June* 26.)

(No. 183.)

My Lord, *Vienna, June* 23, 1922.

WITH reference to my despatch No. 178 of to-day's date, I have the honour to transmit to your Lordship herewith, copy of a memorandum drawn up by Mr. G. M. Young, regarding the new Austrian finance plan. A copy of this memorandum has been sent direct to His Majesty's Treasury.

I have, &c.

A. AKERS-DOUGLAS.

Enclosure in No. 1.

Memorandum respecting the New Austrian Finance Plan.

IN my memorandum on the Austrian Budget, I estimated the deficit for twelve months at 1,000 milliards. The plan of the Government provides for 50 milliards economies and 200 milliards new taxation. The deficit is to be covered by an internal loan funded on a general mortgage of real estate.

The Chancellor explained to me the reason of a provision which is being inserted in the covering law to the effect that the new taxes will not come into force until—

(*a.*) The Bank of Issue is in operation.
(*b.*) Measures for effecting an economy of 50 milliards are in operation, and
(*c.*) The compulsory mortgage has been quoted.

He said that he must begin with economies because, though the total amount appeared slight, so much public feeling existed on the subject of Government extravagance that it was hopeless to ask for fresh taxes until retrenchments were visible. He gave me what must, I think, be the extreme instance of extravagance in administration. It appears that Ministers of the Federation are allowed to charge for overtime. This was an introduction of the Socialist Administration after the armistice, and last month the amount falling to one Minister's share was about 15*s*. The note bank was put in the foreground because the taxpayer was entitled to some security that his money would not be lost again in the general fall of the krone, and the general mortgage, partly because it was the only way left to extinguish the deficit, and so make a note bank practicable, and partly to satisfy the League of Nations, who had included it in their programme. One advantage of proceeding in this way was that it would give time to reorganise the taxation system. At present it is in chaos, and some parts of it, notably the income tax, have almost ceased to function.

The Chancellor was much inclined to a plan which is being canvassed in official circles of making as many taxes as possible gold taxes, *i.e.*, payable in a fixed ratio to the exchange. The second advantage was that he could use this interval to get the consent of the Powers to a reorganisation of the army and the expansion of the militia. He asked me my opinion. I said that I was entirely in agreement with him in putting stabilisation in the foreground of the programme, if only to secure a breathing space for internal readjustments, but if stabilisation depended on being able to put on the market 20,000,000*l.* worth of Austrian bonds secured on land, I thought the problem was quite hopeless. As regards the militia, I have come to the conclusion that some increase in the armed authority of the State was necessary, not because the working-classes are in the least disposed to violence, but because the extreme timidity of the possessing-classes may at any moment make a trifling disturbance unmanageable. In the last few years there has been a redistribution of wealth in Austria, and one of the essential factors in the situation is that an excessive proportion of the wealth of the country, namely, that received by the working-classes, escaped taxation. The problem is to find a method of

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taxation which the workmen will not be able at once to pass on to the employer, from him to the consumer and from him round again to the printing-press by the increase in wages and prices which hitherto had mechanically followed.

The Chancellor had evidently been led by his advisers to take a much more sanguine view of the internal loan than I can share. They had advised that two-thirds would be redeemed at once by cash subscription, either in kronen or in foreign valuta, and that only one-third would remain chargeable. If it is remembered that the circulation of the country is about 400 milliards, the prospect of collecting 500 milliards for a loan seems to be exceedingly remote.

I think this summary faithfully reflects the situation. There is, perhaps, one solution left. Begin with the note bank, under foreign and preferably English control, on the lines of my telegram of the 19th June. This will at any rate give us a breathing space. Simultaneously press on with the reform of the militia, economies and the conversion of taxes to a gold basis. Then float a mixed internal and foreign loan in gold values on the security of the customs, tobacco and a new land-tax, making the bank of issue trustee for the securities. Then, with the increase of confidence which the creation of the bank and the increase of authority which the reform of the army would supply, it might be possible to face successfully the troubles inevitably consequent on further economies and further taxation. I do not suggest that this is a hopeful programme, but I am afraid there is only one alternative : *ite nunc et sepelite eam, quia filia regis erat.*

G. M. Y.

June 23, 1922.

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CENTRAL EUROPE. [July 1.]

CONFIDENTIAL. SECTION 1.

[C 9584/394/3] No. 1.

Memorandum respecting (1) *the Financial Collapse of Austria ;* (2) *the Postponement of Foreign Liens on Austrian Assets.*

THE conditions in Austria remain more or less what they have been since the date of the armistice, with the necessary reservation that every day that passes, while it brings no solution of the fundamental difficulties, increases the actual figure of the deficit in the Austrian budget. Austria at present is not a paying concern. It is not self-supporting and has to import the necessaries of life, and to bring these within the purchasing power of the workers the State has to bear most of the cost. With the present state of the exchange the Austrian Treasury has to pay out enormous sums in kronen for goods which it buys abroad and resells to the consumers at an uneconomic price. Every purchase abroad which is not balanced by the export of Austrian goods sends the exchange still further against Austria, the deficit piles up from day to day and the task of framing a budget becomes mere guess-work.

2. The Austrian Government have probably not faced their difficulties with courage or determination, and, rather than set to work to right their finances themselves, they have been hoping, and encouraging their people to hope, that something would turn up in the form of material assistance from the Allied Governments. The situation of Austria, within her boundaries as defined by the Peace Treaty, is certainly difficult. She has a fairly large population, an unwieldy large proportion of which is centred in the capital, settled in an area of which a great part is uncultivated and uncultivable. As against this, she possesses or possessed certain valuable industries, chief amongst which was the iron industry, which should have given her a considerable purchasing power for meeting her essential needs. Unfortunately, the iron and other industries are dependent on supplies of coal, and all the principal sources of coal, which were situated within the frontiers of the former Austro-Hungarian monarchy, are now assigned to the various succession States. It would be unfair to say that these had deliberately withheld supplies. But the difficulty has been that they have generally demanded compensation in the shape of manufactured or semi-manufactured goods, which Austria has not been in a position to supply. The succession States have not seen, in general, that they must give Austria some credit, or time, which is the same thing, to enable her to restart her industries which have now been standing idle for so long. Apart from Austria's actual trade balance, it must be remembered that before the war Vienna was the financial and banking centre for the whole of Eastern Europe, and the "invisible exports" of what is now Austria amounted in those days to a considerable sum. The succession States have all evinced a desire to cut themselves loose from what they imagine to have been financial vassalage to Vienna. Large banks and insurance companies, operating throughout the old Empire, had their head offices in Vienna and all their business was done through Vienna. The tendency of the succession States is to try and "nationalise" forcibly the branches of such concerns which they find on their own territory. Apart from filching the business from Vienna, they are probably thus killing the goose that lays the golden eggs.

3. There are thus two main problems: (1) to start up again such industries as existed in what is now Austria, and (2) to endeavour to re-establish free intercourse between Austria and the succession States. In order to realise the first of these objects some form of credit is necessary. The Allied Governments have for some time been considering how this may best be provided. The considerable advances already made by the Allied Governments—His Majesty's Government alone have advanced over 10,000,000*l.*—and the relief credits in which neutral Governments also joined, were only sufficient to tide Austria over the worst of the crisis and help her to meet some of her liabilities; they were not sufficient to restart Austrian industry. The Allied Governments themselves in present circumstances could not contemplate large credits, and enquiry showed that private financiers in the Allied countries would not, under existing conditions, be ready to interest themselves in Austria. The international credits scheme, as approved by the League of Nations—known as the Ter Meulen scheme—offered some prospect of providing relief. But its effective application to

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Austria required that Austria should be free to pledge her assets as security for any credit granted to her. This, however, Austria was not in a position to do, as her assets were already pledged to the Allies by the Treaty of Saint-Germain as security for the payment of the cost of the armies of occupation and of reparations and to the Allied and other Governments who participated in the relief credits as security for repayment of these latter. A conference was held in March 1921 in London of representatives of His Majesty's Government and of the French, Italian and Japanese Governments, to which Austrian representatives were also invited. As a result of this conference the four Allied Governments represented declared themselves ready to release for a period of years, to be determined later, their liens under the Treaty of Saint-Germain in respect of claims against the Austrian Government for the cost of armies of occupation, for relief credit bonds and reparation, provided other interested Governments would agree to similar postponement. If agreement were reached it would be possible to apply to Austria the League of Nations credit scheme. In addition, the Allied Governments have promised to take such steps as were in their power to assure to Austria a continued and increased supply of coal.

4. The second difficulty, the breakdown of free economic intercourses between the States of Central Europe, can only be overcome by a frank discussion between the Governments immediately interested. With this object in view a conference of the succession States, Austria and Hungary met at Porto Rosa, near Trieste. His Majesty's Government and the French and Italian Governments also took part in this conference, which dealt with all questions relating to transport, customs, &c. The decisions taken have not yet been ratified by the Governments concerned.

5. Ever since it was decided in March last year to apply the League of Nations scheme to Austria, efforts have been made to gain the consent of the various creditor Governments of Austria to the release of their liens so that the scheme might be put into operation as soon as possible, but the concurrence of all Governments concerned has not yet been obtained. The S.C.S. State, Roumania, and apparently Czechoslovakia still withhold their assent, and it is not certain that Portugal and Norway, in the absence of legislative sanction, are yet technically committed.

6. At Genoa an effort to persuade the S.C.S. State, Roumania and Czechoslovakia definitely to concur failed. These three Powers appear now to be co-operating more closely than before in obstructing further progress. The French Government recently suggested that the Reparation Commission should, notwithstanding the reluctance of the S.C.S. State, Roumania and Czechoslovakia to postpone their claims on Austria, be asked forthwith to consent to the raising of all liens on Austrian assets for a period of twenty years. The Austrian Government on the 23rd May submitted a formal application to the Reparation Commission to that effect. On the 14th June the Ambassadors' Conference approved draft letters to the diplomatic representatives of (*a*) the neutral creditors in respect of relief creditors asking for a formal signification of their willingness to suspend their liens, and (*b*) the Allied creditors represented on the Reparation Commission asking for instructions to be given to their representatives on the commission not to oppose the Austrian request. The Austrian Government was informed of this action.

7. The attitude of the Italian Government towards the scheme is as follows :—

At the meeting in London of Allied financial experts on Monday, the 14th March, 1921, Count Saint-Aulaire said: "After all, what had we to go on? The first fundamental fact was that England and France had agreed to abandon their claims, and Italy, he understood, had also agreed to do so as and when it might become necessary." The Marquis della Torretta confirmed this latter statement.

8. Later, during the same meeting, the Marquis della Torretta stated "he was prepared to agree to an immediate release of liens, but felt, however, that there was much to be discussed in this matter because we lost our liens." The Marquis della Torretta also remarked that the question of restitution and *objets d'art* was the subject of a separate discussion between the Italian and Austrian Governments.

9. At the end of this meeting a committee consisting of—

Mr. Lindley (in the chair)	}	Great Britain,
Sir W. Goode		
M. Avenol	}	France,
M. le Fèvre Pontalis		
[?] Signor Torretta		Italy,
Mr. Kengo Mori		Japan,

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assembled, and, after a general discussion, agreed on the terms of a note embodying draft replies to the questions asked by the Austrian delegates.

10. At another meeting of the Allied financial experts, on the 17th March, Signor Martino made the following statement: "I wish in any case to confirm here the different reservations formulated at the previous meetings by the Marquis della Torretta, adding that I have no instructions to assent to the fresh proposals which have been brought forward as a result of the last meeting." The proposals in question referred, as far as can be made out, to the adoption of a clause that Austria was expected to carry out without further delay the decisions of the Ambassadors' Conference in relation to disarmament and to the liquidation of the Austro-Hungarian Bank. It was decided, however, to drop the idea of a disarmament clause, and Mr. Chamberlain at the end of the meeting said: "Then we are all agreed, without reserve." There appears to have been no dissent. The Austrian delegation was then called in and a final statement was handed to them (Appendix (A)).

11. From the memorandum of what passed at this meeting (Appendix (B)) it will be seen that the Italians and Japanese said that their consent must be subject to the approval of their Governments.

12. In April last we heard from Rome that the London decisions had not yet been approved by the Italian Council of Ministers in the belief that these decisions had been modified by the experts after the Italian Minister for Foreign Affairs had left London.

13. After we had repeatedly urged the Italian Government to agree to the London scheme, the Italian Ambassador at Paris eventually made a statement to the Ambassadors' Conference on the 1st July, 1921, as to the views of his Government. The Italian Government were apparently ready to accept the scheme subject to certain reservations (Appendix (C)). At a further meeting of the Ambassadors' Conference in August, the Italian Ambassador at Paris made a formal declaration to the effect that Italy renounced her claims on Austrian reparations for a period of twenty years, under the reserves indicated by him on the 1st July.

14. A letter from the Treasury, dated the 9th February, 1922, contains the following statement:—

> "I have laid before the Lords Commissioners of His Majesty's Treasury your communication of the 4th instant, transmitting copy of a note from the United States Chargé d'Affaires regarding the League of Nations scheme for the rehabilitation of Austria.
>
> "In reply, my Lords direct me to suggest that if the Marquess Curzon of Kedleston concurs, the following reply should be addressed to the United States Chargé d'Affaires, and that the substance of the reply should be cabled to His Majesty's Ambassador at Washington.
>
> "With regard, in the first place, to the attitude of the United States Government in this matter, His Majesty's Government have throughout gratefully appreciated the good intentions expressed by the United States Government, and have recognised that the postponement by the United States Government of their liens on Austria has been delayed solely by reason of the necessity of legislative authority. His Majesty's Government are also grateful for the suggestion previously made that the general plan of assistance to Austria should be put into operation on the assumption that the consent of the United States Government will ultimately be given. It is impossible, however, to take such a course in view of the fact that each country which has agreed to the postponement of its liens on Austria has done so on the express condition that every other interested country should do the same. This condition would therefore not be fulfilled if the definite assent of the United States Government was not obtained prior to the introduction of the scheme. His Majesty's Government have, however, felt able on the strength of the above suggestion by the Government of the United States of America to announce the grant of a temporary loan of 2,000,000*l.* to Austria, in addition to a loan of 250,000*l.* arranged last October, for the purpose of tiding over the interval till the liens are finally released, and a market loan can be raised by Austria on its own security.
>
> "His Majesty's Government would therefore be glad if the United States Government would now, in view of the passing of the Refunding Bill, announce as soon as possible their intention of postponing for twenty years their claims on Austria in respect of relief credits on the condition that all other countries having claims in respect of relief credits or reparation do the same. The present priority

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which relief credits enjoy over reparations would remain at the end of the period of postponement.

"With regard to the attitude of the Italian Government towards the scheme, His Majesty's Government now understand that the assent of the Italian Government is no longer subject to the conditions announced by the Italian Ambassador in Paris in August last, and that the full co-operation of Italy in the plans for assisting Austria is now assured.

"It remains the fact that the Governments of Jugoslavia and Roumania have not yet expressed their willingness to postpone their liens on Austria. Representations, both diplomatic and unofficial, have been made to these Governments by the British and French Governments at intervals from August last, but so far without success. His Majesty's Government propose, however, urgently to renew those representations, enforced as they will be by the re-statement of the Italian Government's attitude. An early indication of the United States Government's conditional agreement would add convincing force to such new representations, and His Majesty's Government would be grateful if the United States Government would give weight to that consideration in favour of an early announcement of its agreement. In the meantime, His Majesty's Government would deeply appreciate any diplomatic support which the United States Government might feel able to give to further representations to the Governments of Jugoslavia and Roumania. If the United States Government should not desire to take separate diplomatic action itself, His Majesty's Government would be grateful to learn whether the United States Government would allow themselves to be associated with His Majesty's Government in the above further negotiations, and, if so, in what terms such association might be communicated to the Governments of Jugoslavia and Roumania."

15. It was thenceforth presumed that there would be no more trouble with Italy, and that all that was necessary was to induce the Roumanian and Serbian Governments to release their liens.

16. At a meeting of the Ambassadors' Conference in April, 1922, it was decided to entrust to a committee of secretaries the task of drawing up a report on the measures to be taken for putting into force the League of Nations scheme for the relief of Austria. The report of the committee of secretaries was approved by the conference in the middle of June of this year, and representations were to be made to the various interested Governments on the lines indicated in the report (see paragraph 6.)

17. On the 20th June a fresh development occurred. A note was received from the Italian Embassy in London proposing that a financial commission of the Great Powers on the lines of that now working in Greece (and presided over presumably by an Italian) should be substituted for the League of Nations Commission. The note states, however:—

"La situation en Autriche est en train de devenir une menace non seulement pour l'existence du pays, mais aussi pour la paix de l'Europe centrale. Il faut partant prendre au plus tôt des mesures radicales et effectives.

"Il ne s'agit plus de fournir à l'Autriche quelques dizaines de millions qui ne serviraient qu'à éloigner de peu la catastrophe. Il faut donner au peuple autrichien l'impression que son sort sera considéré avec bienveillance par les Alliés.

"M. Schanzer trouve que le projet de la Ligue des Nations a principalement deux inconvénients :

"1. De mettre sur un pied d'égalité les États qui ont contribué par des crédits à venir en aide à l'Autriche et ceux qui font tout simplement partie de la Ligue ;

"2. De diminuer le prestige de la Commission de Contrôle qui devra présider à la réorganisation financière de l'Autriche, avec le résultat que le Gouvernement autrichien ne pourra trouver dans l'autorité du Comité susdit l'appui nécessaire pour procéder aux réductions indispensables de budget.

"M. Schanzer pense qu'un contrôle sur le type de celui exercé en Grèce par les Alliés serait plus utile et plus pratique. L'œuvre de reconstruction devrait naturellement avoir pour base un délai de vingt ans pour les réparations et pour d'autres crédits dans le but d'utiliser les ressources autrichiennes, qui représentent

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actuellement un mortgage, pour garantir, pour une durée de vingt ans, des crédits privés au Gouvernement autrichien.

" M. Schanzer se voit obligé de prendre l'initiative d'une action urgente et radicale en faveur de l'Autriche pour des raisons de voisinage et de politique générale, et surtout puisque à Cannes les Alliés reconnurent d'une façon générale la prééminence des intérêts italiens dans l'œuvre de reconstruction de l'Autriche, prééminence qui paraissait parfaitement justifiée non seulement par des raisons de contiguïté territoriale, mais aussi par la spéciale importance des crédits italiens envers l'Autriche.

" M. Schanzer propose que la commission se réunisse soit dans une ville de l'Italie septentrionale, soit à Vienne.

" *Ambassade d'Italie, Londres,*
le 19 *juin* 1922."

18. In the meantime Lord Hardinge (C. 9058) telegraphed from Paris that some days after the adoption of the resolution by the Ambassadors' Conference on the report of the Committee of Secretaries (see paragraph 16) the Italian Ambassador at Paris had intimated that he must withdraw his approval of the report and of the proposed note to the Czechoslovak, Jugoslav and Roumanian Governments, in so far as these implied that the Italian Government had agreed to the suspension of Italian liens on Austria. The Italian delegate on the Reparation Commission had intervened and had insisted that the Italian Government had never agreed to the suspension of liens, but only to the postponement of reparation payments. The Ambassador was referring to his Government for definite instructions.

19. At a conference between the Prime Minister, Lord Balfour and M. Schanzer at the House of Commons on the 29th June, M. Schanzer stated that there must be some misunderstanding, as the Italian Government had never intended to withdraw their consent. Mr. Vansittart, at the end of the meeting, asked the Marquis Visconti-Venosta to telegraph definite instructions to the Italian Ambassador at Paris, and this the latter undertook to do.

20. It is worth noting that the Italian note of the 19th June (see paragraph 17) speaks specifically of the suspension of reparations and "other credits" for twenty years as a base for their scheme of an Allied Financial Commission of Control. From this it would seem that, in the event of their scheme being accepted by the other Allied Governments, they are prepared to give their consent to the postponement of all claims on Austrian assets, including the costs of armies of occupation which they do not specifically mention.

Foreign Office, July 1, 1922.

Appendix (A).

Statement to the Austrian Ministers.

1. On the understanding that the Austrian Government desire the application to Austria of the international credits scheme, as approved by the League of Nations, and are prepared to place, as provided under clause 7 of that scheme, the administration of the assigned assets in the hands of the Financial Committee of the League of Nations:

2. The Governments of Great Britain, France, Italy and Japan have decided to release for a period of years, to be determined later, their liens under the Treaty of Saint-Germain in respect of claims against the Austrian Government for the cost of armies of occupation, for relief credit bonds and reparations, provided other interested Governments will agree to similar postponement.

3. The four Allied Governments are taking, through their representatives on the Reparation Commission, the steps necessary to obtain the release of these liens on the part of the other Powers represented on the Reparation Commission, and are communicating in the same sense with the Governments who participated in relief loans to Austria, but are not represented on the commission.

4. The Financial Committee of the League of Nations will hold a meeting within the next fortnight in order to present to bankers for examination the proposals made by

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the Austrian Ministers with regard to the amount of the loans required, the character of the securities available, and the services which the Financial Committee are in a position to offer in the matter.

5. The plan may be briefly summarised as follows :—

The four Allied Powers are prepared to postpone payments (as enumerated in article 2) which they are entitled to demand under the Treaty of Saint-Germain, and also the payment of capital and interest on the advances which they have made to Austria since the armistice in order to avert starvation in that country. The whole of the assets of Austria are at present pledged as security for these payments. It is now proposed that the charges in respect of them against the Austrian assets shall be formally released, and that no specific charge or security shall be substituted, although the debt of the Austrian Government, while suspended for a definite period of years, will remain and the respective priorities will not be affected. The Financial Committee of the League of Nations would take steps immediately to determine the gold value of the advances which it could, under the Ter Meulen scheme, approve against the security of such assets which the Austrian Government would then be free to pledge, such as the customs revenues, tobacco monopoly, &c. The assets would be administered under the control of the Financial Committee, and the Ter Meulen bonds issued against these assets would be held by the lenders as collateral for their advances. By the utilisation of this machinery additional protection will be afforded both to the lender and the borrower, and some of the principal obstacles in the way of the participation of private capital would be removed.

The four Allied Powers, in consultation with the other Powers concerned, will consider the possibility of placing under one trusteeship the suspended interests of the Powers and the interests of those who participate in credits provided under the present proposal.

It is hoped that, in addition to facilitating external borrowing, the release of their liens and the suspension of their claims by the Allied Powers will assist the Austrian Government to hasten the date at which it will be in a position to arrive at a balanced budget, and by means of internal borrowings to reduce the amount of outstanding paper currency.

6. The four Allied Governments will use their good offices at the conference shortly to be held at Porto Rosa to bring about an improvement in the economic conditions which at present adversely affect the countries of Central and South-Eastern Europe.

7. The Allied Governments will also take such steps as are in their power to assure to Austria a continued and increased supply of coal.

Appendix (B).

Memorandum.

I attended the meeting with the Austrian representatives at the Treasury this morning, when the attached statement was read to them.

It will be remembered that it had been intended to add a warning to the Austrians that the grant of assistance, as outlined, would be conditional on their giving proof that they would comply with the military clauses of the Treaty of Saint-Germain. This we proposed to the French, Italians and Japanese yesterday. The French have expressed themselves in agreement with our suggestion. The Italians and Japanese said that their consent must be subject to the approval of their Governments, which could not, of course, be secured in time for the meeting. The Chancellor of the Exchequer did not therefore feel justified in putting this condition formally before the Austrian representatives, and nothing was said about the military clauses of the treaty.

I understand, however, that the Secretary of State is seeing Dr. Mayr this evening, and it might be admissible to let the latter know what he should expect. Would it not be possible to inform him of the view of His Majesty's Government, viz., that before the Allied Governments make any sacrifices in order to assist Austria, they are entitled to demand that Austria shall do her best loyally to fulfil the obligations which she has assumed under the treaty. He might be reminded that it was mainly in order to spare Austria further expense that the Allied Governments decided to withdraw the

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Military Mission of Control, and that, in notifying the Austrian Government of this decision, the Conference of Ambassadors expressly stated (in a note dated the 12th February), that they were not thereby releasing Austria from the obligation to carry out fully the military clauses of the treaty. Although no time limit was given by the conference, Dr. Mayr might be told that the representatives of the four Allied Governments have been discussing the admissibility of informing the Austrian Government that the latter must take the first step by giving proof that they are making serious efforts to meet their obligations in this respect, before any actual assistance can be accorded to them. In the short time available it was not possible to obtain the concurrence of the several Governments concerned in a formula defining their requirements, but conversations on this point will continue, and it is hoped that it will shortly be possible to inform the Austrian Government of the precise measures that will be accepted as evidence of their good faith sufficient to warrant the grant of assistance.

Foreign Office, March 17, 1922.

APPENDIX (C).

***Lord Hardinge to the Marquess Curzon of Kedleston.*—(*Received August* 18.)**

(No. 614.) [By Bag.]
(Telegraphic.) *En clair.*
(Extract.) *Paris, August* 17, 1921.

Proceedings of Conference of Ambassadors.

* * * * * *

4. The Italian Ambassador again mentioned the question of Austrian relief, and made a formal declaration to the effect that, as the Inter-Allied Financial Conference had approved the Italian proposals communicated to the Conference of Ambassadors at the previous meeting (see my telegram No. 599 of the 12th instant, item 4), Italy renounced her claims on Austrian reparations for a period of twenty years under the reserves indicated in those proposals, this renunciation to take effect as soon as the resolution of the Financial Conference had been accepted by all the interested Governments.

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CENTRAL EUROPE. [July 3.]

CONFIDENTIAL. SECTION 4.

[C 9482/74/3] No. 1.

Mr. Akers Douglas to the Earl of Balfour.—(*Received July* 3.)

(No. 187.)

My Lord, *Vienna, June* 29, 1922.

WITH reference to my despatch No. 183 of the 23rd instant, I have the honour to transmit to your Lordship herewith copy of a memorandum by Mr. G. M. Young sent to Messrs. J. P. Morgan and Co. regarding security for a loan to Austria.

I have, &c.

A. AKERS DOUGLAS.

Enclosure in No. 1.

Mr. Young to J. P. Morgan and Co.

Memorandum.

1. *The Position of the Liens.*

THIS question has been taken up by the Conference of Ambassadors in Paris with the Reparation Commission, and Sir William Goode has been asked by the Austrian Government to go to Paris and assist in the negotiations which are in progress between the Austrian representative and the delegates on the commission, but there is no evidence that any progress has been made in the past month, and quite recently the attitude of the Roumanian Government was certainly obstructive.

2. *The Amount and Purpose of the Loan.*

Negotiations are now in progress between the Austrian Government and the banks for the creation of a bank of issue, for which the banks would subscribe or underwrite some 2,000,000*l.*, and the Government contributing that part of the gold reserve of the Austro-Hungarian Bank which is assignable to Austria—about 1,250,000*l.* The credits due from France and Italy of 1,000,000*l.* each will also be subscribed. To give the necessary confidence it would be indispensable that further foreign capital should be subscribed. For this purpose 2,500,000*l.* may be regarded as necessary.

Foreign money is also required to assist in covering the deficit. This I estimate at not less than 20,000,000*l.*, of which, presupposing a certain stability of the krone, 5,000,000*l.* may be covered by economies and taxation. The rest it is proposed to deal with by means of an internal loan secured on landed property. I see no possibility of raising the amount required in this way. A mixed foreign and internal loan received in gold values, *i.e.*, paper kronen being taken at the rate of exchange of the day and interest and sinking fund paid similarly, would have a better prospect of success in Austria than a purely internal loan. But even so, I think foreign capital would have to participate to the extent of one-half, say, 7,500,000*l.*, making 10,000,000*l.* in all. There remains the question of the following year and the possibility of the budget being balanced then without recourse to the printing press. For this purpose complete reform of the system and incidence of taxation is indispensable. This presupposes more authority in dealing with the disturbances which might ensue than any Austrian Government hitherto has shown itself to possess. The financial position, in other words, in the second year, would depend on factors of a political character, including the willingness of the Allied Powers to consent to a reform of the armed forces of the republic. I do not feel able to say, therefore, that 10,000,000*l.* would be the limit of credit required.

3. *The Security.*

I am satisfied that the normal yield of the new customs will be not less than 3,200,000*l.* a year, of which about 1,500,000*l.* will be purely revenue customs. They will be on a gold basis, kronen being receivable at the rate of exchange fixed weekly

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or monthly by the Austro-Hungarian Bank. The Tabac Régie has since the war been worked at a loss. Prices here also will have to be put on a gold basis before it can be regarded as security. The gross receipts for present Austria were approximately 5,000,000*l*. on the same basis as to price. The estimated consumption for the present year would produce a gross yield of about 6,000,000*l*.

4. *The Budget.*

I estimate the deficit for the present twelve months, allowing for the new taxes and economies, at 15,000,000*l*. I have explained above how this deficit may be dealt with. The largest single item is the loss on the railways and other Government enterprises. The smaller of these can be dealt with by exclusion from the budget. Railways must remain a charge on the State over a period, which may be considerable, of technical reconstruction and reorganisation of personnel. I should hesitate to say that more than 30 per cent. of the deficit could be covered by increase of tariffs.

5. *Trade Balance.*

Until we have had experience of the progress of Austrian industry under a reasonably stable currency, it is impossible to give any reliable figures. The adverse balance of imports over visible exports is above 30,000,000*l*. per annum. Efficiency and output are certainly lower perhaps by 30 per cent. than they were before the war, and the development of the export trade is heavily handicapped by the commercial policy of the neighbouring States, as well as by the fluctuations of the exchange. Internally it is labouring at a high cost of production, due on the one side to reduced efficiency, and on the other to the high cost of labour and credit. Given stabilisation and a return to pre-war output, the balance ought not in the long run to be unfavourable, provided that the proceeds of export and investment return to Austria and were not as at present retained in foreign currency abroad. This is the weakest point of Austrian economies. If the present process continues the country will undoubtedly become denuded of capital. Whether under normal conditions it would continue cannot be definitely judged until the circumstances become normal, *i.e.*, until the krone is as good money as the currency of the neighbouring States. Judging by the tenacity of Austrian industry under very trying circumstances, its high technique in certain special branches and the attraction of Vienna as a financial centre, I am inclined to think that in the long run industry would remain here. The chief adverse items in the balance are, of course, foodstuffs and coal. I do not think that any immediate relief is to be expected from the development either of agriculture or of water-power, though eventually both might prove attractive fields for investment.

There are signs that the effect of the falling exchange in Germany in intensifying German competition has already worn off, since cost of production now tends to follow the exchange much more rapidly than was the case a year or two ago. A precipitate fall, however, would undoubtedly impair Austrian export trade while in its present condition of under-production in comparison with costs.

Vienna, June 23, 1922.

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[C 11183/74/3] No. 1.

Mr. Akers-Douglas to the Earl of Balfour.—(*Received August* 8.)

(No. 233. Confidential.)

My Lord, *Vienna, August* 4, 1922.

WITH reference to my despatch No. 229 of to-day's date, I have the honour to transmit to your Lordship herewith translation supplied to me confidentially of the appeal to the Allied Powers which has been forwarded to the Austrian Minister in London for presentation to the Prime Ministers at their meeting next week.

I have, &c.

A. AKERS-DOUGLAS.

Enclosure in No. 1.

Memorandum.

(Translation.)

UNLESS adequate foreign help is immediately forthcoming, Austrian finance is threatened by immediate collapse. Only foreign credit can restore confidence, both inside Austria and abroad, in the Austrian currency. Without it, the most drastic measures of financial reform will be as ineffective in the future as they have been in the past. Without it, every increase of taxation is useless, because it can never overtake the deficit resulting from the continued decline in the currency. It is universally recognised that from the vicious circle of financial collapse there is only one way of escape: the deficit remaining when all taxes and other revenues have been raised must be covered by a foreign loan which at the same time should have a favourable influence on the rate of exchange. The deficit must be covered and the currency stabilised by the co-operation of the three factors economy in State establishment, higher taxes and credit.

The collapse of the Austrian budget, so far as it is not to be ascribed to the events of the war, is the immediate consequence of the crash of the old State. When the Powers refused to conclude peace with the monarchy, it dissolved at once into its elements, and the Austria of to-day was at a stroke cut off from its coal supplies, so that the industrial and commercial population was thrown almost wholly out of employment.

The Austrian Government, with a population consisting half of unemployed, was compelled to grant far-reaching subsidies on food as well as unemployment doles. These are one main cause of the collapse of the State finances. The other is to be sought in the inflation of personnel, which is also in large measure an immediate consequence of the crash. Something had to be done to support the officials and employees who flocked back from distant parts of the Empire into the small Austria of to-day. But the increased costs of Government enterprises could not be covered by increases of tariffs and prices, as Austrian industry itself, not from want of good-will, but from want of raw materials and coal, could not work.

These circumstances were known in Saint-Germain; the Great Powers realised from the first that foreign help must be given if the new State was to exist at all, hence came the promise of assistance contained in the covering note to the Treaty of Peace.

Sir William Goode, president of the Austrian Section of the Reparations Commission, in fact himself prepared a plan of assistance, which, however, was not approved by the Powers. They preferred to entrust the Austrian question to the Finance Committee of the League of Nations. The delegates, in concert with the Austrian Government, prepared a finance plan which appeared, if only it were executed, to promise complete success. An assurance was given that means for a substantial loan to the Austrian Government would be found, provided that the liens on Austrian assets arising out of the Peace Treaty and the relief agreements were suspended for a period of at least twenty years. The *via dolorosa* along which the Austrian Government had to travel before this postponement could be realised is known to all.

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After more than eighteen months' activity, the suspension of the liens, at least on certain assets, appears at last to have been achieved. But, in the meantime, the relief action of the League of Nations has faded into thin air, and no one now believes that their plan is practicable to-day.

Meanwhile the Austrian Government attempted to negotiate with a powerful American-English group for a loan to be secured on various State revenues, particularly customs. But these negotiations also have yielded no result, principally because private creditors hesitated before the political risk which they saw in a loan to the Austrian State. Even if the securities offered by Austria appeared sufficient in themselves, the questions of the political future of Austria and its capacity to continue to exist seemed too uncertain for them to undertake a loan.

In the interim the Austrian Government has not been wanting in measures of self-help. Before the middle of 1920 such measures would have been impossible. When the world position in coal improved, so that even Austria received supplies, the factories were able to work and trade received a powerful impetus. When, in about October 1921, it appeared that the help of the League of Nations was not likely to be soon forthcoming, the Government decided on the Draconian step of abolishing all food subsidies, whereby the price of bread almost at a stroke was increased some ten times. A series of new taxes and dues was then, at the end of 1921, introduced to cover the deficit. Meanwhile, however, the unfavourable movement of the exchanges in Austria continued its alarming progress. The 2,000,000*l.* advance generously accorded by the British Government supported the exchange for some months, but in the long run this too proved inadequate, when the conference in Genoa was once more found not to have secured the release of the liens. With the krone falling, in the menacing condition of the European economic situation arising out of the position of the German Republic, the Austrian Government has proceeded on its course of concentrating all the forces of the land on the reorganisation of the State establishment. On the one side, the confidence of the public in the national currency is to be revived by the foundation of a new bank of issue, which will be expressly forbidden to grant credit to the State. On the other side, the revenue is to be increased; the costs of the State enterprises, telegraphs, telephones, posts and railways, are to be covered; increased prices will render the monopolies, particularly the tobacco monopoly, actually sources of profit. Indirect taxation on articles of consumption is to be greatly increased, heavy duties will be imposed on alcohol, and the customs collected in gold. Further, a forced loan is to be issued both on land and mobile capital, from which a yield of about 400 milliard kronen is to be expected. The banks have undertaken to guarantee to the amount of about 3,000,000*l.* that part of the capital of the new bank of issue which is to be paid in cash. The bank itself is to begin operations in the middle of September.

Those who know the circumstances of the country will agree that this finance plan, which has already received legislative sanction, represents the utmost effort of which Austria is capable.

The effect of this legislation when in complete operation appears from the appendix.* If the public revenue and expenditure are divided into permanent and transitory, it appears that against permanent expenditure of 573·7 million gold kronen there will be an income of 557·5. The deficit of 16·2 million could be covered by financial operations of the Government inside Austria. The transitory expenditure, on the other hand, amounts to 256·6 million, against a revenue of only 11·1. The resulting deficit of 245·5 could only be covered by an external loan. Assuming that a stabilisation of the Austrian currency made further financial measures possible, this deficit could be made to disappear in eighteen months. It follows that, in the view of the Austrian Government, a foreign loan of 15,000,000*l.* would achieve the restoration of the public finances and the stabilisation of the currency. The Austrian Government therefore asks that such a loan should be granted in a manner which the Great Powers deem satisfactory, whether directly by the Powers themselves or under their guarantee. Otherwise the finance plan of the Austrian Government must be declared impracticable, and the complete collapse of Austrian finance is inevitable.

The position of affairs can naturally not be hidden from the business world and the general public. The consequence is that, if foreign help is not forthcoming, trade, industry and private wealth, with the danger of a collapse of the State before their eyes, proceed on the principle of *sauve qui peut*. It follows that in Austria only foreign currencies are bought, and that no one—in particular, no tradesman or manufacturer—who receives foreign currency will place it on the market. In turn, the masses of the population lose confidence in Austrian currency, and, in order to ensure their savings

* Not printed.

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C 41681 E-1925

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CENTRAL EUROPE. [August 8.]

CONFIDENTIAL. SECTION 2.

[C 11183/74/3] No. 1.

Mr. Akers-Douglas to the Earl of Balfour.—(*Received August* 8.)

(No. 233. Confidential.)

My Lord, *Vienna, August* 4, 1922.

WITH reference to my despatch No. 229 of to-day's date, I have the honour to transmit to your Lordship herewith translation supplied to me confidentially of the appeal to the Allied Powers which has been forwarded to the Austrian Minister in London for presentation to the Prime Ministers at their meeting next week.

I have, &c.

A. AKERS-DOUGLAS.

Enclosure in No. 1.

Memorandum.

(Translation.)

UNLESS adequate foreign help is immediately forthcoming, Austrian finance is threatened by immediate collapse. Only foreign credit can restore confidence, both inside Austria and abroad, in the Austrian currency. Without it, the most drastic measures of financial reform will be as ineffective in the future as they have been in the past. Without it, every increase of taxation is useless, because it can never overtake the deficit resulting from the continued decline in the currency. It is universally recognised that from the vicious circle of financial collapse there is only one way of escape: the deficit remaining when all taxes and other revenues have been raised must be covered by a foreign loan which at the same time should have a favourable influence on the rate of exchange. The deficit must be covered and the currency stabilised by the co-operation of the three factors economy in State establishment, higher taxes and credit.

The collapse of the Austrian budget, so far as it is not to be ascribed to the events of the war, is the immediate consequence of the crash of the old State. When the Powers refused to conclude peace with the monarchy, it dissolved at once into its elements, and the Austria of to-day was at a stroke cut off from its coal supplies, so that the industrial and commercial population was thrown almost wholly out of employment.

The Austrian Government, with a population consisting half of unemployed, was compelled to grant far-reaching subsidies on food as well as unemployment doles. These are one main cause of the collapse of the State finances. The other is to be sought in the inflation of personnel, which is also in large measure an immediate consequence of the crash. Something had to be done to support the officials and employees who flocked back from distant parts of the Empire into the small Austria of to-day. But the increased costs of Government enterprises could not be covered by increases of tariffs and prices, as Austrian industry itself, not from want of good-will, but from want of raw materials and coal, could not work.

These circumstances were known in Saint-Germain; the Great Powers realised from the first that foreign help must be given if the new State was to exist at all, hence came the promise of assistance contained in the covering note to the Treaty of Peace.

Sir William Goode, president of the Austrian Section of the Reparations Commission, in fact himself prepared a plan of assistance, which, however, was not approved by the Powers. They preferred to entrust the Austrian question to the Finance Committee of the League of Nations. The delegates, in concert with the Austrian Government, prepared a finance plan which appeared, if only it were executed, to promise complete success. An assurance was given that means for a substantial loan to the Austrian Government would be found, provided that the liens on Austrian assets arising out of the Peace Treaty and the relief agreements were suspended for a period of at least twenty years. The *via dolorosa* along which the Austrian Government had to travel before this postponement could be realised is known to all.

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and their property, hoard them in foreign valuta. If this situation continues, the end must be that foreign currency to cover the import of essential commodities will simply not be forthcoming. Nothing can be expected from measures of compulsion, which would only destroy what remains of the confidence of the Austrian population.

The Government is convinced that present-day Austria, now that its economics have adjusted themselves over a space of four years to the actual condition of things, is capable of separate existence, with foreign assistance. Without it, the position is hopeless. It is now for the Great Powers to decide whether this assistance is to be granted. Austria is to-day what she has been for centuries—the bulwark of Western civilisation, an element of peace and order in Middle Europe, inhabited by a peaceable, industrious and skilful population. The Austrian Government is responsible for the maintenance in Austria and, above all, in Vienna of an ancient seat of civilisation, irreplaceable for Europe and for the whole world. But they must decline this responsibility if, after all the efforts of the country itself, which is even prepared to submit to financial control, help is delayed and the catastrophe follows. The loss which would ensue to mankind and to the peace and civilisation of Europe bears no relation to the sum, insignificant for the Great Powers, which is required for the salvation of the country, and the repayment of which in no great length of time is more than probable.

We confidently expect that the Powers, weighing the circumstances and considering the extreme tension of the position, will accede to our appeal. But if it is otherwise, if our last hope proves deceptive, then the Austrian Government, conscious that all means in their power and within the capacity of the population have been tried and tried in vain, must hold a special session of the Austrian Parliament and declare that neither the present nor any other Government is in a position to conduct the business of the State. In this the Government knows that it will have the support of Parliament. They will, at the same time, before the people of Austria and the public opinion of the world, hold the *Entente* responsible for the collapse of one of the oldest centres of civilisation in the heart of Europe, and place in the hands of the *Entente* the further destinies of Austria.

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CENTRAL EUROPE. [August 9.]

CONFIDENTIAL. SECTION 1.

[C 11425/74/3] No. 1.

Memorandum on Austrian Situation.

EVER since the armistice, when it was clear that the conditions in Austria were critical, the question of the Austrian economic situation has been represented as one of the most urgent problems in Europe. The Reparation Commission soon reported that, far from there being any prospect of obtaining anything in the way of reparation payments from Austria, it would be necessary for the Allies or any solvent Power to advance money at once to save Austria from complete collapse. In the autumn of 1920 Sir W. Goode, chairman of the Vienna section of the Reparation Commission, produced an ambitious, and expensive, scheme for the rehabilitation of the Austrian finances. But this scheme involved a substantial foreign loan, and the money was not forthcoming. A solution was next sought, or hoped for, by means of the "Ter Meulen" scheme, which had received the approval of the League of Nations. The essence of this scheme was that Austria should be free to pledge her assets. Under the Treaty of Saint-Germain the Allied Powers had a lien on those assets, as also had certain other countries which had given Austria relief credits at a time, just after the armistice, when Austria was dependent on foreign charity for life itself. In March 1921 there was a meeting in London between representatives of the Principal Allies and the Austrian Government, and the latter were then informed that the Allied Governments there represented were ready to forgo their liens for a period to be determined (later fixed at twenty years), provided that all the other Governments which held liens, whether in respect of reparations or relief credits, agreed to do the same. The remainder of that year and the first half of 1922 were taken up with negotiations with the interested Governments with the object of inducing them to release their liens. Owing to the opposition of the "Little *Entente*" it was not possible to secure agreement on this question. Czechoslovakia seemed at first to agree, but nothing like a favourable answer could be obtained from Roumania or the Serb-Croat-Slovene State. At Genoa it became clear that the opposition of these two countries was really being secretly encouraged by Czechoslovakia. As the latter State had been awarded by the Reparation Commission a claim for reparation as from the 28th October, 1918—the official period of its "belligerency" with Austria—the situation was obviously absurd, and at last it was decided to put the matter to the Reparation Commission in Paris and, if need be, outvote the smaller States. The Reparation Commission, on the application of the Austrian Government, agreed on the 4th instant to release the lien in respect of reparation on certain defined assets in order to facilitate the establishment of a bank of issue in Vienna. The commission had, in taking an earlier provisional decision to the above effect, expressed itself ready in principle to release further assets so that Austria might secure a foreign loan, provided that the detailed programme for such a loan were submitted to the commission for prior approval. The projected bank of issue referred to above has not yet been set up.

2. The note addressed on the 7th August by the Austrian Minister to the Prime Minister (Annex 1) shows that at the present moment the foreign bankers are doubtful of the value of this security, and they demand a "second guarantee, which can only be given by the chief Allied Powers." The Austrian Government desire urgently, therefore, to know whether those Powers are "prepared to assume a partial guarantee for the Austrian loan of 15,000,000*l.* sterling."

3. To estimate the chances of success of any such scheme, it would be necessary to make a study of the existing resources of Austria with a view to arriving at an idea whether Austria, within its present frontiers, if properly reconstructed, is capable of independent existence. An exhaustive enquiry was conducted last year by the League of Nations' Financial Committee, which proceeded to Vienna to investigate the situation on the spot. This committee produced a report in June last year. Much of it, for example that part relating purely to finance, is out of date, but a portion of it, dealing with general economic factors (printed as Annex 2), is worthy of study. It will be seen that the conclusion reached by the committee was that Austria, as at present constituted, *is* capable of independent existence. A

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similar opinion has been expressed by His Majesty's commercial secretary in Vienna, in his annual report, an extract from which is printed as Annex 3.

4. The question whether the measures now proposed are sufficient to stabilise the Austrian situation and to enable Austria to make a fresh start and pay her way, is, of course, one for technical, financial and economic experts, and the Foreign Office cannot be expected to pronounce upon them with authority. It can only be said that the expedients so far adopted and tried have had results that are the reverse of encouraging. It has been urged that the credits which have been given have been too small, but their effect has certainly been such as to discourage a repetition of the experiment on a larger scale. His Majesty's Government have, since the armistice, advanced altogether over 12,000,000*l*. The French and Italian Governments have hitherto given practically nothing. The French, last year, gave a credit of 250,000*l*. They have now "voted" 1,000,000*l*. and the Italian Government have done the same. It was at the beginning of this year that we made our last advance of 2,000,000*l*. The total Austrian currency was then worth only about 4,000,000*l*. The krone remained steady for a few weeks, but it then slumped from about 35,000 to the pound to about 90,000 to the pound in a fortnight, and the utilisation of the whole of our credit failed to arrest its fall. The downward course has since been so headlong that it now stands at anything between 200,000 and 250,000 to the pound. So it seems that the foreign credits, which have been urged as the only remedy, and in which the population of Vienna still seem to have a touching faith, are better in the anticipation than they are in the realisation.

5. One thing seems quite clear, and to be agreed upon on all hands, and that is that no recovery can be looked for in the absence of very substantial foreign credits. The Treasury have lately said that "His Majesty's Government are not prepared to add to their already heavy financial commitments to Austria," and it is certain that the other Governments would not embark on any scheme without the participation of His Majesty's Government.

6. It is now for the Treasury to say whether the financial reforms decided on by the Austrian Government, together with the proposed loan of 15,000,000*l*., offer sufficient prospect of the stabilisation of Austria to justify His Majesty's Government in assuming their share of the risk in giving the "partial guarantee" required by the bankers. This question is hardly within the scope of the Foreign Office, who are concerned not so much with the methods of prolonging Austria's existence as with the question whether Austria can and will continue to exist as an independent State. We have constantly been told that, unless help (*i.e.*, foreign credit) is forthcoming immediately, Austria must "collapse." As to the actual form of such "collapse," it is difficult to forecast events, but it must be remembered that Austria is far from self-supporting in the matter of food-stuffs, and, if the krone loses all purchasing power, there will be considerable difficulty in providing the population with food. Already in December last, and again lately, there have been demonstrations against the high cost of living. Trouble has been averted by the grant of higher wages (which in turn depresses the krone still further and makes the purchase of foreign food-stuffs more costly), but if actual supplies run short, the mass of paper money which the worker earns will do him no good, and a hungry population will be certain to make disturbances. The Central Government, which cannot rely on the small armed forces left to Austria, will be unable to control the situation, and the country may be left a prey to anarchy. In that case, either Austria might be left to her fate, and a *cordon sanitaire* drawn round the plague spot, or there might be foreign intervention. The latter, we are warned, might take either one of two forms: either Austria will be absorbed by Germany, or she will be fallen upon and dismembered by her neighbours. As regards the first alternative, the agitation for union with Germany, which was rife a year ago, has died down to some extent. This is quite possibly due to the fact that the agitation was engineered originally from Berlin, and that the Germans now realise that Austria is no longer the prize she once might have been. From the purely Austrian point of view, also, union with Germany is a prospect that is not entirely alluring. Austrian industry has been built up largely on the basis of protection against Germany, and its chief complaint is now that it cannot compete with German industry even with the assistance of the present import duties; the abolition of this protection would necessitate a complete reorganisation of Austrian manufacture and the ultimate inclusion of Austrian undertakings in the German cartels, a process that would take years to bring about, and cause perhaps as great disturbance as the separation from the rest of the old monarchy did. Further, it is hard to believe that Austrian traders and financiers

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would not be supplanted to some degree by their German competitors if the latter were able to work in and through Vienna on equal terms. The official classes, too, who are among the greatest sufferers from the disruption of the old monarchy, would probably rather lose than gain by the degradation of Vienna from the position of a real capital, even of a small State, to that of a subsidiary capital such as Munich or Dresden. But it is doubtful whether the Austrians themselves have realised this. Apart from what either Germany or Austria might think in the matter, Austria may not, under the Treaty of Saint-Germain, alienate her independence without the consent of the League of Nations. As regards the second alternative, it is possible that the countries bordering on Austria might think their opportunity had come for taking from her anything, in addition to what they have already got, that might be of any use to them. The Jugoslavs have cast covetous eyes on the Klagenfurt area ever since the inhabitants of that region declared by plebiscite that they preferred to live under Austrian rule. But it is doubtful whether they would make any move to annex the region. The Czechoslovaks probably do not want to add to their territory and their responsibilities at the expense of Austria. On the other hand, Hungary would very possibly connive at the reconquest of the Burgenland by Hungarian irregular bands, and this would give the Czechs and the Serbs the excuse they want for attacking Hungary. So that, although an economic collapse in Vienna might disturb the peace of Europe, any fighting there might be would more likely take place on the territory of her eastern neighbour, and Austria would be left alone to her fate

7. It may be added that two other possible remedies have been suggested. The first was definitely laid before us by the Italian Government in June last, and contemplated the substitution for the League of Nations Commission of a financial commission of the Great Powers on the lines of the International Financial Commission in Greece. The scheme was not given in detail, but in principle the Treasury, to whom it was submitted, could only point out that "such a commission would be useless, and, indeed, highly disadvantageous to all concerned, and especially to Austria, which could merely serve to postpone the catastrophe which appears to be inevitable." The Treasury further observed that such a commission would be "useless and, indeed, objectionable, unless one or more of the Governments which would take part in such a commission is prepared to assume responsibility for providing financial assistance (and probably also police assistance) to Austria, and His Majesty's Government are not prepared to add to their already heavy financial commitments to Austria."

This Italian proposal did not advance matters. It had its basis in foreign credits, and without the latter meant nothing. If the principle of giving credits were agreed upon—and that is the real question—the Italian scheme might be worth examination as a means of controlling the credits. But that is a question of procedure which can well be left till later.

The other remedy has not—perhaps for obvious reasons—been officially before us. The idea is a customs union of Austria with Italy. We have only heard from His Majesty's Minister in Vienna that when Dr. Schuller was recently in Rome initiating discussions for a commercial treaty, he was asked how his Government would regard a customs union, and that he merely replied that the immediate need of Austria was financial assistance. We are left to conjecture the effect of this reply.

8. One other point—we have been told that the mere announcement that the present conference in London would "discuss Austria," might do something to arrest the downward course of the krone and revive some measure of hope in Vienna. This is possibly true, and the present sensitive state of the krone is ready to respond even to such a slight stimulus. But it is becoming a question whether it is really humane to keep the patient alive. If the effect of periodically encouraging the Austrians to expect relief is merely to prolong the agony, it is obvious that no real good is being done, and it is possible that this policy may even be doing harm, as the longer the "collapse" is postponed the worse it may be when it comes. Further, experience has shown us that the slight improvement sometimes noticeable as a result of encouraging statements from the Allies is as nothing compared with the reaction when it becomes realised in Vienna that no tangible result is to be expected. If, therefore, the Allied Governments are unable to agree to the present proposals or to indicate their willingness to consider at once some equally comprehensive scheme, it would be as well to make it clear to the Austrians once and for all that they cannot look to the Allies for help, but must stand or fall by their own efforts.

Foreign Office, August 9, 1922.

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[C 11424/74/3] Annex 1.

M. Franckenstein to Mr. Lloyd George.—(*Communicated by Cabinet Offices, August* 8.)

Mr. Prime Minister, *August* 7, 1922.

I HAVE been instructed to address to you, as president of the inter-Allied meeting, the following note and to beg you to bring it to the knowledge of the statesmen participating in the deliberations:—

The Austrian Government is faced with momentous decisions.

During the last few days the Reparation Commission has at last released some of Austria's assets in order to render possible the taking up of a foreign loan. But the foreign bankers, who a year ago were still willing to grant such a loan, to-day declare that it is impossible to do so, because to them and to the general public the continued existence of Austria has become doubtful. The bankers consider the revenues offered by the Austrian Government a sufficient financial guarantee for the desired credit; they demand, however, in addition a second guarantee which can only be given by the chief Allied Powers. For this reason the last resort of the Austrian Government is to appeal, through the present memorandum, to the Powers and to address to them the urgent request that they should undertake a partial guarantee for the loan, for which such security is offered by the Austrian Government as is acknowledged by the financial experts to be adequate.

The experience of the last two years has shown that the budget can only be balanced if the currency is stabilised simultaneously. For this reason Austria is at the present moment and out of her own resources establishing a new bank of issue, for which the capital is supplied by Austrian banks. At the same time the revenue is, as far as possible, put on a gold basis; the expenditure, already reduced by the abolishing of subsidies for foodstuffs, is being further diminished by the sale—already effected or about to be effected—of unprofitable State concerns, by the reorganisation of the railway and postal services, and by the reduction, at first by 10 per cent., of State officials. In order to cover for the next few months the deficit which, as a result of the progressive depreciation of the krone, is rapidly increasing, an internal forced loan will be taken up. The Government and Parliament have decreed by law that the printing press shall no longer be resorted to for the State and its requirements. Anyone knowing the situation will agree that this finance plan, already fixed by law, embodies the utmost exertions of which the present Austria is capable

Everything depends upon whether, during the period required for the carrying through of the financial reforms, a foreign loan will give Austria the assurance that she will not have to resort to the printing press again in order to cover the requirements of the State, otherwise the financial reforms would be definitely doomed to failure. A further depreciation of the krone must necessarily render impossible the indispensable purchases of foodstuffs and coal from abroad, and lead to such social upheavals as would constitute the gravest dangers for the peace of Central Europe and would mean the end of an independent Austria. Every day by which the assurance of the foreign credit is delayed renders it doubtful whether the measures which Austria is taking for her own salvation will then still be possible. For this reason the Austrian Government begs the Powers to decide at once whether they are prepared to assume a partial guarantee for the Austrian loan of 15,000,000*l.* sterling.

If against all expectations this last hope were also to prove chimerical, the Austrian Government, knowing that to save the situation they had tried in vain all means which lay in their power and which constituted the utmost exertion of the people, would have to call together specially the Austrian Parliament and to declare, in agreement with it, that neither the present nor any other Government is in a position to continue the administration of the State. At the same time they would before the Austrian people and the public opinion of the whole world have to make the *Entente* Powers responsible for the collapse of one of the most ancient centres of civilisation in the heart of Europe, and would have to lay into their hands the future fate of Austria.

I have, &c
G. FRANCKENSTEIN.

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Enclosure in Annex 1.

Yearly Budget of Federal Expenditure and Revenue.

(A.) Administration.

Expenditure.

(Expressed in million Gold Kronen.)

Group.	—	Permanent.	Transitory.	Total.
I	President, Parliament, &c.	0·8	..	0·8
II	Courts of Justice	0·1	..	0·1
III	Accountancy Department	0·1	..	0·1
IV	National Debt	35·2	..	35·2
V	Payments to provinces and municipalities	40·0*	32·6†	72·6
VI	Pensions	28·5	..	28·5
VII	Office of the Federal Chancellor	0·9	..	0·9
VIII	Home Office and Education	53·5‡	0·7	54·2
IX	Justice..	14·5		14·5
X	Ministry of Finance	19·8	1·2	21·0
XI	Land and Forestry	8·0	..	8·0
XII	Board of Trade, public building	16·3	..	16·3
XIII	Public Health and Welfare	25·2	2·1	27·3
XIV	Foreign Affairs	4·0	0·2	4·2
XV	Army	37·4		37·4
XVI	Food Control	1·6	6·8	8·4
XVII	Transport	0·6	32·7§	33·3
XVIII	Socialisation	..	..	..
XIX	Transition measures	..	16·4	16·4
XX	Treaty of Saint-Germain	..	52·5‖	52 5
XXI	Burgenland	18·0		18·0
	Measures for economy	— 22·0	+ 22·0	
	Total	282·5	167·2	449·7

* Proportion due to provinces and municipalities of revenue.
† Federal subsidies to provinces and municipalities.
‡ Including gendarmerie and federal police.
§ Including 29·4 for advances to Southern Railway (chiefly for personnel).
‖ Chiefly contributions to private pre-war debts.

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Revenue.

Group.	——	Permanent.	Transitory.	Total.
I	President, Parliament, &c.	..	..	..
II	Courts of Justice	..	..	
III	Accountancy Department..	..	..	..
IV	National Debt	..	..	..
V	Payments to provinces and municipalities	..	..	..
VI	Pensions	.	0·6	0·6
VII	Office of Federal Chancellor	0·2	..	0·2
VIII	Home Office and Education	1·4	..	1·4
IX	Justice	0·6	..	0·6
X	Finance—			
	I.—(1.) Direct taxes	65·4	..	65·4
	(2.) Customs	58·0	..	58·0
	(3.) Excise and export duty	19·3	..	19·3
	(4.) Fees	30·5	..	30·5
	(5.) Fees for hall-marking	0·1	..	0·1
	(6.) Tax on the exchange	1·1	..	1·1
	II. Other revenue	1·5	0·7	2·2
XI	Land and Forestry	0·6	..	0·6
XII	Board of Trade, public building	1·6	..	1·6
XIII	Public Health and Welfare	5·6	..	5·6
XIV	Foreign Affairs	..	..	..
XV	Army	0·4	..	0·4
XVI	Food Control	..	7·5	7·5
XVII	Transport	2·2	..	2·2
XVIII	Socialisation	.	..	..
XIX	Transition measures	..	1·3	1·3
XX	Treaty of Saint-Germain	..	..	..
XXI	Burgenland	..	.	..
	Total	188·5	10·1	198·6

(B.)—Monopolies and State Concerns.

Expenditure.

(Million Gold Kronen.)

——	Permanent.	Transitory.	Total.
Tobacco	46·5	2·1	48·6
Salt	5·7	0·5	6·2
Forests and domains of the State ..	4·5	0·8	5·3
Forests and domains belonging to the Church	0·4	0·1	0·5
Industrial concerns	2·7	5·0	7·7
Mining concerns	3·0	0·5	3·5
Federal railways	151·9	68·6	220·5
Post Office	27·8	1·9	29·7
Motor locomotion concerns .. .	3·3	..	3·3
Telegraph and Telephone	15·3	8·8	24·1
Post Office Savings Bank	2·9	0·6	3·5
Other monopolies and concerns.. ..	13·3	0·5	13·8
Total	277·3	89·4	366·7

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Revenue.

—	Permanent.	Transitory.	Total.
Tobacco	94·8	..	94·8
Salt	4·8	..	4·8
Forests and domains of the State	6·4	..	6·4
Forests and domains of the Church	0·7	..	0·7
Industrial concerns	2·1	0·8	2·9
Mining concerns	3·2	0·1	3·3
Federal railways	180·2	..	180·2
Post Office	26·7	..	26·7
Motor locomotion concerns	3·2	..	3·2
Telegraph, telephone	17·4	..	17·4
Post Office Savings Bank	2·8	..	2·8
Other monopolies and concerns	12·8	0·1	12·9
Total	355·1	1·0	356·1

SUMMARY OF THE FINAL RESULT OF THE GOLD BUDGET.

(Million Gold Kronen.)

—	Permanent.	Transitory.	Total.
(A.)—*Administration.*			
Expenditure	282·5	167·2	449·7
Revenue	188·5	10·1	198·6
Deficit	94·0	157·1	251·1
(B.)—*Monopolies and State Concerns.*			
Expenditure	277·3	89·4	366·7
Revenue	355·1	1·0	356·1
Surplus	77·8	..	..
Deficit	..	88·4	10·6
(A) and (B).—*Administration, Monopolies and State Concerns.*			
Expenditure	559·8	256·6	816·4
Revenue	543·6	11·1	554·7
Surplus	..	..	..
Deficit	16·2	245·5	261·7

Annex 2.

Extract from the Report of the Delegation sent to Vienna by the Financial Committee of the League of Nations, June 1, 1921.

Economic Situation.

ALL the representatives of the different branches of economic life admit that an independent Austria as it exists to-day, in spite of the profound changes introduced in its existence by the Treaty of Peace, must be considered as capable of an active and independent existence. They therefore maintain that assistance from abroad not only would not be useless, but would actually ensure the development of the country, which is the indispensable centre of the economic future of Central and Eastern Europe.

(*a.*) *Commerce and Industry.*—The existing—and temporary—difficulties are caused solely by the dismemberment brought about by the Treaty of Peace. It is necessary to pass through a critical period in which Austria must adapt herself to

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new conditions. The withdrawal of demands for reparations on the part of the *Entente*, together with the cancellation of the general mortgage on all the assets of the country—the re-establishment of freedom of communications, trade and commerce with the succession States, the stabilisation of the currency, and, above all, the equilibrium in the State budget, will, it is generally held, ensure the economic future of Austria.

Almost all witnesses declared, in particular, that the City of Vienna, despite its population, apparently far too great for the size of the country, has every chance of fully retaining its former position. It is giving proof of its vitality by maintaining its trade, which is even more extensive than before the war, in spite of the difficult situation of the country. Not only have imports, exports and transit increased, but also Vienna is the centre in which important foreign business is transacted. This, therefore, does away with the opinion current in certain circles, that Vienna must necessarily lose its position and dwindle away, owing to the division of the former monarchy, and in consequence become a burden to Austria. The position of Vienna, built up in the course of centuries, is unique in this part of Europe. The great banks of the town possess an excellent technical organisation; the commercial concerns understand the language, habits, methods and financial standing of the succession States; Vienna is a centre of good communications. The city itself affords all the conveniences and advantages of a great town, together with the artistic treasures of an old civilisation. Moreover, in a sense, dismemberment has served to increase the Vienna market by pushing back the frontiers of certain provinces formerly Austrian. Thus, the market available covers the whole of Roumania instead of Transylvania only, the whole of Jugoslavia instead of Bosnia and Dalmatia, and the whole of Poland instead of Galicia.

But in however favourable a light Austria's future may be regarded, a crisis undoubtedly exists, the causes of which had to be enquired into.

Unemployment has been very great since the revolution and dismemberment. Industry has suddenly been cut off from former important markets within the limits of the old monarchy, and it has also ceased to receive coal from centres of production which are now outside the frontiers of Austria. A considerable improvement is already making itself felt. Supplies of coal have been resumed, and former markets have again been opened. Relations have gradually been resumed. The fall in the krone, and the relatively low level of wages resulting therefrom, have enabled Austrian industry to gain a favourable position. The industrial crisis has as yet only slightly affected Austria in comparison with the serious disturbances from which the majority of the other countries of Europe are suffering. At the present time the factories are making large profits, although none of them is working at more than 50 per cent. of its capacity owing chiefly to insufficient supplies of coal. There is, therefore, practically no unemployment in Austria; and this undoubtedly prevents social unrest and is bound to assist financial reconstruction.

The representatives of industry themselves admit that this prosperity is artificial. They also point out that the large profits of the factories are far from being always a result of active production, but they are often due to considerable profits on the exchange. Raw materials were purchased at a time when the rate of the krone was relatively high, and the sale of finished products only takes place after a considerable fall in this currency.

The abnormal exchange situation, therefore, considerably hinders the rational development of industry. In view of the uncertain basis on which industries are working, any calculation that may be made is immediately upset, and the fall of the krone may reduce profits to such an extent that capital will be lacking for the purchase of the raw materials indispensable to the continuation of work.

All the bankers' representatives, however, are agreed with the representatives of industry in admitting that the purchase of raw materials by industry has not had any great influence on the fall in the krone. They even admit that industry has not hitherto needed any special assistance from abroad for its purchases nor for obtaining its coal, Austrian banks having been able—and there is every reason for believing that they will likewise in the future be able—to procure the necessary credits to cover these imports. Big industries are very important for the country, both because they employ and support about a million workers and because it is only by the surplus of their exports that payment can be made for the necessary import of foodstuffs. It is therefore indispensable for the future existence of the country that industry shall develop quietly and peacefully. This is also the opinion of the workers, who are organised and grouped in one large central union.

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Moreover, owing to its high technical standard, to its excellent organisation and to the qualities of its workers, who are industrious, intelligent and easy to satisfy, and whose wages are relatively low, industry in Austria will not only be able to regain its dominant position in the succession States, but will also find a valuable market throughout the world for the articles in which it specialises.

Further, industry itself, as the result of an enquiry which was undertaken at the request of the delegation, appears generally full of hope as to the possibilities of the future. There is coal in Austria itself, and if the deposits were satisfactorily worked they might meet almost one-third of her needs. Moreover, by the employment of water-power which belongs to the State an extremely important source of energy would be obtained, calculated at 250,000 horse-power (a tenth part of which is not yet exploited). This would diminish by half the total coal consumption of the country.

In order, however, to ensure continuous and satisfactory development for industry, it will be indispensable to leave open the door which leads to its natural markets. It is of vital importance that a political and commercial agreement should be arrived at with the succession States, such as will limit, as far as possible, the restrictions which at present hinder the free exchange of products and which have mainly been imposed with a political object.

(*b*) *Agriculture.*—Agriculture is capable of considerable development, although in any case it cannot supply more than about half the cereals necessary for the feeding of the population. The harvest of 1919 was poor owing to numerous obstacles which rendered production difficult, and the lack of mineral manures. It is estimated as equal to only half the normal pre-war output. It increased somewhat in 1920, and the normal level may be expected to be attained before long.

It will always be necessary, however, to import an amount of bread cereals about equal to the amount produced in the country. A great part of the area of Austria is covered by the Alps and is useless for cultivation, but the rearing of cattle may be increased, and the breeds must be improved by the importation of selected animals. But even when the stock has been completely replaced as regards quantity, Austria will not be in a position to supply itself entirely with meat.

As has been seen above, the requisition by the State of agricultural produce at unremunerative prices often prompts the farmer not to develop production, which is equally handicapped by the numerous obstacles placed in the way of freedom of communications.

Many of those who were questioned by the delegation, however, were led spontaneously to make a comparison between Austria and Switzerland. Not only is the political constitution of the two States identical, but the natural resources are also the same. They see in this comparison a reason for their optimism as regards Austria's economic future. All, in fact, agreed in stating that an independent Austria is capable of economic existence, provided it can remain in that state of tranquillity which is at present indispensable, and can obtain from abroad the assistance which would permit the State to consolidate itself. The fact is that the political and economic situation of Austria depends, above all, on the financial condition of the country.

Annex 3.

Extract from the Report on the Economic and Commercial Situation in Austria, dated June 1922, *by the Commercial Secretary to His Majesty's Legation, Vienna.*

THE fundamental question "Can Austria live?" is not only one of vital interest to the Austrians themselves, but deeply affects a number of European political issues. Some Austrian economists answer in the negative; these are mostly adherents of the "Anschluss," of incorporation in Germany. The majority, however, believe that Austria can live if it is given and gives itself a chance, and the writer is of this opinion. It is true that Austria has not paid its way since the war and has had to be maintained in part by foreign credits and relief and by the consumption of some of its capital. Many other countries, however, have had to draw on their capital during the last three years. Other countries also have no seaboard, a still larger proportion of urban to rural population, less mineral wealth and a less fertile soil, and yet flourish. There is little doubt that from the material point of view the economic existence of Austria as an independent State is possible.

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But the problem of Austria is not only economic, it is largely a political and psychological one, because part of the population has to adapt itself to new conditions, has to content itself for the time with a lower standard of life and find new work, and above all the Austrians have themselves to acquire confidence in the future of their country. The upper and middle classes, and, indeed, all but those actually earning weekly wages or enjoying the profits of successful speculation, have already been compelled to reduce their standard of life, often, indeed, to the level of extreme penury. Considerable advance has already been made, particularly within the last year, in the resumption of greater industrial production. There have also been increased earnings through services rendered by finance and commerce to other countries, but these are still hampered not only by the jealousy of neighbours, but also by injurious restrictions imposed by the Austrian legislature itself in times of panic. Vienna must live largely by international finance and commerce, and freedom from excessive interference and taxation is an absolute necessity for these, otherwise they go elsewhere. In agriculture, too, the all-important side of the production of wealth has been sacrificed to the supposed political exigencies of its distribution. A revival in agriculture is Austria's most urgent need; probably the migration of some of the superfluous population of Vienna to the country, which has begun, will have to go somewhat further until a balance is reached. But to bring this about economic forces must have freer play.

There are political difficulties in the way of removing these restrictions and in effecting the still more urgent task of balancing State expenditure and income. For this, painful economies and unwelcome taxation on classes that have hitherto largely escaped, such as the small landowners, have to be faced. The Austrian population is really inexperienced in politics and self-government, because before the war the more important functions of the Austrian Imperial Government were performed by the Court and the less important by the bureaucracy, while Parliament generally devoted its attention to problems touching the different nationalities.

The psychological difficulty is the prevalent pessimism which inhibits initiative on the part of the Austrians themselves and makes them look solely abroad for salvation. The amount of foreign credits generally estimated to be necessary to place Austria on its feet again by stabilising the currency and founding a new bank of isue is about 10,000,000*l*. It is an open secret that, despite the law to the contrary, very much larger sums in foreign currencies than this are hoarded by Austrians, both inside and outside the country; the amount lying in Swiss banks alone has been estimated at 18,000,000*l*. But these resources lie idle because the owners have no confidence in the Government or the future of the country.

Probably both the political and psychological difficulties can be overcome most easily by financial assistance given by foreigners under suitable control and conditions. The Austrians, however, must show that they are ready to co-operate by taking at least the first steps to put their house in order themselves. There is some prospect of this being done at an early date.

Whatever may be the developments of the near future as regards Austrian State finance, there seems little doubt that Vienna will continue to expand its commerce, and none at all that it will remain the great trading and financial centre of this part of Europe.

British traders, therefore, while exercising all due caution regarding the vagaries of the crown, should not be deterred by them from cultivating a market which affords the key to trade with so large an area.

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CENTRAL EUROPE. [August 14.]

CONFIDENTIAL. SECTION 1.

[C 11517/74/3] No. 1.

M. Franckenstein to the Marquess Curzon of Kedleston.—(*Received August* 14.]

My Lord, *Austrian Legation, London, August* 13, 1922.

I HAVE the honour to transmit to your Lordship the copy of a note which I addressed to-day to the Prime Minister in his capacity as president of the inter-Allied meeting in London.

I have, &c.
G. FRANCKENSTEIN.

Enclosure in No. 1.

M. Franckenstein to Mr. Lloyd George.

Mr. Prime Minister, *Austrian Legation, London, August* 13, 1922.

I HAVE been instructed by the Austrian Government to make to your Excellency as president of the inter-Allied meeting in London the following declaration, and to beg you to bring it to the knowledge of the conference.

If, contrary to expectation, the Allied Powers during the present meeting in London should not come to a decision to give definite assurances to Austria that it will obtain adequate foreign credits on the assets just released, the Austrian Government will have to summon Parliament immediately after the conclusion of the London Conference, and would have to make the following declaration :—

"The finance plan of the Austrian Government, worked out on its own initiative and sanctioned by the Federal Parliament—a scheme which is almost identical with the plan set up by the Powers for the financial reconstruction of Germany—cannot be carried out and will have to be dropped, because, in spite of the release of the liens, the foreign credits cannot be obtained, although they have been repeatedly promised to Austria since the signing of the Peace Treaty of Saint-Germain. For this reason the Austrian Government must resign. No other Government can be constituted. The further destinies of Austria must be placed in the hands of the Allied Powers. The responsibility for all the consequences must rest with them."

I have, &c.
G. FRANCKENSTEIN.

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CENTRAL EUROPE. [August 15.]

CONFIDENTIAL. SECTION 2.

[C 11517/74/5] No. 1.

Mr. Lloyd George to M. Franckenstein.—(*Communicated to Foreign Office, August* 15.)

Sir, *August* 15, 1922.

I HAVE the honour to refer to your notes dated the 7th and 13th August, 1922, respectively, in which you asked me to bring to the notice of the Inter-Allied Conference a request by the Austrian Government that the Allied Powers should assume a partial guarantee for an Austrian loan, and to state that I brought the matter before the conference, which considered it at a meeting held yesterday afternoon.

The representatives at the conference of the Allied Governments gave the most careful attention to the request put forward, and in connection with it they reviewed the grants already made to Austria by their Governments. As you are aware, substantial financial assistance has been accorded by the Allied Governments to Austria since the war. The French Government have granted to Austria sums of approximately 3,500,000*l*., and in addition the French Parliament has voted this year the sum of 55,000,000 fr. The Italian Government have already granted Austria 280,000,000 lire, and the Italian Parliament has voted recently a further grant of 70,000,000 lire. The total contributions of Great Britain since the war amount to 12,250,000*l*.

These substantial payments unfortunately appear to have produced no permanent improvement of the Austrian financial situation, which, on the contrary, has gone from bad to worse. The last credit by Great Britain, granted in the spring of this year, amounted to 2,000,000*l*., and was given in the hope that it would definitely enable Austria to become solvent. The situation disclosed in your two notes shows that this hope has not been realised.

The representatives of the Allied Governments have therefore come to the decision that they are unable to hold out any hope of further financial assistance being given to Austria by their Governments. They have agreed, however, to a proposal that the Austrian situation should be referred to the League of Nations for investigation and report, the League being informed at the same time that there is no prospect of further financial assistance to Austria from the Allied Powers unless the League were able to propose a programme of reconstruction containing definite guarantees that further subscriptions would produce substantial improvement and not be thrown away like those made in the past.

The representatives of the Allied Powers have reached the above decision with much reluctance and from no lack of sympathy with the Austrian people, but they have been obliged to take into consideration the crushing taxation which their respective countries already support in consequence of the war. They do not feel that they would be justified in calling upon their heavily burdened nationals to assume further obligations for the benefit of Austria, which has, in the few years since the war, already received so much from them with such disappointing results.

I have, &c.

D. LLOYD GEORGE.

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CENTRAL EUROPE. [August 22.]

CONFIDENTIAL. SECTION 1.

[C 11874/396/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received August* 22.)

(No 241. Confidential.)

My Lord, *Vienna, August* 17, 1922.

THE Austrian people of all classes have been naïve enough to hope against hope that the Conference of London would mean credits or money in some form for Austria, and their disappointment is correspondingly great at seeing the Austrian problem being sent back to the League of Nations, where it was two years ago. The feeling is now one of complete despair—that there is nothing to do but to await the catastrophe. No one here believes that the League of Nations can secure any effective help. Disorders are prophesied, and timid Jewish business men are hastening to get their passports in order. The Austrian board of the Anglo-Bank have privately enquired whether, in certain eventualities, they might deposit their gold and securities in the Legation.

A contributory factor to this feeling is the publication of the index figure, which shows an increase of 124 per cent. in the cost of living for the last month. The medium of payment in Austria will not be sufficient to meet this increase in the paper wages. In July the total expenditure of the State for its employees was 150 milliards. It could only meet its liabilities, which amounted to a quarter of the then note circulation, by paying in instalments. The 124 per cent. increase will increase this expenditure to 344 milliards, which is well over one-third of the total note issue. The expenditure for wages, outside officials, may be taken at double (say, 700 milliards), and the total is more than the whole of the existing note circulation.

I saw the Minister for Foreign Affairs yesterday. He told me he had been engaged in politics here since 1918, and had lived through so many scares that he did not believe in Bolshevism here or disorders on a big scale. Such disturbances as might occur he hoped M. Schober's police would be able to deal with. And he added, privately, if England, as he was sure, wished well of Austria, why could not she send a couple of battalions to make sure that nothing serious happened?

The air is full of alarmist rumours, and I should not like to make any rash prophecy, but I am inclined to agree with Dr. Grünberger in the almost incredible patience of the Austrian people. Financially, however, the Minister said, the situation was impossible. As things were at present there was no future of any sort, and, while realising that circumstances made it impossible for us to help with money, he could only hope that Great Britain would not lose her interest in this country.

Rumours being current that, in the event of an unfavourable decision in London, the Government would resign, I enquired of Dr. Grünberger what the state of affairs was. He said that, for the moment, Dr. Seipel proposed to carry on. I understand that as soon as Dr. Rosenberg returns from London the Government will summon either the National Assembly or the Committee for Foreign Affairs, and the position will therefore be clearer in a few days' time.

Meanwhile, M. Schober has broached to a friend of mine the idea of a dictatorship. M. Schober said he had 20,000 men, beside the police, on whom he could count, and I gather that with them he would propose to disarm the Austrian army and take their weapons. M. Schober failed last year as Chancellor, owing to his inability to cope with the Parliamentarians, but I think he does enjoy more confidence, both abroad and at home, than any other of his countrymen, and with a purely official Government, with, say, some capable man, such as Dr. Schüller, as Minister of Finance, he might be able to do something. M. Schober is a man who is apt to let his imagination run away with him, and I must make further enquiries into the practical side of his proposal before I can give any opinion about it.

I asked the French Chargé d'Affaires yesterday what he thought of things. He told me quite frankly that he considered the Austrians were children and quite incapable of running their country. The Allies did, however, create the present Austria, and, in his opinion, ought to see it through. It was, he said, like during the war, when everyone concentrated on the western front, and yet the decisive victory came from a secondary scene of operations. Similarly, now England and France

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CENTRAL EUROPE. [September 4.]

CONFIDENTIAL. SECTION 3.

[C 12484/74/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received September* 4.)

(No. 252.)

My Lord, *Vienna, September* 1, 1922.

WITH reference to my telegram No. 63 of the 28th ultimo, I have the honour to report that the Federal Chancellor yesterday made a statement before the Foreign Affairs Committee of the National Council on the results of his journey. In Prague he said he had found that M. Benesch had in contemplation not only a political guarantee of Austria's integrity by the neighbouring and other States, but also a financial guarantee. M. Benesch thought the League of Nations would yield results sooner than the Austrians believed, and in the meanwhile Austria must manage to carry on with the credits already granted. Economic rapprochement with Czecho-slovakia could only come about in the course of the organic development of commercial intercourse, and in this connection leading men of Austrian banking, industrial and commercial circles had left for Prague the day before yesterday to discuss such rapprochement with corresponding circles in Prague.

In Berlin, the Chancellor said, both parties were agreed that no change could be made at present in the situation created by the Peace Treaty. But similar discussions to those projected by Prague between experts will take place in Berlin.

At Verona the Italian Minister for Foreign Affairs had also indicated his willingness to participate in the financial guarantee, if the other Powers did the same. The Chancellor then raised the question of a fiscal and monetary union with Italy Signor Schanzer had replied that he would take the proposal into serious consideration without committing himself to an answer. Dr. Schüller would discuss the matter in Rome, together with the question of the Italian 70 million lire credit, which has not yet been paid.

Dr. Seipel concluded by saying that, following the advice given them everywhere, the Government were now determined to leave no stone unturned in order to obtain a solution at Geneva. But his journey had not been without result, insomuch as in the event of the Council of the League of Nations having no solution to offer, Austria would not be resourceless. The Powers now knew that in that event, Austria would seek herself to determine the path she could go within the limits of the possible, but with resolute intention.

After some discussion Dr. Bauer moved an amendment to the effect that the principal object of Austrian foreign policy must be to maintain the independence of the republic, until the German-Austrian people were allowed to make free use of their right of self-determination (*i.e.*, "Anschluss"). The amendment was rejected by the Committee, and the Government's declarations accepted.

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The note circulation in Austria in the third week of August increased by 233 milliards—by far the largest weekly increase yet recorded—thus bringing the total circulation to 1,147·58 milliards, and the index figure of the cost of living for the same week shows an increase of 150 per cent. The Austrian exchange, however, improved slightly, partly owing to the Governmental restrictions on valuta dealing, and partly owing to the hopes raised by the Chancellor's tour.

I have, &c.

(For the Minister),

EDWARD KEELING.

[101 d—3]

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C 41696 E-1921-

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CENTRAL EUROPE. [August 22.]

CONFIDENTIAL. SECTION 1.

[C 11874/396/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received August* 22.)

(No 241. Confidential.)

My Lord, *Vienna, August* 17, 1922.

THE Austrian people of all classes have been naïve enough to hope against hope that the Conference of London would mean credits or money in some form for Austria, and their disappointment is correspondingly great at seeing the Austrian problem being sent back to the League of Nations, where it was two years ago. The feeling is now one of complete despair—that there is nothing to do but to await the catastrophe. No one here believes that the League of Nations can secure any effective help. Disorders are prophesied, and timid Jewish business men are hastening to get their passports in order. The Austrian board of the Anglo-Bank have privately enquired whether, in certain eventualities, they might deposit their gold and securities in the Legation.

A contributory factor to this feeling is the publication of the index figure, which shows an increase of 124 per cent. in the cost of living for the last month. The medium of payment in Austria will not be sufficient to meet this increase in the paper wages. In July the total expenditure of the State for its employees was 150 milliards. It could only meet its liabilities, which amounted to a quarter of the then note circulation, by paying in instalments. The 124 per cent. increase will increase this expenditure to 344 milliards, which is well over one-third of the total note issue. The expenditure for wages, outside officials, may be taken at double (say, 700 milliards), and the total is more than the whole of the existing note circulation.

I saw the Minister for Foreign Affairs yesterday. He told me he had been engaged in politics here since 1918, and had lived through so many scares that he did not believe in Bolshevism here or disorders on a big scale. Such disturbances as might occur he hoped M. Schober's police would be able to deal with. And he added, privately, if England, as he was sure, wished well of Austria, why could not she send a couple of battalions to make sure that nothing serious happened?

The air is full of alarmist rumours, and I should not like to make any rash prophecy, but I am inclined to agree with Dr. Grünberger in the almost incredible patience of the Austrian people. Financially, however, the Minister said, the situation was impossible. As things were at present there was no future of any sort, and, while realising that circumstances made it impossible for us to help with money, he could only hope that Great Britain would not lose her interest in this country.

Rumours being current that, in the event of an unfavourable decision in London, the Government would resign, I enquired of Dr. Grünberger what the state of affairs was. He said that, for the moment, Dr. Seipel proposed to carry on. I understand that as soon as Dr. Rosenberg returns from London the Government will summon either the National Assembly or the Committee for Foreign Affairs, and the position will therefore be clearer in a few days' time.

Meanwhile, M. Schober has broached to a friend of mine the idea of a dictatorship. M. Schober said he had 20,000 men, beside the police, on whom he could count, and I gather that with them he would propose to disarm the Austrian army and take their weapons. M. Schober failed last year as Chancellor, owing to his inability to cope with the Parliamentarians, but I think he does enjoy more confidence, both abroad and at home, than any other of his countrymen, and with a purely official Government, with, say, some capable man, such as Dr. Schüller, as Minister of Finance, he might be able to do something. M. Schober is a man who is apt to let his imagination run away with him, and I must make further enquiries into the practical side of his proposal before I can give any opinion about it.

I asked the French Chargé d'Affaires yesterday what he thought of things. He told me quite frankly that he considered the Austrians were children and quite incapable of running their country. The Allies did, however, create the present Austria, and, in his opinion, ought to see it through. It was, he said, like during the war, when everyone concentrated on the western front, and yet the decisive victory came from a secondary scene of operations. Similarly, now England and France

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thought only of Germany, and treated Austria as a tiresome but unimportant question, whereas the Austrian problem, which was that of Central Europe, was in many ways different from Germany, and might some day give us a nasty surprise if we did not take some steps to deal with it in time.

The idea of the French Legation is some form of controller here, whose mere presence, they argue, would have a great effect towards strengthening the Government. But, without either money or troops to enforce his decisions, I do not think his presence would do much to solve the problem. The Italian Minister made the same criticism to-day of the French idea, but he confessed he had no suggestion to make himself, and could only hope that the Italian Minister for Foreign Affairs had discussed the question with Mr. Lloyd George. He told me he was receiving continual requests that Italy, who is the Great Power most closely interested in Austria, should intervene in some way; but it was a very difficult position for Italy, as the faintest suggestion on her part would inevitably raise a storm of suspicions and protests from the French, Czechs and Jugoslavs.

I understand that the Austrian Minister in London has reported that His Majesty's Government are no longer interested in Central Europe, and that the Austrian Government propose at once to open conversations with Germany, Italy and Czechoslovakia. The German Ambassador in London has apparently warned the Austrian Government against an "Anschluss" movement at this stage, but for internal political reasons the latter must have a specific indication from Berlin. They are considering the despatch of special missions to Italy and to Czechoslovakia, with the idea, I presume, of playing one country off against the other, in the hope of getting help from one or both.

A joint Italian-Czech mandate might be a solution of the whole question. Neither country can afford to let the other get to Vienna alone; the Czechs are certainly opposed to the "Anschluss," and the Italians, as far as one can judge, do not seem to be favourable to it. There is, I understand, 400,000,000*l.* worth of property in Czechoslovakia belonging to Austria. If the Czechoslovak Government took a first mortgage on this they would amply cover their share of the necessary loan and the expenses of the control. I have no information regarding Austrian property in Italy. There must be a considerable amount in the neighbourhood of Trieste, but the Tyrol is mostly agricultural. But, in order to make up the difference, I imagine the Italians would willingly give up some of Southern Tyrol in return for the advantages of a footing in Vienna.

I have, &c.
A. AKERS-DOUGLAS.

P.S. *August* 18, 1922.—Since writing the above I have seen the Chancellor, who told me to-day that an urgent appeal had been made to the League of Nations. Meanwhile, the situation was so serious that he could not wait to see what would be the result of a further consideration by the League of Austria's case, and he intended to get into touch with the Czechoslovak, German and Italian Governments, in order to see what economic arrangements might be possible to enable Austria to live.

I am sending a copy of this despatch to His Majesty's Minister at Prague.

A. A.-D.

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CENTRAL EUROPE. [September 4.]

CONFIDENTIAL. SECTION 3.

[C 12484/74/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(Received September 4.)

(No. 252.)

My Lord, *Vienna, September 1, 1922.*

WITH reference to my telegram No. 63 of the 28th ultimo, I have the honour to report that the Federal Chancellor yesterday made a statement before the Foreign Affairs Committee of the National Council on the results of his journey. In Prague he said he had found that M. Benesch had in contemplation not only a political guarantee of Austria's integrity by the neighbouring and other States, but also a financial guarantee. M. Benesch thought the League of Nations would yield results sooner than the Austrians believed, and in the meanwhile Austria must manage to carry on with the credits already granted. Economic rapprochement with Czecho-slovakia could only come about in the course of the organic development of commercial intercourse, and in this connection leading men of Austrian banking, industrial and commercial circles had left for Prague the day before yesterday to discuss such rapprochement with corresponding circles in Prague.

In Berlin, the Chancellor said, both parties were agreed that no change could be made at present in the situation created by the Peace Treaty. But similar discussions to those projected by Prague between experts will take place in Berlin.

At Verona the Italian Minister for Foreign Affairs had also indicated his willingness to participate in the financial guarantee, if the other Powers did the same. The Chancellor then raised the question of a fiscal and monetary union with Italy Signor Schanzer had replied that he would take the proposal into serious consideration without committing himself to an answer. Dr. Schüller would discuss the matter in Rome, together with the question of the Italian 70 million lire credit, which has not yet been paid.

Dr. Seipel concluded by saying that, following the advice given them everywhere, the Government were now determined to leave no stone unturned in order to obtain a solution at Geneva. But his journey had not been without result, insomuch as in the event of the Council of the League of Nations having no solution to offer, Austria would not be resourceless. The Powers now knew that in that event, Austria would seek herself to determine the path she could go within the limits of the possible, but with resolute intention.

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I have, &c.

(For the Minister),

EDWARD KEELING.

[101 d—3]

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CENTRAL EUROPE. [September 11.]

CONFIDENTIAL. SECTION 1.

[C 12815/12545/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(Received September 11.)

(No. 255.)

My Lord, *Vienna, September 8, 1922.*

I AM informed that United States consulates abroad have been instructed to advise American subjects not to visit Austria, and I have accordingly enquired of my French and Italian colleagues whether they were contemplating a similar warning to their nationals. They both were emphatic in declaring they had no idea of doing anything of the sort. I am personally quite in agreement with them, and I have therefore replied to enquiries which have reached this Legation that I see no reason for the present to deprecate British subjects visiting this country.

It is true that in Tyrol and the Salzkammergut there is a certain amount of anti-foreign feeling which has manifested itself in appeals from the provincial authorities to the summer visitors to cut short their holidays on account of an alleged shortage of food; but amongst "foreigners" are included the Viennese—reminiscent of 1919, when a special permit was necessary to enter each province. Further, in Tyrol there is an agitation in favour of the confiscation of foreign money, not, however, from the tourists, but from the rich hotel- and shop-keepers who, it is alleged, profit directly from the summer season and hoard the proceeds which never reach the poorer classes, who, therefore suffer from the increase of prices without obtaining a corresponding benefit.

The Acting Minister for Foreign Affairs recently informed the Italian Minister that, beyond the above, no measures had been taken against foreigners, though, in consequence of this agitation, the Government had undertaken to consider the possibility of endeavouring to limit the number of visitors from abroad.

The people of Vienna itself have been extraordinarily patient in their misfortunes; with the exception of the much-exaggerated fracas in front of the Parliament, referred to in my despatch No. 247 of the 25th ultimo, there have been no disturbances during the course of the year. The reason is partly, no doubt, that there is very little unemployment, and with the index system the working classes are relatively well paid, while the middle class, who are the greatest sufferers, are not prone to break the peace. The last month has been a period of groundless scares, but at present there is complete tranquillity pending the verdict of Geneva. If the Austrian case is turned down, I think there might well be trouble in the near future, but if Austria is given assistance, I see no reason for uneasiness.

There has been a newspaper strike during the last few days, the newspaper printers having joined in a sympathetic strike with the book printers. It is hoped that it will be settled in a day or two. At one moment it was feared it might involve the printers of the paper money which, though putting a forcible stop to the printing press, would have disorganised the whole life of the country, and might well have led to disorders.

I have, &c.

A. AKERS-DOUGLAS.

[101 l—1]

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CENTRAL EUROPE. [October 10.]

CONFIDENTIAL. SECTION 3.

[C 14023/74/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received October* 10.)

(No. 268.)

My Lord, *Vienna, October* 6, 1922.

THE proceedings at Geneva at the League of Nations Committees have been the object of intense expectation and anxiety in Vienna. The little news received here, in messages from Geneva, have been discussed daily with frequent attempts to read between the lines and discover above all what conditions of control Austria would be called upon to bear if the League of Nations proposals were approved by the Powers. For some time it was feared that perhaps Great Britain would not take a share in the guarantees; and the news of our participation was received with great relief and satisfaction. Lord Balfour's speech at the close of the committee's sittings was quoted *in extenso* in the press, and created a most excellent impression.

The atmosphere is probably at this moment more favourable than it has ever been for the introduction of serious reforms and the institution of a control, of which all classes—even the Socialists—have long recognised the inevitability, if not the necessity. The internal situation is quiet. A threatened serious strike of the metal workers has been composed on the basis of a compromise. The kronen exchange has been improving very slightly, but steadily. On the other hand, the budget situation, of course, goes from bad to worse. Next week the State has to make some big payments; Parliament has just had to vote a sum of 250,000,000,000 for the needs of the provincial administrations. The Government will need to announce the definite assurance of the credits and of some advance to meet the immediate need if they are to obtain general support for the new scheme, and if they are to reduce the index figure for the payment of wages and salaries—as they have said they must do. Thus whatever is to be done to start the scheme of control and relief should be done at once. Any prolonged delay without actual financial relief will render the task of the Government in getting the country to resign itself to control a more difficult one.

The nature of the control is the matter of greatest moment. Any form of foreign control is unpalatable; but nobody expected to get any loan without any insistence upon a number of reforms, and a control to see that they will be put through. Most Austrians, moreover, are rather glad that such unpleasant tasks, which they feel unable or disinclined to do themselves, should be done under pressure from others; and there is little faith in the native powers of administration. The Socialists, who have always cried the loudest against any idea of foreign control, have of late said very little, confining themselves to a demand that the control should not infringe upon the sovereign powers of the State, or reduce Austria to a loss of her independence.

Therefore it is with considerable relief that the League of Nations plan is found to be such that Austria's dignity is not offended in this respect; that the Government is to execute the necessary reforms with the co-operation of a Commissioner of the League, and not, as had been feared up to the last moment, under the control of an International Commission. There has been great concern about the eleventh hour attempt, as it was regarded, on the part of Italy to upset the whole plan, and her policy towards this country had received some hard and bitter comment in the press.

To-day is published the full agreement as signed at Geneva in the form of three protocols. These will no doubt have been received by your Lordship direct from Geneva. So far it seems to be on the whole well received, while of course great stress is laid upon the severity of the conditions and of the undertakings which the Government and Parliament are to give in return for relief. The League finds itself in the enjoyment of considerable popularity. For the first time an insight is now obtained into the details of the scheme, and only the earliest comments of the press are as yet available. The Social Democrat organ says it will require very careful examination by the National Assembly before that body can commit itself. This and other newspapers, while expressing relief that something is at last to be done,

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reserve their opinion for the moment concerning the "sacrifices" which Austria is to make. One can but hope that the control will be as severe as the press expects it to be. The condition that a Bill must be at once presented to the Assembly giving full powers to the present or any future Government to enforce all the required measures of reform, is doubtless intended to ensure that the executive shall be able to act in freedom from parliamentary opposition and party wranglings. This is excellent. The National Assembly will now have to make up its mind to do so, or to reject the whole plan, and such rejection would presumably entail a refusal of the credits. It is, however, this point on which the greatest heart searchings will be observed. The Socialists, for instance, will probably say that this is unconstitutional and depriving Parliament of its rights of legislation; and I think they are less likely to oppose the actual plan of reforms than the giving of full powers, especially to a Christian Socialist Government led by Dr. Seipel, to put the measures through. There is another point in the protocol as to which the pan-Germans will doubtless feel very sore, and that is the confirmation of article 88 of the Peace Treaty which prevents union with Germany. On this point that party must be expected to make objections to the Chancellor.

Nevertheless I think Dr. Seipel, who is admitted by all to have had a great success at Geneva, will secure by a majority vote the necessary agreement of the National Assembly, if only for the simple reason that he can say that there is no alternative—no control, no credits. At present he has the majority so long as the pan-Germans remain with him. The Social Democrats cannot form a Government in the present state of parliamentary representation unless they were to ally themselves with the pan-Germans. It is probable that the Chancellor will endeavour to place them in a dilemma by offering to resign unless they will co-operate with him. Should this be found necessary, a Government of officials, containing one or two Socialists and headed perhaps by M. Schober, might be formed; and such a Government may prove to be eventually necessary, and indeed the best for the work which is to be done. The possibility of delays, party disputes inside and outside Parliament, as well as in the Government Departments cannot be excluded; the Socialists might even attempt some sabotage if they are debarred from opposing certain measures within Parliament. In such an event the Government might have to resign, or have recourse to the police. No doubt the League of Nations Committees considered what the controller should then do. It might be that nomination of a single non-party official as a dictator would be found necessary, backed by a strengthened police force. Meanwhile there is evident satisfaction among the Socialists that no mention is made in the protocols of any foreign gendarmerie, or alteration of the existing military and police forces, although, of course, some such reform may be found to be included in the measures which Parliament will be called upon to pass; and I hope it will be so.

To sum up, I believe that if the Chancellor, who returns to-morrow, announces a definite scheme of relief and reform approved by the guaranteeing Powers, with a credit of some 500,000,000 gold crowns, subject to the condition that Austria accepts the scheme, and will not obtain the credits unless the conditions are fully carried out, he will secure the vote of the National Assembly, although it is too early to forecast whether his Government or some other Government will have the free hand and set to work undisturbed.

I have, &c.
A. AKERS-DOUGLAS.

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C 41702

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CENTRAL EUROPE. [November 13.]

CONFIDENTIAL. SECTION 4.

[C 15554/74/3] No. 1.

Mr. Keeling to the Marquess Curzon of Kedleston.—(*Received November* 13.)

(No. 298.)

My Lord, *Vienna, November* 10, 1922.

WITH reference to my despatch No. 297 of even date, I have the honour to transmit to your Lordship herewith copy of an interesting memorandum by Mr. Young regarding the Austrian Government's new financial proposals.

I have, &c.

EDWARD KEELING.

Enclosure in No. 1.

Memorandum respecting the New Finance Proposals.

THE Government contemplates an expenditure for the year 1923 of 665,000,000 gold kronen, an income of 312,000,000, and a deficit of 353,000,000. Of the deficit, 250,000,000 is assignable to the public administration, and the balance of 100,000,000 to the Government enterprises. From 1925 on the Finance Ministry aims at reducing the expenditure to 370,000,000, including the service of the new loan, and an income which will at least balance it.

I think the estimates for 1923 are probably accurate. My own calculation in July gave an income of 300,000,000 and an expenditure of 625,000,000, with a deficit of 325,000,000, which was more than the Government would then admit.

As regards the final figure of 370,000,000, I do not think it ought to be difficult to reach. It amounts to no more than 2*l.* per head of population, which corresponds, I think, with the pre-war taxation of Germany. In forecasting the future it should certainly not be overlooked that if the plan succeeds Austria will have the lowest taxes of, I think, any European country. This ought to make it a very attractive area for the investment of foreign capital. Incidentally, the conclusion might be drawn that His Majesty's Government should not be unduly ready to make concessions to Austria as regards the settlement of pre-war debts.

The Reconstruction Law, with its explanatory memorandum and notes, contains a complete programme of reform under the headings both of income and expenditure. The Geneva protocols require the Austrian Government to obtain such powers from Parliament as will enable them to carry all the necessary measures through by degrees without having recourse to fresh legislation. It is still debated whether an empowering statute of this scope can be passed as ordinary legislation or must go through the more elaborate stages required for an amendment of the Constitution. The Government and its legal advisers hold the former opinion, and the Opposition naturally maintain the latter. The delegates of the League of Nations have, at any rate until recently, inclined to think that for greater security the statute should be regarded as constitutional. Whether in that case it would secure the necessary two-thirds majority is doubtful, and general opinion seems to be that though the Socialist Party would oppose and obstruct to the end, they could not take the responsibility of throwing out the whole scheme of rehabilitation, to which, as the debate in the House shows, they have no alternative. They repeat in every speech that the Chancellor has sacrificed the independence of Austria, and protest against the absolutism which he has consented to introduce, though they must in private be as well aware as everyone else that if anyone in Austria cares for the independence of his country it is the Chancellor, and that a temporary absolutism is what, fortunately or unfortunately, every Austrian most desires to see.

The law itself is in four chapters, on each of which the plan of reform furnishes a commentary.

(A.)—1. Government enterprises, *i.e.*, railways, telegraphs, posts, monopolies, forests and mines, are to be commercially conducted, and their accounts kept separate

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from the accounts of the Government. They can, with the consent of the Principal Committee of Parliament, be alienated or leased.

Even the Socialists have put up no opposition to this proposal in principle. On the other hand, they will have as much opportunity as they care to use for criticism and obstruction when the actual transference to separate management is made.

The two principal points involved in the term " commercial management " are a fresh interpretation of the eight-hour day and a reduction of superfluous staff. The leaders of the railwaymen once told me that they could remove 20,000 men or 20 per cent. of the railway staff without any difficulty. This probably means that at least 30,000 men could go. It is over the details of the transference and the reduction of staff that the railway unions will have their opportunity of making trouble. The Austrian interpretation of the eight-hour day has become so notorious a scandal that if it stood by itself I have no doubt that the railway unions would be glad to amend it, but intensification of work and unemployment hang very closely together, and the reform of the railways will have to be carried out either with extreme discretion or else with all the energy which the Commissioner-General is expected to infuse into the Austrian Administraaion. It is very difficult to see any alternative between ruthless dismissal and negotiations which will annul most of the advantages to be expected from reform.

2. Methods of work and procedure are to be simplified in Government business, surperfluous departments in existing Ministries closed and overlapping offices amalgamated, public receipts and payments to be centralised in the new Bank of Issue.

This is a brief description of an immense task—that of reducing the Austrian Administration from the imperial to the provincial scale. The branches of the Administration affected take up a column and a half in a newspaper, and the proposals range from the reduction of Embassies to Legations down to the increase of school fees, the reduction of the subsidy to the opera and the abolition of the national carriage factory. They include a complete reform of the Revenue Department and its technique, the separation of posts and telegraphs from the railways and their reconstruction as a single Department. The number of Ministries is to be reduced to a maximum of eight.

3. Judicial and legal proceedings are to be simplified.

4. The process already begun of removing superfluous officials is to be accelerated and intensified. The programme is that 25,000 are to go this year, 25,000 more next March and 50,000 during the rest of the year.

5. The fiscal privileges, for example, exemption from various stamp duties and taxes, enjoyed by officials, are to cease, and in particular they are to pay their own trade-union contributions.

(B.)—1. The customs are to be made to yield 80,000,000 to 100,000,000 gold kronen per annum.

Eighty million is, I think, a fair estimate. There has been no reform of the Austrian customs tariff since 1906, with the anomalous result that duties originally levied to protect Bohemian industries are still being collected on Austrian imports. The law gives the Government wide-reaching powers, amounting, as I read it, to the power of framing a new customs tariff. Much of the debate on the first reading turned on this point, the Socialists claiming that no Government, least of all an Agrarian Government, could be trusted with powers which included the possibility of placing protective duties on imported corn. I think there is considerable force in this criticism. The Government may say to-day that they have no intention of doing anything of the kind, but what they will say if, as is quite likely, they appeal to the country and come back with a strong majority, may be a very different thing.

2. Export taxes may be imposed.

3 and 4. The tobacco and salt monopolies are to be brought up to their pre-war yield.

5. Increase of the excise on alcohol, mineral waters and sugar.

There has been disproportionate controversy on this point, as the Government are suspected of favouring their supporters by excluding home-brewed drinks. The Vice-Chancellor's defence that he had never known anyone get drunk on them was the best substitute for what I suspect is the real answer—that no Administration in this country could make the peasant pay duty on his own products if he preferred not to.

6. New duties on gas and electricity and other articles of consumption as may be determined up to 30 per cent. *ad valorem.*

One of the speakers on the first reading calculated that if the tax on gas and electricity was levied at its maximum of 30 per cent., it would be equivalent to doubling

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the rates of the City of Vienna. The Socialists naturally profess to believe that the tax is intended to throw an unfair proportion of the burden on the town population. It certainly seems hasardous, at a time when industry will be suffering acute depression, to make power and lighting more expensive.

(C.)—1. When the currency has been established over a reasonable period, there is to be an annual capital tax, with a maximum of 3 per mille.

2. The present income tax will then be reduced and the exemption limit raised.

3. A profit tax, ranging from 7½ per cent. on small businesses to 15 per cent. on others, the distinction being the amount of capital invested.

When the new capital tax comes into operation there will be a general maximum of 7½ per cent. For purposes of assessment and return, the income, profit and rent tax will be consolidated.

4. A turnover tax of 1 or 2 per cent. every time a commodity changes hands, even from one branch of an industry to another. In case of luxury articles there will be a single charge of 12 per cent. on retail sales. Special terms will be given to agricultural producers, who will, as I understand it, be entitled to compound for a lump sum. Goods destined for export will be exempt. Stamp duties will be multiplied by different factors varying from 20 to 100.

As between the federation and the provinces, the basis of distribution will be as follows: The provinces will have a share in the income tax, and will retain the whole of the real estate tax. So long as any province has recourse to the federation for subventions, it will be bound to bring its land tax up to half its pre-war yield, and the tax on buildings up to six times its present amount.

(D.) Subsidies to provinces are to be gradually extinguished, and no provincial or municipal loans are to be raised before the end of 1924. The Government have, in accordance with the Geneva protocol, power to pledge the customs and tobacco as security for a loan of 650,000,000, and further power to raise an unsecured internal loan for purposes of redemption.

As indicated above, the criticism of the scheme has been directed mainly to the extensive powers taken by the Government, with special reference to the Customs, and to the preference shown for the agricultural classes. The defence of the Government has been that something drastic has to be done, and that no one has offered a better scheme, while the charge of unfair preference to one class is simply denied. So far as I can express an opinion at this stage of a very comprehensive and intricate plan, I am inclined to say—

(1.) That everything really depends on the execution of it and on the amount of obstruction which can be developed, especially among the Government employees, who are the first and most obvious sufferers.

(2.) I am inclined to think that agriculture has been unduly favoured, and that if it had been made to pay its fair share it would have been possible to form a fund out of which relief measures could have been financed for the benefit of the unemployed.

On both these points I think it is a pity that the League of Nations did not give a strong lead to the Austrian Government, but their view was, I believe, that it was easier for the Austrians to impose taxation without external pressure than to introduce economies. This is no doubt true, but the finance plan in the matter of taxation seems to me to incline too much to a merely mechanical multiplication of existing imposts when what was needed was a new basis.

November 8, 1922.

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CENTRAL EUROPE. [November 13.]

CONFIDENTIAL. SECTION 5.

[C 15557/74/3] No. 1.

Mr. Keeling to the Marquess Curzon of Kedleston.—(*Received November* 13.)

(No. 302.)

My Lord, *Vienna, November* 10, 1922.

WITH reference to my despatch No. 297 of to-day's date, I have the honour to transmit herewith copy of a memorandum from Mr. Niemeyer regarding the results of his visit here.

Mr. Niemeyer is returning to London to-morrow, but the League of Nations delegation, as such, will remain until the arrival of the Commissioner-General.

I have, &c.
EDWARD KEELING.

Enclosure in No. 1.

Memorandum by Mr. Niemeyer respecting the Results of his Visit to Vienna.

THE work of the provisional delegation in Vienna was directed to four main points :—

1. The ratification of the protocols, including the grant of *pleins pouvoirs* to the Austrian Government and the establishment of a budget programme ;
2. The amendment of the law and statute of the bank of issue and its early creation ;
3. The financing of the temporary needs of the Austrian Treasury for the remainder of the current year ; and
4. The preliminary steps towards the Commissioner-General's control.

On all these points the delegation had frequent discussions with the Chancellor, Seipel, and the Minister of Finance, Segur, and his representatives. They also discussed expenditure with the Ministers responsible for the main spending Departments (Railways and Posts, Army, Commerce, Agriculture, Social Administration, Justice and War).

1. The Austrian Government on our arrival laid before us a programme of financial reform, including both increased taxation and reduced expenditure, together with a draft law carrying out their proposals. Their original proposal contemplated a reduction in personnel (total unspecified, but about 12,000 by January 1923), and a budget expenditure successively falling from October 1922 figure of 687,000,000 gold crowns to about 500,000,000 gold crowns at January 1925, by which time equilibrium was expected.

The commission pointed out at once—

(*a.*) That the reduction in expenditure was quite insufficient in amount ; and
(*b.*) Also in the speed with which it was effected ; and
(*c.*) Generally, that the estimates of revenue were probably not realisable, and, if realisable, were too heavy, and that, therefore, the measure of reduction must be much larger.

Ultimately the Austrian Government agreed to a programme involving—

(*a.*) A reduction of the personnel, at present about 247,000, by 100,000, of which 25,000 by January 1923, 25,000 by July 1923, 25,000 by January 1924 and 25,000 by July 1924.
(*b.*) A reduction of expenditure by stages to an ultimate maximum of 350,000,000 gold crowns plus 68,000,000 gold crowns, representing the share of the "Länder" in certain new taxes, particularly an increase of the "Realsteuer." The half-yearly stages of this programme were set out in a note to us dated the 3rd November.

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The budget law, so far as it deals with reductions, lays down general principles only, of which some details are given, again in fairly general terms, in the *exposé des motifs*. It is important to observe that, while Abschnitt "E" of the law provides for action being taken by the Government on the basis of the principles laid down in this *exposé*, it also makes the important addition that if the above measures are insufficient to balance the budget, the Government may take such further measures as may be necessary.

The responsible Minister assured us that the post and telegraph now paid their way; that he anticipated that the telephone would pay its way next year; and that he also anticipated a steady reduction in the railway deficit, reaching equilibrium in 1924. The railway rates had just been put up, and we were satisfied that they could not safely be put higher in view of the competition of the German and other neighbouring lines.

The resolution ratifying the protocols, and the law giving the Government power for the above programme (though without specifying any figures) has passed its first reading and is expected to be finally passed next week.

2. The new bank law and the statutes have also been introduced, and will will probably be passed at the same time.

The main amendments in the existing law and statutes are as follows:—

In the Law.

Removal of the existing provision that if the bank does not maintain the exchange rate of the crown it will lose its charter.

In the Statutes.

(*a.*) Reduction of the capital to 30,000,000 gold crowns and removal of the State guarantee of the interest on the shares and the security of the customs and tobacco monopoly.

(*b.*) Reduction of the number of directors to thirteen plus the president, and removal of the Government's right to nominate or approve directors other than the president.

The Government Commissioner's powers are limited to seeing that the statutes are obeyed, and do not extend to raising objections "on the ground of public interest."

(*c.*) The cover for the note issue instead of being one-third, is to be reduced to one-fifth, rising in five years to 24 per cent., in ten years to 28 per cent., and ultimately to one-third. This limit to take effect as soon as the total capital is paid up. The notes corresponding to the Government debt of 155,000,000 gold crowns to be regarded as fiduciary.

(*d.*) The bank to have power to issue notes in excess of this reserve ratio, but only on payment of a tax on the excess issue of 1 per cent. over the current discount rate, increasing as the excess note issue increases, and, in any case, with a minimum of 5 per cent.

With regard to the financing of the bank, the 30,000,000 capital is to be made up as follows: 5,000,000 in return for buildings to be handed over by the Austro-Hungarian Bank; 10,000,000 in shares to be given to the owners of requisitioned foreign securities which the Austrian Government will then sell; 15,000,000 to be subscribed by the public—5,000,000 at once and the remaining 10,000,000 in April, when the Treasury bills, raised as below, are repaid; a priority option to subscribe to these 15,000,000 to be given to the subscribers to the public issue of Treasury bills. It was obvious that the Austrian banks were extremely anxious to obtain shares in the bank of issue, and consequently we felt able to refuse to give them any special privileges or inducement to do so. The 15,000,000 will be offered to the public as soon as the law is passed, *i.e.*, probably about the 20th November, and it is proposed to open the bank not later than the 1st December. In private discussion with the Chancellor, we suggested to him that, from many points of view, it would be desirable that the initial Governor should not be an Austrian.

3. With regard to providing for the temporary needs of the Austrian Government to the end of the year, the Austrian Treasury estimate these needs at 100,000,000 gold crowns. The delegation thought this estimate optimistic, and contemplated a figure of 130,000,000. Of this, the Austrian banks are paying in gold currencies 30,000,000 crowns at once, repayable in three months, but with an option to the Austrian Government to extend

over six months or until such time as the guaranteed loan is available. The payments in respect of this sum will be made this week, probably Friday. These bills are to be repaid out of the guaranteed loan, and to carry interest at about 7 per cent., and to be secured on the customs and tobacco revenue only.

The Austrian banks further undertook to guarantee a public issue of six months' bills at about 8 per cent. up to 20,000,000 on the same security. This issue will also be made as soon as the laws have been passed. It is possible that on the guarantee of 20,000,000 the issue will be 30,000,000. Holders of the public issue will receive a prior right to subscribe to the bank of issue shares.

This leaves 80,000,000 to be found, most of which, at any rate, will probably have to be raised outside Austria. For this there will be available, apart from the customs and tobacco security, also the second security of the French, Italian, and Czech advances, together with the gold reserve remaining in the Austro-Hungarian Bank. It will probably therefore be possible to offer at least 75 per cent. cover in this secondary security. The Austrian Government will probably begin to need some of the 80,000,000 about the 10th December.

4. With regard to control, the delegation have taken the following steps:—

(1.) They have established with the Austrian Government, as explained above, a budget programme arranged by stages by which the Controller can guide himself.

(2.) They have arranged for a weekly return showing under various heads the income and expenditure and balance of the Austrian Treasury (it is almost incredible that no such figures exist at the present time).

(3.) They have demanded that—

(*a.*) The gross proceeds of the customs and tobacco revenue;
(*b.*) The proceeds of the loan operations; and
(*c.*) The reliquat of the foreign advances

should be paid into accounts to be opened in their name at the Austro-Hungarian Bank, and only to be released to the Austrian Government from time to time on the signature of a member of the provisional delegation pending the arrival of the Commissioner-General.

(4.) They have further asked for various other weekly and monthly returns which will enable the Commissioner-General to follow the progress of the reforms.

A question to which much attention has been given in Austria, and to which the delegation have given much thought, is whether the programme set out above involves a change in the Austrian Constitution. This is a matter of great political importance, as a constitutional change requires a two-thirds majority and not, like the above laws, a simple majority. A two-thirds majority can only be got by the assistance of the Socialists, whereas the Government coalition can provide a simple majority. The delegation have adopted the standpoint that it is of the utmost importance that all parties in Austria should be committed to the new programme. It is probable that, in order to secure that this should be done, a further law will be brought in, making the necessary constitutional changes, *e.g.*, prohibiting Parliament for two years from diminishing the programme of receipts or reductions. Negotiations are proceeding with a view to obtaining Socialistic support for this third law, if not for the budget law and the ratification of the protocols.

It may be added that the criticisms on the budget law have mostly taken the form of a criticism of detail, *e.g.*, that the towns were being unfairly treated as against the country districts. The delegation have taken the standpoint that, so long as the ultimate result of budget equilibrium is reached on a tax basis which does not as a whole seem impossible, it is for the Austrian Government, and not for them, to decide what particular form of taxation should be introduced. Whatever the views of individual members of the delegation with regard to individual tax proposals, it was felt that a pronouncement on our part on the merits or demerits of a particular tax would involve us in political questions in Austria, from which we were most anxious to keep remote, and would also necessitate a much more detailed study of the Austrian financial and economic system than we could at the time undertake.

I should perhaps add that my general impression is that the Austrian situation is not hopeless. I came to Vienna with the most pessimistic view. I have been impressed by the technical competence of those Austrian officials with whom I have

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come into contact. They are thoroughly intelligent. What they lack, and lack entirely, is any kind of driving power. The same is true, generally speaking, of the Austrian Ministers whom we have seen. The Minister of Railways, in particular, struck me as a competent man with sensible ideas. The only force in the country is clearly the Chancellor himself.

My conclusion is therefore that there is good material to work on, provided the Controller can supply the necessary driving power. That is the vital point.

O. E. NIEMEYER.

November 10, 1922.

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CENTRAL EUROPE. [December 4.]

CONFIDENTIAL. SECTION 1.

[C 16533/74/3] No. 1.

Mr. Keeling to the Marquess Curzon of Kedleston.—(*Received December* 4.)

(No. 321.)

My Lord, *Vienna, December* 1, 1922.

I HAVE the honour to transmit to your Lordship herewith copy of an interesting memorandum drawn up by Mr. Phillpotts, commercial secretary to this Legation, regarding the present economic position of Austria, with special reference to the League of Nations loan. He does not deal with the Austrian budgetary question or the State finances, as the final programme is not yet available, but I venture to call attention to his views as to the action which the League of Nations ought to take sooner or later in removing some of the obstacles to the general economic development of the country.

I have, &c.

EDWARD KEELING.

Enclosure in No. 1.

Interim Report on the Commercial and Economic Situation in Austria, with Special Reference to the League of Nations Action.

THE laws necessary for carrying through the League of Nations scheme for the reconstruction of Austria are on the point of being passed through the Legislature. This marks the beginning of a new stage in the Austrian problem, and the present is therefore a suitable moment for a brief review of the economic position since the time when I made my annual report and the confidential supplement thereto in June and July.

State Finance and Currency.

Though no foreign credits have yet been subscribed, the expectation of them, and still more the expectation of the control that will accompany them, has already had a most marked effect. The foreign exchange value of the crown, which was falling headlong during July and August, has been stabilised at between 340,000 to 320,000 to the pound ever since the League of Nations took up the Austrian question in Geneva at the beginning of September, and this despite the fact that the circulation during this period increased from 1 billion 350 milliards on the 1st September to over 3 billions 161 milliards on the 18th November. The latter date will be a historic one in the history of Austrian finances, because the issue of uncovered banknotes then came to an end. Another important result of the stabilisation is that the index figure of the cost of living in crowns, which increased by no less than 124 per cent. and 91 per cent. in August and September respectively, has shown decreases of 8 per cent. and 6 per cent. in October and November. The stabilisation has also made it possible for the League of Nations delegation here and the Austrian Government together to work out a basis for a new gold budget, which includes radical economies and great increases of taxation, so that it is calculated, on paper at least, that the deficits for 1923 and 1924 can be covered by the 520,000,000 gold francs, the proceeds of the foreign loan guaranteed by the Powers. In order to cover the excess of expenditure over income until the end of the year, 20,000,000 gold crowns worth of Treasury bonds in foreign money has already been taken up by the banks, and it is expected that the public will take another 30,000,000 of an issue which begins on the 4th December. It has been hitherto impossible to float any voluntary internal loan, and the Government has so far met the State deficit by increases in circulation of banknotes. Finally, arrangements have been made for the starting of the new note-issuing national bank in the course of December, and subscription will be opened for the capital of this also on the 4th December.

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General Economic Position.

There is therefore already an enormous improvement in the position and prospects of the State finances, and it remains to consider the general economic condition of the country, as it must be remembered that it is on this, on the possibility of the population earning its living, on the country as a whole paying its way, that the future of Austria depends even more than on the balancing of the budget and the stabilisation of the currency, important as these are.

I have always been of the opinion that Austria is economically "lebensfähig," that is to say that it will be able to support itself as soon as part of the population has adapted itself to the new conditions and found new work. But this presupposes a certain amount of free play of economic forces, whereas the Austrian Government is still unduly hampering the activities of the population. The balance between the consumption and production has not yet been reached, and this country, like many others, has been living partly on capital and partly on foreign loans since the war.

Balance of Trade.

The statistics of the value of imports and exports show the following figures:—

Thousands of £.

—	1920.	1921 (estimated).	1922 ($\frac{1}{2}$ year).	1922 ($\frac{3}{4}$ year).
Imports	73,000	62,800	33,000	49,000
Exports..	40,400	35,000	20,400	32,500
Excess of imports ..	32,600	27,800	12,600	16,500

The percentages of the values of the exports as compared with that of the imports have therefore risen from 55 in 1920 to 56 in 1921, 62 for the first six months of the present year and 66 for the first nine months. The last figure cannot perhaps be compared with the others on quite the same basis, as during August and September the imports have been artificially restricted by the Devisen Central, but on the whole it is clear that there has been a continuous and progressive improvement.

Balance of Payments.

The present Austria would always in the nature of things have an excess of imports, however prosperous it were, and, in order to obtain a complete idea of the consumption and production, *i.e.*, of the balance of payments, it is of course necessary to take into account also the "invisible exports" such as commercial and financial services to foreign countries, transit carriage, income from foreign investments, and profits from tourists and other visitors, and also to consider how much of the Austrian exports are really wastage of capital in the form of sales abroad of jewellery, old works of art, and similar accumulated possessions. There are, of course, no statistics for most of these items, but Dr. Schueller, the head of the economic department of the Ministry of Foreign Affairs, has made an interesting study of the question, and he estimates that the total excess of consumption over production amounts to about 15 per cent. This figure is possibly somewhat optimistic, but even if it were 20 per cent. the deficit, while serious enough, would not be an insuperable one, as there are still many opportunities for increased earnings owing to the disorganisation remaining over from the war and the breakdown of the monarchy.

A short review of the main branches of production and the sources of the national income generally in Austria will be of interest in this connection.

(a.) *Agriculture.*—The provincial Governments have at length, during the last summer, given up the restrictions on the transport of agricultural produce from one province to another, and the Government interference with the natural formation of prices has also nearly completely ceased. It is to be hoped, therefore, that the production of agriculture, now that it is freed from these shackles, will increase; there is much room, for as the present production is still only between half and two-thirds of the pre-war production, and the latter was itself only half of that realised in Germany and Switzerland on an equal area of cultivable land. However, I am afraid that improvement will be slow, as the Austrian small peasant, by whom nearly all the land is held, is very conservative and backward, and is also short of capital and farm stock.

There is also a serious lack of agricultural labour; it is to be hoped that some of the superfluous railway employees, who have been taken from the land, will return to it when they are discharged under the economy programme of the Government. Some of the superfluous city population should also go on the land, but there are difficulties, as generally speaking they do not like agriculture, and the country population does not like them.

(b.) *Manufacture.*—The share which the present Austria has in the total industries of the former empire is sometimes underestimated. It is calculated here that it amounts to 30 per cent., and in certain branches, such as the iron and machinery industries, paper, fancy goods, automobiles, cotton spinning and clothes making, the Austrian production far exceeds the Austrian consumption, and the greater part of the goods manufactured have to be exported. The stabilisation of the crown during the last three months has, however, given time for the cost of living, and wages and prices generally to make much progress towards catching up with the depreciation in the currency, as is shown in the following table, which is a continuation of that on page 23 of my annual report.

—	Cost of living index figure.	Value of crown or gold parity.	Skilled workman per week.	Unskilled workman per week.	Unemployed in Vienna district.
1922			£ s. d.	s. d.	
End July ..	2,645	$\frac{1}{1300}$	0 11 10	9 4	40,313
„ August ..	5,932	$\frac{1}{1700}$	0 8 5	6 8	43,338
„ September ..	11,306	$\frac{1}{1100}$	0 16 7	12 8	52,438
„ October ..	10,332	$\frac{1}{1050}$	1 0 5	15 3	62,765
„ November ..	9,712 (estimated)	$\frac{1}{1090}$	1 0 5	15 3	69,955

Industrial Stagnation.

The consequence is that the export boom on a falling exchange, which had begun again during the summer, has now stopped, and there is great stagnation in exports in nearly all branches. In so far as this means a cessation of the exports under the real cost of production, which has been going on while the crown has been falling, it is to the good. The general explanation given here of the slump is that the "world parity" of prices, cost of living and cost of production has been reached and surpassed, and that Austria is therefore incapable of competing with other countries until wages are much reduced and the eight hours' day abolished. A glance at the above table will show that this is not the case. Wages, though they have increased much of late in sterling, are still only about one-half of those paid in the United Kingdom and have already begun to decline, and the cost of living in Austria is still below the pre-war cost when measured in a stable currency. Thus in October the cost of living, in crowns, was only about 10,000 times that in January 1914, while the depreciation of the crown was over 15,000. Owing to this the Austrian working man is still, so far as the purchasing power of his wages goes, better off than he was before the war. The fact is that when the Austrians talk of the "world parity" they are generally thinking of the German parity. The rapid fall of the mark, coinciding with the stabilisation of the crown, has made the Austrian industry, like that of other countries, unable to compete with Germany in cost of production. As Germany is so close and so large in comparison with Austria, its competition is very severely felt both in the internal and external trade.

Bad Industrial Outlook.

There are, however, other reasons for the slump in Austrian industries. There is, for instance, the serious shortage of working capital brought about by selling at a loss during the recent booms, owing to the neglect of the manufacturers to calculate their real costs in a stable currency. The plant in many cases is becoming antiquated or inefficient, and is not renewed owing to lack of funds. But there is also a more permanent reason for the stagnation in the export of Austrian manufactured goods, which is only now beginning to be felt in its full severity and which will not be easily overcome. The Austrian industries, like those in Czechoslovakia, used to find their chief market—a highly protected one—among the 50 million inhabitants of the former Monarchy. Both now only enjoy protection within the comparatively narrow limits of

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their own States, the population of which cannot absorb more than a small fraction of their production, and both have now to compete with the whole world on equal terms in selling their goods in the other Succession States. This circumstance, while it favours the British, German and other Western competitors in the trade with the Succession States, is a severe handicap to the Austrian manufacturing industries, built up as they have been on a basis of a large protected market. I therefore consider that the prospects of the Austrian manufacturing industries, so far as they depend on exports, as most of them do, are distinctly gloomy. The same applies to the Czecho-slovak industry, which is also suffering at present from costs of production that are really higher than the "world parity."

Protectionism in South-Eastern Europe.

Probably it would be most advantageous for these two States, indeed for all of them, if the Succession States of the former Monarchy, or at least Austria, Czecho-slovakia, Hungary and Jugoslavia would unite in a "Zollverein," as then their production and trade could be carried on on the old lines and they would be spared the cost and the delay, from which they are now all suffering, involved in reorganising their economic life to suit the new conditions. However, I believe this is politically out of the question. The existing tendency is all in the other direction; everywhere increased protection, higher duties, more stringent import restrictions and prohibitions, more interference by the Devisen Centrals in limiting imports in order to keep up the exchanges. The less industrialised of these countries are now endeavouring to make themselves as self-sufficient as possible by establishing new industries which are not contained in their new frontiers. Even Austria is doing this as regards weaving mills and glass and porcelain factories. These new industries are being based on protection, and further strengthen the arguments for high duties and import restrictions. The whole spirit of this part of the world is highly protectionist, a state of things which, in my opinion, is likely to last for a long time. It is for this reason that I am pessimistic about the future of a large part of the Austrian industry, except where it enjoys special advantages in the way of natural resources or special abilities of the population, as in the case of the wood and paper industries and the fancy goods trade. The Austrian manufacturer has generally been able to take care of himself as far as the Government is concerned. In this case the authorities have only contributed towards erecting the industrial stagnation in so far as they have yielded too readily to demands from some branches for higher duties or import prohibitions on goods which form the raw material of other branches. Excessive protection all round is raising the cost of production all round.

The branches in which the present depression is most marked are:—

Coal mines: The production in Austria has been reduced owing to lack of demand.
Iron industries: The Alpine Montan Company is about to blow out one of the three blast furnaces working, suffering from German and Czech competition (the import of British iron goods is increasing).
Machinery.
Paper.
Wood industry, including furniture.
Leather and shoes.
Textiles: Export suffering from German and also Czech competition as the Czechs are getting rid of stocks at a loss. Despite the fact that prices have been reduced there is also a stagnation of the inland market, as further fall in prices is hoped for. The stabilisation of the crown has caused the population to save more and buy less.

Unemployment.

The number of unemployed in the whole country is estimated now at about 90,000, as compared with 80,000 during the month of March and 60,000 in May, a much lower proportion of the population than in the United Kingdom. The table on p. 3 shows how intimately unemployment has been connected with the exchange value of the crown, falling when this rises, and rising when it is stabilised. A large number of factories are working short time.

(c.) *Foreign Trade and Finance.*—The foreign services rendered under these heads form the most important part of the "invisible exports" in Austria, and, indeed, it is from these activities that a great part of the population of Vienna must live, now that it has lost the business of governing the former Empire.

Foreign Exchange Control.

The favourable development of commerce and finance mentioned in my last annual report has suffered a sharp check from recent legislation, particularly from the re-establishment of the Devisen-Central or Government monopoly of foreign exchange dealings during the panic at the end of July. This measure did not stop the fall of the crown, which declined by 100 per cent. in August, but from a political point of view it may have done something to calm the population. The Government has, however, exercised its control in such a way as to do the greatest amount of harm possible to the foreign credit of Austrian merchants; as these have not been allowed to acquire the foreign money necessary to pay for goods bought before the restrictions came into force. The transit and "intermediate" trade through Vienna has also been hit. The local trade has been chiefly affected, including that in raw materials, but the transit or *entrepôt* trade has also suffered. The "intermediate" trade, which forms a large part of Austrian commerce, has been less affected, as merchants and manu-facturers here, buying goods for other countries, would generally arrange for payment direct from those countries.

Another result of the regulation of imports by the Devisen-Central in Austria is that Hungary and Jugoslavia have promptly followed suit, and Austrian exports to those countries have been much impended thereby.

Import and Export Prohibitions.

The import and export prohibitions, particularly the former, are also exercising a most prejudicial influence on Austrian commerce. The Austrian representatives who gave evidence before the Economic and Financial Committees of the League of Nations in Geneva spoke as if most of the Austrian prohibitions were being abandoned, and as if this country were anxious to adopt the protocols as soon as other countries would do so. Since my return to Vienna, however, I have found that these prohibitions are being administered much more vigorously than before. In one case in which I was successful in persuading the Ministry of Finance to give an agent for British firms permission to import rubber cloths for the manufacture of mackintoshes—most of which are re-exported—I received a letter from the Ministry stating that they would grant the licence "as an enquiry had shown that local manufacturers were at present unable to supply this cloth." It does not seem to occur to the authorities that there may be other good reasons for importing manufactured goods such as better quality or cheaper price. The fact is that the Government authorities always ask the advice of local manufacturers when an important licence is asked for, and the licence system is therefore used for the purposes of protection in addition to the import duties.

British Trade with Austria.

The value of the imports into Austria from the United Kingdom in the third quarter of the present year was less than the average of the two previous quarters, though still much larger than that to Hungary, Czechoslovakia or Jugoslavia. The value of the total imports into Austria was not less than the average; British trade therefore suffered more from the restrictions than that from some other countries. The figures of British trade with Austria according to the British statistics are as follows:—

	1921. £	1922 (Jan.-Sept.) £
British export to Austria	1,728,177	829,756
British re-exports to Austria ...	409,315	359,808
Total to Austria	2,137,492	1,189,564
British imports from Austria ...	700,859	1,128,926
Excess of British exports and re-exports over imports	1,436,633	50,638

It should be remembered that these British export figures show the goods which actually enter Austria. The greater part of Austrian trade with the United Kingdom is done in goods which are bought here for other countries, most of which never appear in the Austrian statistics as these are despatched direct.

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Finance.

On the financial business of Vienna the effect of the foreign exchange restrictions has been still more disastrous. Nearly all the foreign exchange business between the Succession States and a large part of the stock exchange business which were concentrated in Vienna have been lost, for the time being at least, to Berlin and Prague. This has much diminished the foreign earnings of the bankers and financiers generally, but as these are an unpopular class the public is rather glad than otherwise. Banking business is also suffering much from other forms of excessive Government interference—a large part of the banks' staffs is engaged in preparing daily accounts for the Finance Ministry—and also from taxation, particularly the bank turnover tax.

The political constellation in Austria brings it about that an undue burden of taxation falls on mobile capital. It is to be hoped that the transference of the functions of the Devisen-Central to the new note-issuing bank, which is to commence operations in December, will lead to a great improvement, and that Vienna will soon regain its financial business for which it is specially well qualified to carry on.

Visitors Traffic.—This is normally a large source of income to Austria as Vienna is the chief centre for business, pleasure and art in this part of Europe. The stabilisation of the crown and the consequent rise in prices has much reduced the number of visitors here, and the hotels are now nearly empty, though they have been crowded ever since the end of the war. In so far as this means the absence of "Valuta Hyaenas" who come to buy goods, when they are sold below cost price owing to a rapid fall in the currency, it is not so much to be regretted. Most of these gentry have now gone to Germany. The lack of visitors is, however, partly due to taxes levied on hotel accommodation by the municipality of Vienna, itself a very extravagant body, which amounted to 60 per cent. and is now being reduced to 40 per cent. One result is an almost complete stagnation in the luxury trade in the Vienna shops which normally plays an important rôle here, particularly towards Christmas time. The importance of the tourist traffic in Austria has never approached that of Switzerland, though even the present Austria has almost as much to offer in the way of scenery.

There is a certain lack of suitable accommodation in the mountain districts, and though Austria is at the moment cheaper than Switzerland, it is likely to become much dearer again as soon as conditions are stabilised, unless indeed some of the "overhead charges"—the expense of the Austrian-Central and Local Government Administration—can be reduced to the Swiss level.

Conclusion.

It will be gathered from the above brief review of the chief branches of the national income (as opposed to the State income) that there are still many artificial hindrances which gravely affect the earning power of the Austrian population, quite apart from natural conditions, such as distance from coal supplies and a certain indolence in the character of the inhabitants.

An energetic campaign of economy in the State Administration, and the permanent stabilisation of the currency, as arranged for in the financial programme drawn up by the Austrian Government and the League of Nations delegates, will no doubt do much to improve the situation here, but I do not believe that Austria as a whole will pay its way unless these artificial obstacles in the way of commerce and finance are removed or at least substantially diminished.

I have pointed out above that no rapid improvement of Austrian agriculture or the tourist traffic can be hoped for, and that the export of Austrian manufactured goods is probably entering on a prolonged, perhaps permanent, period of depression. The missing 15 or 20 per cent. therefore, by which the consumption of the Austrian population at present exceeds its production and earnings, cannot be made up to any important degree by reducing the consumption, the standard of life here being already lower than in other countries. The deficit in production must be met by increasing the "invisible exports," the services rendered by commerce and finance, the only category of earnings which are capable of expansion sufficiently rapid to make a real difference by the end of 1924, when the foreign credits will be exhausted.

In the confidential supplement to my annual report of last June, I have explained some of the political and psychological difficulties which make it unlikely that the Austrian Government will remove these obstacles without external assistance and pressure. The bodies representing commercial interests, such as the Chambers of Commerce, here semi official bodies, have carried on an energetic agitation, but without any effect. The mass of the electorate is very ignorant of commerce and finance, there is

not a single business man of importance in the Austrian Parliament, and the bureaucracy both envies and despises the merchants and financiers.

I have spoken with some of the delegates of the League of Nations here on the matter, and asked them whether they do not intend to request the Government to carry out some of the definite recommendations embodied in the report of the Economic Committee of the League of Nations, as they have done in the case of those of the Financial Committee. They tell me that they cannot do so at the present stage without undue interference in the internal administration, and point out that some of the modifications they have insisted upon in the original Austrian programme, such as the substitution of more administrative economies and less taxation on one hand, and lower protective import duties and higher duties on foreign luxuries on the other, are both calculated to improve the general economic situation of the country. It will be the business of the High Commissioner, when he comes, to insist on such other reforms which will prove necessary.

No doubt the delegates are right as regards their own position, but I feel convinced that outside pressure of this kind will be necessary very soon, if it is not to be too late, and I hope the High Commissioner will see his way to exercise it. I agree that it will be difficult for him to do so. He will be accused, not only of undue interference in internal matters, but of sacrificing the "autochthonous Christian population" (as the German-Austrian inhabitants delight to call themselves) to the interests of the exploiting capitalist class, to Jews, and to foreigners generally. It will be much easier for him to insist on higher and ever higher taxation in order to make the annual deficit come within the limits prescribed. But if he does not interfere to give commerce and finance a better chance of development, I do not see how the necessary State revenue can be raised without encroaching too much on the reduced capital of the country. As it is, the present taxation programme lays too large a share of the burden on trade and industries, hampered as they are, and too little on agriculture and labour.

O. S. PHILLPOTTS,
Commercial Secretary.

Vienna, November 30, 1922.

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CENTRAL EUROPE. [February 1.]

CONFIDENTIAL. SECTION 1.

[C 1964/16/3] No. 1.

Mr. Phillpotts to Mr. Akers-Douglas.—(*Communicated by Lord Balfour, Paris; Received in Foreign Office, February* 1.)

(No. 1.)

Sir, *Paris, January* 31, 1923.

I HAVE the honour to report as follows on the proceedings at the meeting of the Council of the League of Nations so far as they refer to the Austrian question :—

1. The Committee of Control has met, with Signor Pantaleone in the chair, on the 27th and 29th instant. The most important result of its deliberations has been to approve the scheme for raising an intermediary short-term loan for Austria, which was worked out by the Austrian Government and the provisional delegation of the League. Mgr. Seipel informs me that Mr. Niemeyer is the chief author of this scheme. Under it 3,500,000*l.* are to be raised in the form of twelve-months Treasury bills in various *tranches* in different countries, in each case in the currency of the country in question. It is intended to begin with London, and the Austrians here have written to the governor of the Bank of England and are awaiting a reply to-day. They hope that the bank will help in the issue of the British *tranche*, and Dr. Reisch, the president of the new Austrian National Bank, who is here, proposes to go to London about the 1st February if a favourable reply is received.

2. The first meeting of the Austrian Committee of the Council of the League was held on the 29th January. Just before the meeting Dr. Zimmerman, the High Commissioner for Austria, visited Lord Balfour. When Lord Balfour arrived in Paris the evening before, Dr. Zimmerman asked me to arrange a meeting, as he, Dr. Zimmerman, intended in his speech to the committee to call attention to a certain slackness on the part of the Austrian Government in carrying out the plan of reform and economies, and wished to have the support of Lord Balfour in impressing this on the Austrian representatives.

There were present Lord Balfour, who directed the proceedings as at Geneva, M. Viviani (France), M. Salandra (Italy), M. Pospisil, representing M. Benes (Czechoslovakia), Mgr. Seipel and Dr. Grünberger (Austria), and, finally, Dr. Zimmerman.

Lord Balfour opened the proceedings by taking the printed reports of the delegation and of Dr. Zimmerman as read (copies are enclosed herewith), together with the confidential annexes to the latter.

Dr. Zimmerman then read in French an address to the committee, which he requested should be regarded as a confidential supplement to his report; it would produce an unfavourable effect if it were published, and this must be avoided. The main points in it were complaints that the Austrian authorities had not yet complied with his wishes in the following matters :—

1. That the reforms in the Administration and the reduction of the officials should be under one authority (Confidential Annex (A) to (D) report herewith).
2. The reduction of the number of Ministries, particularly by the amalgamation of the War Ministry and the Ministry of the Interior, which would tend to make the Volkswehr more reliable, but also by the amalgamation of two other Ministries at the choice of the Chancellor, and of the postal telegraph and telephone administrations. Mgr. Seipel had withdrawn his promise to carry these reforms through at once. He was also disappointed at the few positive results so far achieved by the reforms actually accomplished.

Dr. Zimmerman attributed this state of things chiefly to the parliamentary influence of the Social Democratic Party, but also to the creation of the Extraordinary Cabinet Council which the delegation had considered it necessary to allow, but which limited the *pleins pouvoirs* the Government ought to have under the Geneva protocols. He also complained of the mental attitude of the Austrian public, which regarded

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the reforms as sacrifices made in exchange for foreign credits, whereas they were really entirely for their own benefit.

Mgr. Seipel then replied in German. He said that he spoke as a politician among politicians who would understand his difficulties. He had to avoid three causes of apprehension in the Austrian public: (1) The fear of danger to the political liberty of the country; (2) the fear that the Austrian Government would make use of the League of Nations scheme to attain party objects. This was particularly strong in connection with the army question, and in this matter his hands were rather tied by the Treaty of Saint-Germain; (3) the fear that the necessary foreign credits would not be available. This had been stronger of late, and it was most important that some part of the credits should be raised as soon as possible. His task was only possible if he could remove these apprehensions in the Austrian public, and he, as Chancellor and the responsible person, must have a certain latitude as regards the time and method of the reforms. The compromise regarding the Extraordinary Cabinet Council was come to at the wish of the delegation in order to meet the fear that the scheme might be worked for party purposes, and what was lost in quickness of action was gained from the political point of view.

He then pointed to the results that had been achieved; over 1 billion crowns had been raised by internal loans, and Austria had got on longer without foreign credits than had been anticipated in Geneva. The delay in amalgamating the Ministries was not so serious, as Austrian Ministers only received 18*l.* per month, and their total cost, including that of the President of the Republic, was less than 200*l.* a month.

Finally, he expressed the hope that the League of Nations would help Austria to make economic arrangements with the neighbouring States.

M. Viviani and M. Salandra both laid stress on the importance of the reforms regarding the army advocated by Dr. Zimmerman. The former pointed out that if there were any difficulties regarding the Peace Treaty, Austria could refer to the Council of Ambassadors. M. Salandra also explained that the treaty fixed the number of soldiers as a maximum, not as a minimum. He suggested that the Austrian Government should display more energy, and approved of Dr. Zimmerman's remarks in this respect.

Lord Balfour said there was no ground for pessimism as regards the credits or the carrying through of the reforms. He paid a tribute to Mgr. Seipel's efforts, the difficulties of his task were as great as those that any statesman in history had encountered. He had done all that was possible, but they were going to ask him to do the impossible, and he believed Mgr. Seipel would do this, too, because it was necessary to impress foreign lenders by carrying out reforms rapidly and effectively. The demands of Dr. Zimmerman did not go beyond the necessities of the case, and the Chancellor could always count on the support of the League of Nations. He approved of the remarks of the last speakers regarding the army, which should be under the same head as the police.

Mgr. Seipel then asked permission to make four points:—

1. He was not pessimistic.
2. He would carry through the suggestions of Dr. Zimmerman.
3. The time and method must, however, be left to the Austrian Government.
4. The meeting of the committee would enable him to bring back with him a new impulse which would enable him to overcome all difficulties.

Dr. Zimmerman finally remarked that the reduction of the number of Ministers meant not only a saving in their salaries, but a far greater saving in those of their officials. The political questions could not be altogether separated from the financial and economic questions; the Austrian Government should understand that the great thing is to win foreign confidence; if they get this it will help them also over their political difficulties.

Lord Balfour then proposed that certain returns should be produced for the next meeting on the 31st and the meeting terminated.

At Mgr. Seipel's request, I called on him and Dr. Grünberger to-day. They complain that apparently the French and Italian members of the committee had not read Dr. Zimmerman's printed report, which explained what Austria had already done, and had only heard his confidential address, which dealt solely with his differences with the Government. The general impression the sitting gave was therefore a misleading one, namely, that the Austrian Government were at loggerheads with the High Commissioner, which was not the case. As regards the army reform, the less it was talked about the easier it would be to carry it through; those who knew the

party conditions in Austria knew also that no one could be more anxious to do this than the present Government. This is, of course, quite true. Dr. Grünberger also pointed out that the translator, otherwise extremely good, had failed to put clearly the four points mentioned in Mgr. Seipel's second speech; they would get this corrected in the protocols, but Mgr. Seipel wanted also to put this straight at another meeting.

Mgr. Seipel said that the French had been most tactful at M. Poincaré's lunch; there were no toasts, and no one had referred to the Ruhr to him. I may mention that Dr. Zimmerman informed me that the Austrians had intended to decline the invitation, for fear of the pan-Germans in Austria, but he had insisted on their accepting, because it was absurd to ask for money from a country and then refuse its hospitality.

Copies of this report have been sent to the Foreign Office.

I have, &c.
O. S. PHILLPOTTS,
Commercial Secretary.

Enclosure in No. 1.

Letter from the Commissioner-General to the President of the Council of the League of Nations.

(Translation.)

Your Excellency, *Vienna, January* 15, 1923.

I HAVE the honour to transmit to you, in accordance with the provisions of paragraph 4, sub-paragraph 2, of the Geneva Protocol No. III, my first monthly report as Commissioner-General of the League of Nations in Austria for the period the 15th December, 1922, to the 15th January, 1923, and I have the honour to request you to forward this report to the Council of the League.

I am, &c.
ZIMMERMAN.

FIRST REPORT BY THE COMMISSIONER-GENERAL OF THE LEAGUE OF NATIONS AT VIENNA.

(*Period: December* 15, 1922, *to January* 15, 1923.)

(Translation.)

PARAGRAPH 4, sub-paragraph 2, of the Geneva Protocol No. III lays down that "the Commissioner-General shall present monthly to the council a report upon the progress of the reforms and the results achieved."

In accordance with this provision, I have the honour to submit to the Council of the League of Nations the following report dealing with the period the 15th December, 1922, to the 15th January, 1923, which forms a continuation of the Report by the Provisional Delegation.

I.—ESTABLISHMENT OF THE NEW BANK OF ISSUE.

The most important event in this period, my first period of office in Vienna as Commissioner-General of the League of Nations, is undoubtedly the establishment of the new Bank of Issue, the opening of which on the 2nd January, 1923, inaugurates a new period in the financial policy of Austria (see Report of the Provisional Delegation).

(A.) *Subscription of the Capital of the Bank.*

The subscription list for shares in the new bank opened on the 4th December; the methods by which this transaction was carried out are set out in full in the prospectus, published in Annex I.* The Federal Minister of Finance originally intended to close the subscription list on the 15th December. The whole capital of the bank, *i.e.*, 30 million gold crowns, had been subscribed by that date, the State providing 14 millions of that sum. It should, however, be noted that the possibility of subscribing the capital of the bank was in practice prolonged up to the 16th January, as the plan established a close connection between subscription to the bank and subscription to the Treasury Bonds (see prospectus),* and since the subscription list for the latter remained open until the latter date.

* Not printed.

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The final result of the subscription to the shares of the bank was highly satisfactory. It is probable that it will only be necessary to fall back to a very slight extent on the State reserve, the possible employment of which had been anticipated.

The extension of the period of subscription to the Treasury Bonds allowed the Government to reduce the amount of its subscription to less than 8 millions, two-fifths of which were paid up by it in gold. Out of the total subscription of 30 million crowns, 22 millions were paid up in gold and 8 millions in Treasury Bonds.

An agreement will have to be concluded between shareholders of the former Austro-Hungarian Bank and the National Bank with regard to the ownership of the printing press and the premises belonging to the former institution. Until this agreement is reached, the Federal Law has guaranteed to the new Bank of Issue the use of the installation and premises. The conclusion of such an agreement will be facilitated by the fact that the Government has expressed its willingness to set apart 1½ millions of the shares which it holds to enable the new bank to transfer them to the former shareholders.

(B.) *Appointment of the Chairman of the New Bank of Issue.*

It is clear that for various financial and political reasons the National Bank was to be founded forthwith. The meeting of shareholders to arrange for the opening of the bank was therefore convened for the 22nd December, in the hope that by that date the President of the Republic would have appointed, on the recommendation of the Government, the chairman of the new Bank of Issue. Failing this appointment, certain formalities indispensable in founding the bank could not be complied with. It was only on the evening of the 21st December that the Council of Ministers agreed to the nomination of Dr. Richard Reisch, whose appointment by the head of the Government followed on the same day.

The reason for this delay is as follows:—

The Geneva protocols merely place on record the undertaking assumed by the Austrian Government to set up a fully autonomous Bank of Issue, leaving the Government the responsibility for drawing up the statutes and of settling all details, including the appointment of a chairman. Nevertheless, as the Government had expressed a desire to have my opinion on the latter question, I explained my views in a letter dated the 19th December (see Annex II*).

While fully realising the legitimate desire of the Government to secure the appointment of an Austrian chairman of the National Bank, I felt it my duty to point out that, in my opinion, the issue of loans would be considerably facilitated if, for the period of the organisation of the new bank and the issue of loans, the choice of a chairman for the new bank should fall on a person whose name would carry weight in the great financial centres of the Western countries (see Annex II*).

In a letter dated the 21st December, the Government noted my opinion and informed me that the President of the Republic had that evening appointed an Austrian, Dr. Reisch, as director of the bank, while at the same time considering the possibility of giving a place in the management to a foreigner described as "an expert provided with special powers," powers which would be determined at a subsequent date (see Annex III*).

In the same letter the Government advised me of its intention of approaching M. Janssen, Director of the National Bank of Belgium, to request him to accept the post of expert.

Negotiations have since taken place on this matter, but have not yet, however, yielded any definite results. It appears to me important that a decision with regard to fixing the limits of the powers of this expert and the choice of a suitable person should be reached as soon as possible; it is all-important in the interests of Austria herself, who, during the difficult period through which she is passing, stands specially in need of the confidence of foreign countries

(C.) *Meeting of Shareholders to Found the new Bank of Issue.*

On the 23rd December, 1922, the shareholders of the new bank held an inaugural meeting under the chairmanship of Dr. Reisch. The latter set out his views in a speech, the text of which is given as an annex to this report (see Annex IV*).

* Not printed.

(D.) *Transfer of the Business of the Austrian Branch of the Austro-Hungarian Bank to the Austrian National Bank.*

By a Federal decree dated the 29th December, 1922 (see Annex V*), the business of the Austrian branch of the Austro-Hungarian Bank was transferred to the National Austrian Bank, which, on the 2nd January, 1923, began operations.

Reference to the last balance-sheet of the old bank (see Annex VI*) and comparison with the first balance-sheet of the National Bank (Annex VII*) will bring out the fact that as at the 31st December—

	Milliards.
The fiduciary circulation amounted to ...	4,080
Current accounts amounted to	328

To cover these liabilities, amounting to 4,400 milliards, the apparent realisable assets consisted of only about 5 milliards in addition to 782 milliards of commercial paper, and 2,558 milliards of Austrian Treasury Bonds. The item "various assets" (1,288 milliards) included, however, the deposits forming the reserves of the "Devizen-Zentrale" (clearing-house for foreign valuta), a sum which has been increasing for weeks past.

In the new balance-sheet, as a result of the fusion of the "Devizen-Zentrale" and the National Bank, these reserves have become the property of the Bank of Issue. As against liabilities of 4,471 milliards, namely—

	Milliards.
Fiduciary circulation	4,054
Current accounts	417

we find realisable assets of 1,195 milliards in gold and securities. The commercial securities amount to 732 milliards, while the figure for Treasury Bonds remains unchanged. In accordance with the statutes, gold and foreign securities are estimated on the basis of the average rate of exchange for the second half-year of 1922, *i.e.*, on a basis which is 8 to 10 per cent. lower than the present rates of exchange. They represent, therefore, in reality, a greater value than that which is assigned to them in the balance-sheet, and this margin is indicated under the heading "other assets," along with the value of other securities which are not included in the reserve.

Although the reserve, therefore, only represents a certain proportion of the realisable assets, it covers 26·7 per cent. of the total amount of notes in circulation, including notes issued against Treasury Bonds. This position is all the more remarkable seeing that the whole of the gold capital subscribed has not yet been paid up, and the statutes provide that, when payment has been fully made, only 20 per cent. of cover will be obligatory, and that in making this calculation, in accordance with article 85, the amount of the Treasury Bonds, *i.e.*, more than 2,500 milliards, will be withdrawn from the notes and immediate liabilities!

The taking over of the business of the "Devizen-Zentrale" by the National Bank has led to this satisfactory result.

(E.) *Transfer of the Business of the "Devizen-Zentrale" to the New Bank.*

The Foreign Securities Department has been able to build up for itself a large reserve during the past few months owing to the special conditions of the market. The relief measures of the League of Nations and the programme of reforms have inspired the Austrian public with confidence. A portion of the foreign securities, which had been hoarded up as reserves by private persons, was once more converted into crowns, and the supply of foreign currencies has been considerably in excess of the demand. As the gold value of crowns in circulation (300 million gold crowns at the present date instead of 1 milliard gold crowns in 1919) was inadequate for the requirements of the market, this confidence would have led to a rapid rise in the crown, entailing a serious economic crisis, if the policy of the Foreign Securities Department had not been to purchase from the public, currencies offered in excess against crowns, with which the Bank of Issue supplied it on the basis of these foreign securities. The situation caused by the scarcity of crowns in the market was thus eased by an issue of secured crowns. The value of the reserves of the "Devizen-Zentrale" rose from 700,000*l.* in October to 4 millions at the close of the year. When the National Bank took over the exchange business, *i.e.*, the ownership of the reserves,

* Not printed.

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each one of the 4,000 milliards of crowns in circulation was better secured than each of the 3,000 milliards of crowns which were in circulation in November.

This position is clearly brought out in the first account of the new bank, and it ought to serve to inspire the Austrian public and foreigners with a considerable measure of confidence.

II.—Administrative Reforms.

(A.) *Measures of Reform.*

The Reconstruction Law of the 27th November, 1922, includes, among other measures of administrative reform, the following articles:—

Section A.

§ 1.

"In order to simplify the Federal Administration as far as possible, and to reduce its expenditure to an absolute minimum, every branch of the administration shall be reformed in accordance with the principles laid down in paragraphs 2–5."

§ 4. Paragraphs 1 and 2.

"1. The number of Federal Ministries shall be reduced as far as possible, and shall be fixed at a maximum of eight.

"2. Apart from this reduction in the number of the Ministries, their organisation shall be simplified as far as possible, and every effort shall be made to avoid an overlapping of duties."

The nature and object of all these measures render them so urgent that they ought to be carried out as soon as possible.

Immediately upon my arrival at Vienna, I discussed this subject with the members of the Austrian Government, and in particular with the Chancellor and Vice-Chancellor, the latter of whom has been personally entrusted with the task of simplifying the administration. In a letter dated the 21st December (see Annex VIII*), I asked him to be good enough to state what measures he proposed to adopt during the first few weeks, and to keep me regularly informed of the results obtained.

The Vice-Chancellor's reply, in his letter dated the 4th January (see Annex IX*), makes it clear that the Austrian Government is fully aware of the necessity of undertaking, not only reforms of detail, but also numerous measures of a comprehensive nature.

I also discussed this question with the Chancellor on several occasions and confirmed my views in writing. Among measures which might be undertaken immediately, I suggested that the number of Ministries should be reduced by two, notably by the fusion of the Ministry of War and the Ministry of the Interior. The Post Office might again be combined with the Telegraph and Telephone Services, and the State Chancellory might be housed in the same buildings as the Ministry for Foreign Affairs. I had hoped that these measures would have been adopted before the meeting of the Council of the League of Nations at the end of January, but unfortunately my hopes have been disappointed. The matter is still in abeyance, and forms the subject of discussion between the Government and myself.

I am obliged to admit that at the end of this first period, apart from the fiscal measures, not one of the important reforms decided upon has yet been carried out; the few administrative reforms which have been accomplished are of a minor character. This fact is particularly to be regretted, because it shows that, if better results are not obtained within a very short time, the progress of the work of reconstruction may be delayed.

(B.) *Reduction in the Number of Officials.*

The provisional delegation of the League of Nations had concluded an agreement with the Austrian Government providing for the dismissal of 100,000 officials before the 1st July, 1924, as follows:—

25,000 before January 1, 1923.
25,000 before July 1, 1923.
25,000 before January 1, 1924.
25,000 before July 1, 1924.

* Not printed.

In order to carry out this agreement, the Austrian Government has entrusted all the problems connected with the reduction of the number of officials to Dr. Hornik, Economy Commissioner, who has had great experience in matters of this kind, as he was responsible for the demobilisation of the military organisations after the armistice. The Economy Commissioner is working in close touch with a Staff Discharge Committee, consisting of representatives of the various Ministries; the duty of this committee is to apportion between the various Ministries the total number of officials to be dismissed. The Economy Commissioner reports progress to me weekly.

From the 1st October to the 30th December, 1922, the Government has discharged 23,651 persons employed in State services. On the 13th January, 1923, this number had increased to 25,494, divided among the various Ministries and State enterprises as shown in Annex X.* The figures which show the number of officials discharged also refer to officials who are still employed, but whose discharge, or dismissal, papers have already been signed. In point of fact, most officials finally leave the service after a certain period of notice varying from one to six weeks.

Those officials who are not placed upon the pensions list receive gratuities in proportion to their length of service. The Government is taking appropriate measures to assist discharged officials to find employment.

As the gratuities now being paid are too high, and utterly out of proportion to those which are granted in private businesses, it will be necessary to modify the law regarding dismissals of staff. At the same time, the highly complicated procedure of discharge prescribed in this law must be simplified. I am glad to note that the Austrian Government is of the same opinion, and that an amendment to the law regarding dismissals of staff has already been passed by the Council of Ministers. This amendment must come into force as soon as possible. The Council of Ministers has also passed a law prohibiting the accumulation of State pensions and other sources of income by discharged officials after they have obtained employment.

With a few days' delay, therefore, the Austrian Government has kept its engagements in regard to the dismissal of the first 25,000 officials. The very large total number of officials rendered this first stage comparatively simple, but it is clear that, as the process of dismissal continues, the execution of the programme will become proportionately more difficult. In order to overcome all the difficulties involved in a reduction of staff on so large a scale as that to be anticipated in Austria, the work connected with dismissals must be entrusted to an organisation possessing special powers.

Even if this measure were adopted, it would be impossible to dismiss another 75,000 officials in a period of eighteen months merely by informing each department of the number of officials it must dismiss. Such a method would entail the risk of serious dislocation in the working of the Administration. The dismissals must, therefore, be accompanied by simplifications of administration, involving the abolition of certain offices and services, the fusion of others, the suppression of duplicate posts, and the recasting of an over-complicated procedure.

This simplification of administration is so closely bound up with the reduction of staff that the two tasks must be entrusted to a single person. Without unity of control, it would seem impossible to secure a sufficiently rapid progress in the reforms.

The Austrian Government, however, to which I have communicated my opinion, has as yet taken no steps in this direction.

III.—State Finance and the Budget.

The reforms already undertaken could not to any large extent facilitate the balancing of the State finances during the first period.

For instance, the dismissal of officials offered hopes of an alleviation of the public expenditure at a future date, but, at the outset, it involved an increase of expenditure in the form of gratuities and pensions. The stabilisation of the crown, at the very moment when the currencies of the neighbouring countries were collapsing, brought in the element of foreign competition, thus giving rise to an economic crisis, and compelling the State to disburse large sums for unemployment relief. The new measures of economy do not make it less necessary to meet engagements previously undertaken and payments which have since fallen due.

I was therefore compelled to place large sums once more at the disposal of the Austrian Government to enable it to meet its deficit. My policy has, however, been

* Not printed.

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to grant the sums asked for only for the most important requirements, and, moreover, to insist on other claims being carried forward, thus impressing on the departments concerned the absolute need of economy. This policy in matters of State finance of meeting expenses, the payment of which could be delayed but not avoided, was intended to facilitate the task of the Finance Minister in confining within limits the estimates of the various departments when drawing up his preliminary budget for January and also his annual budget.

(A.) *State Finance.*

The agreement concluded in November between the provisional delegation and the Government provided for a first reduction of the deficit of 457 million gold crowns per year on the basis of the situation in October 1922 to 283 million gold crowns on the average over the period January–June 1923. Including the revenue receipt on account of the communes, *i.e.*, after adding their total both to the revenue and expenditure (see Annex VI* of the Report of the Provisional Delegation), the estimates in question represented the following amounts in paper crowns per month :—

For October at the exchange rate of 15,000–

	Milliards.
Expenditure	860
Revenue (including customs and tobacco)	288
Deficit	572

Average for the period January–June 1923 at the exchange rate of 14,380—

	Milliards.
Expenditure	719
Revenue (including customs and tobacco)	380
Deficit	339

The applications for funds for December were accompanied by weekly estimates reaching a total of–

	Milliards.
Expenditure	1,140
Revenue (not including customs and tobacco)	437
Applications for funds (to meet the deficit and the deduction of customs and tobacco)	703

Only 423 milliards were released during the month, including 265 released by my authority. Forty milliards is accounted for by the placing at the Government's disposal of a part of the gross receipts from customs and tobacco after setting aside the necessary reserve to guarantee the Treasury Bonds issued. The receipts thus pledged as security were included in the general receipts by the agreement of November. With a view to comparing the deficit with the totals given in that agreement, it is therefore necessary to deduct from that deficit the portion of the revenue from customs and tobacco which is not required to guarantee the loans. 383 milliards were obtained from the special fund into which the yield of the Treasury operations carried out to cover the deficit is paid; that is a total nearer to 339 than to 572, but it was necessary to insist on numerous claims for payment being carried forward.

The allotment of the receipts from customs and tobacco to Account A only began on the 8th December; 57 milliards had been received up till the end of the year, and 122 in all (including 79 for tobacco) up to the 6th January, on account of the month of December. The amounts thus obtained should be compared with the effective receipts for this month, as verified in the books.

	Milliards.
Customs	58·3
Tobacco	86·8
Total	145·1

* Not printed.

I drew attention to the difference between these totals and the amount obtained on the 8th January in a letter, dated the 12th January, to the Federal Finance Minister; the difference was paid in during the next few days (between the 8th December and the 15th January 186 milliards were obtained). This yield from sources of revenue mortgaged fell below the estimates of the Austrian Government owing to the economic crisis and the number of holidays in December. But it is distinctly larger than the estimates in the Geneva report (100 milliards per month, including 50 for tobacco). The gross receipts for October had reached 163 milliards, including 106 for tobacco; those for November 179 milliards, including 116 for tobacco. The increase in the fiscal customs dues introduced on the 26th December gives a prospect of larger receipts in January.

The 383 milliards taken from Account B to cover the deficit were obtained chiefly from operations connected with the placing of Treasury Bonds in the home market. They were released, partly in the form of foreign securities obtained from the last payments made by the banks for the block of 30 million gold crowns which they had taken up in November (see the Provisional Delegation's Report), and partly in crowns obtained from the amounts subscribed by the public from the 4th December onwards. 1,775,000 dollars were handed over to the Government, which converted them into about 128 milliards of crowns through the agency of the Central Office for Foreign Exchanges ("Devizen-Zentrale"), the duties of which have already been explained; 175 milliards were obtained from the yield of the bonds allotted to the public in crowns (return, 205 milliards up to the 30th December; 260 up to the 15th January). The additional 80 milliards were obtained by a provisional transaction effected with the Vienna banks for an advance of 100 milliards secured by half of the gold realised by the winding-up of the Austro-Hungarian Bank. This advance will probably be repaid in January when certain assets, the employment of which is now being considered, have been realised, and the gold will thus figure among the assets of the National Bank and will be a further addition to its cash.

Thus, the requirements of the Austrian Government Treasury for the month of December were covered without the necessity of remitting Treasury Bonds to the Bank of Issue; the principle of putting an end to the inflation of currency (see Report of the Provisional Delegation) is now actually being applied. For January we had at our disposal the surplus of customs receipts and the yield of the tobacco monopoly under Account A, further receipts from the public loan under Account B, and surplus amounts obtained by other operations. We have, moreover, obtained the deposit of the Czech balance in Treasury Bonds payable at sight, which it is proposed to make use of, and the balance of the French loan is now available. The financial requirements of the Treasury are thus assured, and we hope that during the next months the balance of the Italian loan will become available under the same conditions, and that it will be possible to make use of the gold which is still in reserve. All these transactions are, moreover, subject to the option of repurchase should it be possible to place abroad Treasury Bonds secured by the assets or by the parliamentary guarantees plus those assets.

This was the financial position at the end of the second period provided for in the report of the Financial Committee (reply 5) annexed to Geneva Protocol No. III. Instead of the estimated sum of from 120 to 160 million gold crowns, the actual deficit required only part of the yield of the internal loans (30 million gold crowns from the banks, plus approximately 12 million gold crowns, *i.e.*, 175 milliard paper crowns from the subscriptions of the public) and the pledging of 7½ million gold crowns, a total of roughly 50 million gold crowns. This reduction is due, in the first place, to the fact that up to the 18th November the State continued to have recourse to the old methods of inflation in order to cover its deficit. It was in a position to withdraw bank-notes against Treasury Bonds without, however, causing a fall in the crown, and was thus able to constitute the reserve referred to in the report; it is due also to the fact that a beginning has been made with the carrying out of the programme of reform.

Under these circumstances, no outside advance has been required; at the beginning of the third period, when 80 per cent. of the parliamentary guarantees became available, the Austrian Government still had at its disposal part of the internal loan, on which it was able to subsist till the 15th January; further, it had at its disposal the whole of the balance which was to be used as security for the second period, and half the gold resulting from the winding-up of the Austro-Hungarian Bank. These assets, in addition to the value of the parliamentary guarantees, will assure the position during the next few months. Their utilisation in some form or

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other is imperative, and, since some of these assets may not be immediately realisable, it is essential that loans secured wholly or in part by the new parliamentary guarantees should be obtained without delay.

(B.) *Budget.*

Unlike the Treasury operations for December, those for January can be verified in accordance with the figures laid down in the preliminary budget for the month. The deferred payments due during the course of December brought home to the various branches of the administration the urgent necessity of at last economising and of reducing fresh financial commitments to a minimum. I insisted upon this situation being taken into account in the estimates for January and those for 1923, and for this reason have been in consultation with the Finance Minister.

From the 21st December, five days after taking up my duties, I requested the Minister for Finance to exercise with the least possible delay a central control over the other branches of the administration (Annex XI*).

At the beginning of January I pointed out that, instead of the monthly deficit of 572 milliards on the basis of the situation in October (agreement between the Provisional delegation and the Austrian Government), of 339 milliards on the basis of the average for January–June 1923, the first estimates of the Government provided for 536 milliards for the month of January. I insisted that it was impossible to work on such a basis. It was not to be expected that all the reforms in the direction of economy and all the increases in revenue, which are to be spread over a period of six months from January to June, would take effect during the first month of the period. But the excess of expenditure should be sufficiently small to be wiped out between the coming month and the 1st July.

I have therefore agreed to the adoption of a preliminary budget for January providing—

Expenditure, 740 milliards, an excess of 21 over the 719 estimated as the average for the period.

Revenue, 336 milliards, a deficit of 44 on the 380 estimated as the average for the period.

Deficit, 404 milliards, *i.e.*, 65 more than the 339 estimated as the average for the period.

If this budget be adhered to, it will represent a monthly reduction in the deficit amounting to 168 milliards since October. I have tried to indicate that I shall not give permission for the estimates to be exceeded, and the sums actually released during the first fortnight of January, both in bills of exchange and in crowns, corresponded only to a deficit of 200 milliards, together with the retrocession of that part of the customs and tobacco revenues which exceeds the necessary cover for the present loans.

The Finance Minister subsequently informed me that he had taken all the necessary steps to ensure that the deficit in January should not exceed 404 milliards. Revenues as last estimated reaching only 330 milliards on account of the economic crisis, expenditure would be reduced to 734 milliards in accordance with a programme applicable to all departments which has been submitted to me and carries out the reforms previously worked out (see Annex XII*).

The Financial Administration must be reorganised without delay if we are to ensure the application of the foregoing reforms and to obtain the expected results in the budget. It was impossible, during the four years of the war and the three years of continual currency depreciation, to adhere to the estimates. The credits budgeted for an entire year have often been expended within the first few months, and accountancy calculations which were originally drawn up with the heller as a basis were complicated by the immensely swollen figures. It accordingly became the custom of the various departments simply to give the Finance Ministry some rough indication as to the size of their deficits; the actual revenues and expenditure were only reported to the Ministry after a considerable delay, usually about six months late. The Government was able to cover the deficit by issuing notes guaranteed by Treasury Bonds, but it was quite impossible to control excess of expenditure in any way at all.

Now that the State can no longer have recourse to inflation as a source of revenue, the re-establishment of a rigorous control has become absolutely indis-

* Not printed.

pensable. This is rendered possible by the stabilisation of the crown, but the system of control still remains to be organised.

I have, since my arrival, drawn the attention of the Finance Minister to this problem (Annex XI*), and on the 4th January I reminded him that, in my opinion, the only feasible system of control which would be likely to give real results was the following: officials from his Ministry should be seconded to the various departments in order to be on the spot to enforce a strict economy in the drawing up of the estimates. Inspectors of this kind have already been attached to the Ministries of Social Relief Work, of the Army and of Commerce.

The administration of the railways is disastrous; its deficit is by far the heaviest charge upon the budget (according to the January estimates, 43 per cent., and to subsequent estimates, 39 per cent. of the total deficit). Liaison between the central direction and the local executive authorities does not appear to be adequate. This department does not seem to understand the necessity for far-reaching reforms. Having compared the Austrian railway management with the management by private companies in certain foreign countries, I asked the Finance Minister to be good enough to consider the possibility of inviting a foreign expert to come and investigate on the spot the running and the reorganisation of the Austrian railways. The Chancellor and Finance Minister have told me that they are, in principle, in agreement with this suggestion.

We have also considered the possibility of employing the same system in certain other branches, especially that of the tobacco monopoly, the yield of which is set aside as one of the pledges for the loans.

The budget for the entire year 1923 has been drawn up on the basis of the agreement between the Austrian Government and the provisional delegation.

Under this agreement, expenditure was to be estimated for the first six months at the rate of 600 million gold crowns per annum, and during the second quarter at the rate of 578 millions; it was only possible, therefore, in the 1923 budget to estimate for an average expenditure of 589 million gold crowns, this sum representing 8,540 milliards at the rate of 14,500, which was that adopted for calculating the budget. The Austrian Government's estimates for expenditure amount to 8,448 milliards, *i.e.*, 582 million gold crowns. Estimates for receipts are 6,098 milliards, *i.e.*, 420 million gold crowns instead of 369 millions, which was the sum fixed under the agreement (six months at the rate of 317 million and six months at the rate of 420). The deficit in the budget for the entire year 1923 would therefore amount to 2,350 milliards, *i.e.*, 162 million gold crowns, instead of 220 ($\frac{283 + 158}{2}$).

The above budget must be submitted to and discussed in Parliament during the coming months, when the estimates for expenditure and receipts respectively may be modified, but the total must not exceed the limits of the engagements entered into by the Government towards the provisional delegation. Meanwhile the Government has secured authorisation to incur expenditure during the first four months of the year not exceeding a maximum of 200 million gold crowns, that is to say, at the rate of 600 million gold crowns per annum, as fixed for the period January to June 1923 in the agreement with the provisional delegation of the League of Nations. I have taken note of this fact in my letter, dated the 21st December (Annex XI*), to the Austrian Finance Minister.

IV.—General Situation.

The Geneva protocols are based upon the fundamental assumption that the Austrian problem must be considered in three different, but closely connected, aspects: political, financial and economic. This view of the question is in entire agreement with my conception of the task undertaken by the League of Nations, and, although the duties of the Commissioner-General do not officially include the consideration of all the questions which fall within these three categories, I think it desirable, as these problems form a complete whole, to deal with them in a general manner in my first report.

(A.) *Political Aspect.*

It is obvious that no State can be rendered financially sound until it has a political organisation strong enough to prevent any waste in public finance. In other words, a Government must take drastic action in all established cases of waste of this nature, and must not hesitate to take strong measures, if necessary, in order to effect economies. These general observations have a special force in the case of Austria,

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where the financial difficulties are largely due to abuses from which the country has been suffering since the armistice. The reforms demanded in the Geneva protocols are so stringent that they can only be carried out by a strong and fearless Government. Moreover, the protocols were based upon considerations of this nature, for they stipulate that the Government must be invested with special powers throughout the period of reconstruction.

It is clear that the Government must not only be furnished with extraordinary powers, but must also have the will, the courage and the strength to use them in order that the budget may be balanced within the comparatively short time which has been allowed for this work of reorganisation. In short, it is the Government's duty not to hesitate to go forward with the necessary measures, taking no account of any political considerations, even should it be obliged (as I think it inevitably will be) to run counter to the interests and to thwart the desires of more or less important sections of the population. It is the duty of the people, on the other hand, to work towards the common goal by rendering the Government's task as easy as possible.

I have as yet no reason to doubt that the Government shares this view, but I think it well to point out that it is the absolutely indispensable condition for the success of the entire plan.

It is among the duties of the Commissioner-General indefatigably to support the Government to the best of his ability in the great task which lies before it, but it is doubtful whether the goal can be attained unless the Government itself, by its composition and its mental attitude, gives the necessary guarantees of its intention to carry out the required measures.

(B.) *Financial Aspect.*

It is the financial side of the work of reconstruction which has most closely held the attention of the Council and Advisory Committees of the League of Nations. In Austria, also, this aspect receives most consideration.

In another part of this report I have already dealt with financial problems from a technical standpoint, but we have also to consider the influence of these questions on the psychological and political condition of the Austrian people.

It is not too much to say that the whole financial problem is now dominated by the question of whether or not credits, first provisional and then definite, will be placed at the disposal of the Treasury in time. It will not be long before they become indispensable, as I have endeavoured to show above in my statement of the position of the Treasury; and in my opinion it is perfectly comprehensible that the Austrian public should betray some anxiety in view of the absence as yet of any definite agreement between the Austrian Government and international financial circles.

It is true that the resources of the Treasury—that is to say, the ordinary receipts together with the funds obtained by the internal loan and the credit operations which have so far been carried out—are sufficient to cover the State expenditure for some weeks to come, and there is, therefore, no reason to anticipate immediate difficulties. But if a certain nervousness is becoming perceptible in public opinion, the reason is that the Austrian public is wondering not merely when an agreement will be concluded with regard to the necessary credits, but also whether advances will be actually available for use when they are required.

Since the work of the League of Nations began, it should be observed that there has been a remarkable growth of public confidence, particularly as compared with the complete collapse of that confidence last summer. This renewed faith in the future of the country has been demonstrated in various ways. One proof of it is the stabilisation of the crown since the end of last August; another is the increase in bank and savings-bank deposits, which shows that the public has again begun to invest its savings in Austrian currency. The successive falls in the cost of living during October, November and December indicate that producers and middlemen have gained confidence in the value of the national currency, and have thus been enabled to reduce their margin of profit. Lastly, large purchases of crowns have been made in foreign currencies.* Moreover, the subscriptions to the internal loan and to the capital of the new Bank of Issue have given far better results than we ventured to hope at the beginning of December. During the last few weeks, however, a slight reaction has been felt, which finds its main expression in a greater demand for

* Figures in support of these statements have already been given in the report of the provisional delegation. During the month of December the total deposits in banks and savings-banks have increased by 26 milliard crowns.

foreign securities, an increase in speculation on the exchange, and a certain nervousness which is reflected in the press.

At the same time, but for different reasons, the index figure for January has risen by 1 per cent.—the first rise for three months.*

As I have already observed, this anxiety is due in the main to the doubts which public opinion is beginning to feel with regard to the continued absence of foreign credits. Personally I regard this anxiety as unjustified, as I endeavoured to explain in a press interview on the 17th January (see Annex XIII†). But this state of mind must be reckoned with, for the maintenance of public confidence in the ultimate success of the reconstruction scheme is one of the essential conditions of that success.

(C.) *Economic Aspect.*

Another fact which exerts, of necessity, a depressing influence on the state of public opinion is the economic crisis through which the country is now passing.‡ This crisis is due to various causes. In the first place, to the normal and invariable consequences of a period of inflation such as Austria has recently suffered; secondly, the general European situation has, of course, been felt in Austria, and the collapse of the German mark has rendered Austrian export trade particularly difficult, so that industry has very largely shut down. A third cause, which had already been taken into account at Geneva, is the question of the commercial difficulties which obstruct international traffic in Central Europe; the excessive regulation of economic relations with her neighbours which Austria has kept up since the end of the war renders the importation of raw materials and the exportation of manufactured products still more difficult, quite apart from any financial problems.

It is, I think, superfluous to explain in detail the great difficulties produced by this economic crisis in the financial reconstruction of the country, which depends on an increase in State revenues accompanied by a decrease in expenditure. If Austrian industry can find no outlet, the yield from taxation will inevitably diminish; that of the customs will also decrease, side by side with the amount of raw materials imported. No increase in tariffs can make up for a decrease in the quantity of dutiable articles—in fact, the contrary is true. When we reflect that, in addition, the State expenditure on unemployment benefits increases daily with the growth of unemployment, it becomes clear that, by no fault of the Austrian Government and people, the success of the reconstruction scheme will be jeopardised unless the present economic dislocation is somehow remedied. Austria has hitherto suffered the financial disasters brought about by political disorganisation, inflation and the fall of the exchange. We must try to temper, for her benefit, the economic sufferings endured even by countries which have a sound financial policy and a stabilised currency.

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* This slight increase in the cost of living (in reality only 0·83 per cent.) is due to the rise in the price of coal, owing to higher freight rates, and to the increase in rents, which are tending to rise from an excessively low level to the normal.

† Not printed.

‡ This crisis is reflected in the unemployment figures, which reached about 150,000 in January, 91,408 being in Vienna (for details see Annex XIV).

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CENTRAL EUROPE. [February 26.]

CONFIDENTIAL. SECTION 2.

[C 3574/16/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received February 26.*)

(No. 36.)

My Lord, *Vienna, February 22, 1923.*

I HAVE the honour to report that the Austrian Government has just laid a revised budget for the year 1923 before the National Assembly.

The first draft budget for this year was produced in November 1922, but as it did not take into account the reforms enacted by the Reconstruction Bill in accordance with the League of Nations scheme, it was always regarded as a stopgap and has now been withdrawn. Its only importance is that as there is no great difference between the exchange then and now, it is useful to compare with the present second draft in order to make clear the improvement it is hoped to effect in the coming year now that the League of Nations scheme is in working order under the High Commissioner. The first draft may be regarded as giving an optimistic view of what the prospects for 1923 would have been if the Austrians had not been compelled to carry through the reforms. No useful comparison with the various budgets and "finance plans" for 1922 is possible, owing to the enormous fall in the value of the crown which has taken place.

The following table shows briefly the comparison between the first and present draft budgets for 1923 :—

Budget, 1923.

—	Milliards of Crowns.		
	Second Draft.	First Draft.	Difference.
(A.)—Administration and Taxes—			
Expenses	6,275	7,019	— 744
Receipts	4,665	3,269	+ 1,395
Deficits	1,610	3,749	— 2,139
(B.)—Monopolies—			
Cash balance on working ..	1,308	1,278	+ 30
Less capital expenditure ..	53	101	— 47
Cash net profit	1,255	1,177	+ 77
(C.)—State Enterprises—			
Cash net deficits (C)	2,019	2,302	— 283
Add separate accounts of monopolies and State enterprises ..	..	418	— 418
(A) + (C) — (B) total deficit	2,374	5,293	— 2,919

The finances of the State are divided into three parts :—

(A.)—The expenditure on administration proper is to be diminished by 744 milliards, and the receipts and taxation are to be increased by 1,395 milliards, so that the estimated deficit under this head is reduced from 3·7 to 1·6 billions. For the purpose of ready reckoning, it may be mentioned that 1,000,000 crowns is, roughly, equal to 3*l.*, and so 1 milliard corresponds to 3,000*l.*, and 1 billion to 3,000,000*l.*

(B.)—The monopolies, which in Austria include tobacco, salt, lottery and gunpowder, are calculated to yield a surplus of 1·2 billions, a slight improvement on the first draft.

(C.)—The most serious side of the picture is that represented by the State undertakings. These are still estimated to show a deficit of over 2 billions as compared with 2·3 billions in the first draft. No less than

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1·9 billions of this is due to the railway deficit which represents the gravest financial problem in Austria, and it seems probable that unless very energetic measures are taken the deficit will be still greater than the receipts during the last two months, since the fares have been raised have been little over half of what was estimated. The other State undertakings are all expected to show a profit except Blumau, the last of the State ammunition factories, and the State theatres, which include the Vienna Opera, and for which 14 milliards deficit are calculated.

As will be seen from the above table, it is estimated that the anticipated deficit will be reduced by the League of Nations scheme from 5·2 billions to 2·3 billions, an improvement of nearly 3 billions, or 56 per cent.

Expenditure.

It is possible that these estimates are somewhat too optimistic in certain respects. Railways have already been mentioned. Another possible source of greater expenditure is unemployment relief. The average number of unemployed is estimated at 75,000, but the present number is nearer 150,000 and it is still rising. The greater part of the relief given to the unemployed is subsequently recovered by the State from the employer and the employed themselves, but it remains to be seen whether the system will work when the strain comes. Among the economies which have still to be carried out is the reduction of the number of officials and other State employees. It is expected that the expenditure for salaries will be brought down from 7·4 to 5·7 billions, but this is partly due to the fall in the index figure since the first draft was drawn up in October. Under the reconstruction plan no less than 50,000 State employees have to be dismissed by July 1923 in addition to the 25,000 that were got rid of by the last day of 1922. So far, the savings made in this way have not been as large as was expected on account of the extravagant pensions and bonuses given to the retiring employees. The greatest excess is in the State railways; there were 92,000 employees, and it is hoped to obtain 20 per cent. reduction of expenditure by decreasing the excessive number. So far very little has been done in this way; the Government has walked very warily, as it is afraid of a general railway strike, for which it is generally supposed the Government would have to capitulate, as the army cannot be relied upon. There is no reduction allowed for in the strength of the army, for which 653 milliards are estimated. It remains at 30,000 men, and the failure to cut it down will be much criticised, not least by the High Commissioner of the League of Nations. Here political considerations play the chief rôle. No one would be more glad to reduce the number of the "Volkswehr" than Dr. Seipel, if he dared, but the Social Democrats regard this force, which was formed while they were in power, as the bodyguard of their party, and the Government at present avoids a trial of strength with the Opposition on this matter.

A considerable reduction in the total estimated expenditure is caused by the improvement in the exchange, 73,000 crowns to the dollar being taken as the basis of the calculation in the new draft as against 75,000 in the first.

Almost the only heading, except pensions, under which the expenditure is greater than those of the November figures is the service of the State debt. The total debt of the republic, when reckoned in crowns, increased during the year 1922 from about 2·5 billions to 15·5 billions, or 13 billions, but 11 billions of this is a fictitious increase due to the fall of the crown. There was, however, some real increase of indebtedness owing to the advance credits given by the British, French, Italian and Czecholavak Governments, owing to the internal loans, and, further, owing to the decision of the Reparation Commission fixing Austria's share of the common pre-war and war debts of the old monarchy, which was more unfavourable to Austria than had been here expected. The interest for the relief credits is not included in the budget, as it is assumed that Austria will not pay this. The total sum estimated for the interest and amortisation of State debts in 1923 amounts to 735 milliards—an increase of 67 milliards over the first estimate; and further, a sum of 12 milliards (or 36,000*l.*) is allowed for to wipe out the whole of the Austrian share of the war loans.

It should be mentioned that the budget provides for a sum of 192 milliards as the federal contribution to private pre-war debts and compensation in liquidations. This sum is rather less than 600,000*l.*, and as Austria has agreed to pay 250,000*l.* every six months as its contribution to British pre-war debts (although it has so far only paid a very small part of this), the sum does not seem adequate if France, Italy and the other Allied States have large claims under this heading.

Taxation.

The estimated income from taxation has been doubled as compared with the first draft.

The following table shows the estimates of the chief direct taxes and the way in which they are divided between the Federal Government and the provinces:—

Budget, 1923.

	Million Crowns.		
	Total.	Participation of Provinces.	Balance of the State.
Levy on Capital	2,500	..	2,500
General Trade Tax ("Erwerbsteuer") ..	40,670	20,335	23,335
Tax on Shares	113,348	56,674	56,674
Tax on Dividends	1,821	319	1,502
Income Tax	509,412	254,706	254,706
Tax on Tantiemes	11,140	..	11,140
Interest on Arrears	389	..	389
	679,280	232,034	347,246
1922	10,741	4,449	6,292
Increases	668,539	327,585	340,954

Import duties are to yield 80 milliard gold crowns or 1·1 billion in accordance with the League of Nations scheme, nearly double the estimate of the first draft. The receipts from the excise duties will be more than doubled, it is hoped, as the rates have been very much raised. The two estimates are as follows:—

	Million Crowns.	
	First Draft.	Second Draft.
Tax on brandy	55,114	128,687
„ beer	21,000	110,180
„ wine	62,400	107,980
„ champagne	300	580
„ mineral waters	240	939
„ acetic acid	600	600
„ sugar	7,500	28,988
„ sweetening material	3,000	2,998
„ matches, &c.	18,000	13,493
„ various receipts	50	50
Total	168,204	394,495

The total estimated deficit during the year of 2·3 billions is, of course, to be met in great part out of the credits to be raised abroad under the League of Nations scheme, and the amount appears smaller than might have been expected, perhaps smaller than the deficit which will actually result. However this may be, this new draft budget shows throughout signs of the beneficial influence of the League of Nations delegates and of Dr. Zimmermann, even though the Austrian Government may not yet have seen its way to go quite so far as they wished.

I will report on the progress which the budget makes in the National Assembly.

I have, &c.

A. AKERS-DOUGLAS.

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CENTRAL EUROPE. [April 5.]

CONFIDENTIAL. SECTION 1.

[C 6186/16/3] No. 1.

Memorandum respecting the League of Nations Scheme for the Reconstruction of Austria.

THE following memorandum deals with developments subsequent to those described in the Foreign Office memorandum of the 17th January, and begins, therefore, with the meeting of the Council of the League held in Paris at the end of January.

2. At this meeting Dr. Zimmermann, the controller-general of the League, presented his first report on his work at Vienna. He was, on the whole, satisfied with results and optimistic as to the future, but he was dissatisfied with the Austrian authorities in not having complied with his wishes as regards two measures which he believed essential: First, that the reforms in the Austrian Administration and the reduction of officials should be placed under one single authority; and, secondly, that the number of Ministries should be immediately reduced by abolition and amalgamation. He also emphasised that large reductions of expenditure were urgently required in the railways and the Volkswehr, and that those two, politically very delicate, but at the same time all-important, questions had not yet been taken in hand. Dr. Zimmermann had found co-operation easy with the Austrian Chancellor and his colleagues, but he made it clear that he desired to see more energy and drive. He evidently considered that the attitude of the Government—characteristically Austrian—of expecting things to be done for them was a serious danger to the success of the Austrian scheme. Other obstacles were the influence of the Social Democratic Party spreading into every branch of the public administration and the obstruction of the Extraordinary Cabinet Council at a time when rapidity was essential.

3. The policy of the council in the face of the situation represented by Dr. Zimmermann seems to have been to create confidence generally by giving wide publicity to the results already achieved, and privately to give unstinted support to Dr. Zimmermann's demand for greater energy, impressing upon the various Austrian Ministers present at Paris that it was for them to bring to a successful issue by their own efforts a scheme devised for the good of Austria.

4. The effect of the council meeting was beneficial. In addition to the publicity given to the improvement in the general situation in Austria and the support given to Dr. Zimmermann, it showed that the latter was a man of energy, efficiency and tact, able to co-operate on very good terms with the Austrian Ministers, and anxious to make a success of the League scheme. Shortly after the council meeting Dr. Zimmermann resigned his post of Mayor of Rotterdam and converted his provisional and temporary occupation of the controllership into a definite acceptance of the position.

5. But the most tangible and the most important work of the council at this meeting was their approval of the proposals submitted by the Committee of Guarantor States that the Government guarantees given at Geneva and subsequently should, in the first instance, be used to float a short-term (twelve months' bills) loan equivalent to 3,500,000*l*. These proposals were the work of M. Niemeyer. The most effective ground for attack found by the Austrian Chancellor's political opponents had hitherto been that, in spite of having sold his country's independence to foreigners, Dr. Seipel had failed to extract any money from them in return. The new proposals, courageously supported by the Governor of the Bank of England and pressed by him on the other European central banks, resulted in the successful floating of this short-term loan before the end of February. Great Britain made itself responsible for the issue of 1,800,000*l*., or more than half the total loan of 3,500,000*l*.; Holland, 6,000,000 guilders; France, 60,000,000 fr.; Belgium, 8,500,000 fr.; Sweden, 1,800,000 kronor; Switzerland, 5,000,000 Swiss francs. Interest and principal of each issue were guaranteed on the currency of the country in which it was issued by the various Governments as follows:—

	Per cent.
Great Britain	24½
France	24½
Italy	24½
Czechoslovakia	24½
Belgium	2

[273 e—1]

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and these Governments deposited their own bills as collateral accordingly with the Bank of Switzerland.

6. The ominous feature revealed by the loan negotiations was that the Austrian Government had failed to produce any financier able to conduct international financial enterprises on the scale required. The work in this case was done almost entirely by British official and semi-official experts. Obviously these are services on which the Austrian Government cannot permanently rely.

7. The proceeds of the loan, as will be the case with all loans floated under the Geneva protocols, can only be disposed of with the consent of the controller-general appointed by the League of Nations. In connection with the loan, the Austrian Government issued a statement explaining the financial position generally and the reforms already achieved. Emphasis was laid on the facts that by the end of February 30,000 officials had already been dismissed and that another 70,000 were due to go before the end of June. Money to the amount of 90,000,000 kronen had been raised in Austria itself; the krone had been stable since September 1922, and no paper money had been issued since the 18th November.

8. It is estimated that this short-term loan will finance Austria until the end of May. The all-important question now being taken in hand is that of raising the much larger long-term loan of about 27,000,000*l.* in either one or two *tranches*. At the request of the Austrian Government and of the League Controller at Vienna, the Reparation Commission have released for the purpose of this loan for a period of twenty years the liens on revenues from the customs and tobacco monopolies, the salt mines, forests and State domains. Furthermore, the Austrian Government are sending (on semi-official suggestion from us) a financial mission round various countries in Europe and the United States of America, whose purpose it is to prepare the ground for the long-term loan and concrete proposals to be submitted to the Committee of Guarantor States. The mission consists of Baron Frankenstein, Austrian Minister in London, M. Pierre Bark, a director of the Anglo-Austrian Bank and formerly Russian Finance Minister, and Mr. Nixon, lately an official of the League of Nations. His Majesty's Government have informed His Majesty's representatives in all the countries which the mission proposes to visit that it has their cordial sympathy.

9. Hitherto, His Majesty's Government have incontestably and obviously taken the leading part in conducting Austria's financial negotiations. British interest in the success of the League of Nations scheme is at least two-fold. In the first place it is, as far as man can judge, the only and last hope of maintaining the Austria created by the Peace Conference and of preventing her becoming a battlefield between jealous neighbours, with the consequences, politically and economically disastrous, which this would involve. Secondly, large sums of English money guaranteed by His Majesty's Government are now invested in Austria, and it would be seriously detrimental to existing British interests if she were allowed to become insolvent.

10. The Austrian budget which has recently been presented testifies to the beneficial efforts of the League scheme. As revised in the light of the scheme, the estimated deficit is reduced from 5·2 billions to 2·3 billions, an improvement of nearly 3 billions, or 56 per cent. The estimated income from taxation has been doubled as compared with the draft prepared before the League of Nations scheme took shape.

11. A word may be said as to Austria's economic relations with foreign countries. Shortly before the Paris meeting of the council, the Austrian Government issued invitations to various countries to conclude commercial treaties; this was partly window-dressing for the edification of the League, whose economic committee has made recommendations on these lines, and partly inspired by a genuine desire to cut through the import and export restrictions which since the war have grown up thick among the succession States and are gradually choking their economic life. The Paris meeting considered the question, but was able to accomplish little. As far as His Majesty's Government are concerned they have told the Austrian Government that they are in favour of a long-term commercial treaty between the two countries, as likely to benefit both, and they have submitted a draft treaty, which is presumably now under consideration at Vienna.

12. The two specific points on the agenda of the forthcoming meeting of the council are (*a*) the successful issue of the short-term loan, and (*b*) Dr. Zimmermann's further reports. There is good reason to suppose that the latter will again appeal for more relentless energy on the part of the Austrian Government, who are gingerly

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beginning to take up the questions of reducing the number of Ministries and the personnel of the State railways. The latter actually account for 1·9 billions out of the estimated budget deficit of 2·3 billions referred to in an earlier paragraph.

Central European Department,
Foreign Office.

Note added by Treasury.

I would only add to the Foreign Office note the following :—

1. Negotiations for the *short*-term loan of 3½ millions are now completely over, and the loan was issued on the 10th March. The council have nothing to do but to take cognisance of the accomplished fact.

2. Negotiations for the *long*-term loan are under weigh, and the council probably need not be bothered with them. The Committee of Control will probably meet before the 16th, and if anything emerges for the council it will come up on a report from the committee.

The only possibility, I think, is the question of funding in the long loan the various Government advances (about 130,000,000 gold crowns) to Austria. This may give rise to difficulties with the Italians and French, and need the influence of the council ; but it is too early to say yet.

3. The important point for the council is to back Dr. Zimmermann most strongly and impress on Dr. Seipel that he will not get his money if he does not pursue reforms with energy and decision. I would not myself touch the Extraordinary Cabinet Council—in firm hands a harmless debating society—though the Italians may press for this. A change would create quite disproportionate political *fracas* in Austria.

But the council, if Dr. Zimmermann asks it, should most strongly press—

(1.) The immediate appointment of an outside expert to overhaul Austrian railways. [These are run at an enormous loss, but the Austrians think they know all about railways, and refuse advice, partly from *amour-propre* and partly because of the Socialist railway employees.]

(2.) The immediate dealing with the Volkswehr problem. They ought at least to cease all recruiting for this ridiculous body (about 25,000 men).

April 5, 1923.

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C 41735

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CENTRAL EUROPE. [June 4.]

CONFIDENTIAL. SECTION 1.

[C 9693/16/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(Received June 4.)

(No. 118.)

My Lord, *Vienna, May* 31, 1923.

YESTERDAY I paid a visit to the Chancellor, whom I have not seen since about three weeks, and I found him in a very confident frame of mind, being particularly pleased with the news of Messrs. Morgan's co-operation in the loan. He said the sign of America taking some material interest in the regeneration of Austria, and the fact that there was a good prospect now of a portion of the loan being placed there, had produced the best possible feeling in official circles here. He understood that the difficulties raised by Italy a short time ago in connection with the loan had been disposed of, and, at any rate, that there was no obstacle now in the way of an immediate beginning with the issue. Speaking of the general situation here, he expressed himself as on the whole very satisfied, his only anxiety being the high cost of living, which necessarily produced further demands from the State officials and from industrial employees. The " index figure " was still very high, and it was unfortunate at a moment when reforms were being pushed through, officials being got rid of, and taxation increased, that prices of all the necessaries of life showed scarcely any sign of falling. I asked Dr. Seipel whether he thought of abolishing the rather pernicious system of index payments, and he replied that he had for a long time had in view the abolition of the " index " rule, for he quite appreciated that this system was a constant obstacle in the way of budget reform. As soon as the loan was actually issued, and some of the proceeds had been received, it might be possible to do away with the " index," although this would undoubtedly be badly received by some classes of the population, and something would have to be done to enable officials and workers to meet the high prices: there was, however, a distinct hope that some of these prices would shortly show a slight decline. I think the maintenance of the " index " system tends to keep prices up.

The Chancellor said that, of course, the main problem now was that of reducing State expenditure on railways and improving their administration. The Bill now before Parliament, to which I referred in my despatch No. 104 of the 18th instant, would be submitted to Sir William Acworth for his observations. The latter has commenced his study of the whole question in order that he may make a report to the Commissioner-General.

Dr. Zimmermann having been urgently requested to go to London in order to confer with Mr. Lamont and Mr. Norman and other authorities, left Vienna yesterday, but does not intend to be absent more than a few days, as he feels that his presence here is very necessary.

With reference to your Lordship's despatches Nos. 190 and 197, I do not think that the Italian suggestion with regard to the tobacco monopoly has ever been considered here to have been a proposal for control of that administration, but only for the appointment of an Italian expert on the same lines as the appointment of Sir William Acworth to advise the Commissioner-General on the railways and possibly of a French expert to advise on the water-power question. In none of these cases have either the Austrian Government or Dr. Zimmermann, so far as I am aware, contemplated any form of control. The management of the tobacco monopoly is believed to be extravagant and needs to be looked into, and Dr. Zimmerman is fully aware of this.

To-day, exactly one year has elapsed since Dr. Seipel's Government came into power. When one considers the desperate situation in which this country found itself last summer, it cannot be denied that a great and unexpected improvement has been effected. Dr. Zimmermann tells me that as soon as some proceeds of the loan have actually come in, his hands will be greatly strengthened, and he intends to insist upon a quicker *tempo* in the execution of the reforms. The Chancellor's position and prestige in Austria are greatly enhanced. The German nationals seem to be co-operating fairly well with the Christian Socialists, and little is now heard of union with Germany. In course of time, should Austria's recovery really seem

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practicable, I fancy still less may be heard of the idea of union, and it is even possible that a more patriotic spirit and feeling for Austria as a nation may evolve.

Strangely enough the Social Democrats, in spite of their opposition to the one and only chance of salvation which now is taking shape, do not seem to have lost ground in the country, and the Government party does not expect to gain more than one or two seats at the elections. The Social Democrats' organisation and control of the trade unions and working-classes is very efficient, and they daily inculcate and foster the fear that the present Government will prove more and more "reactionary," and that if the state of Austria is improved it will be at the expense of the rights of the working-man.

I have, &c.
A. AKERS-DOUGLAS.

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C 41737

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CENTRAL EUROPE. [June 18.]

CONFIDENTIAL. SECTION 4.

[C 10583/16/3] No. 1.

Mr. Akers-Douglas to the Marquess Curzon of Kedleston.—(*Received June* 18.)

(No. 126.)

My Lord, *Vienna, June* 15, 1923.

THE success in the floating of the Austrian loan in London and other capitals has surpassed all expectations, and has naturally caused the greatest satisfaction here, all the more as Germany, whom every Austrian is brought up to admire if not to love, is at this moment passing through a financial crisis worse than any which has afflicted this country. When one remembers the chaotic state of affairs here a year ago, with the exchange crumbling and the imminence of a crash, Dr. Seipel and his Government have every reason to congratulate themselves on their success, and the Social Democrats who prophesied and hoped for the failure of the League of Nations scheme are reduced to silence or feeble gibes.

Both the Chancellor and the Finance Minister have given warm expression, in their public speeches, to their especial gratitude for the untiring and invaluable efforts of Mr. Norman, Mr. Niemeyer, Sir A. Salter and Sir H. Strakosch on behalf of Austria.

After deducting the amounts due for repayment of advances previously made to Austria, it is calculated that 346,000,000 gold kronen will remain at the disposal of the Austrian Government under Dr. Zimmermann's control.

The discussions on the budget have continued during the week and negotiations with the State employees regarding their salaries. In spite of the stabilisation of the exchange during the last six months prices have risen 25 per cent., and until this upward tendency is stopped the Government hesitate to abolish completely the index system, and have decided for the moment merely to suspend it for six months, whilst making a slight addition to some of the special allowances to State officials and employees in order to effect a compromise.

I have, &c.

A. AKERS-DOUGLAS.

[321 s—4]

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C 41738

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CENTRAL EUROPE. [June 22.]

CONFIDENTIAL. SECTION 2.

[C 11082/16/3] No. 1.

Memorandum respecting the League of Nations Scheme for the Reconstruction of Austria.

SINCE the last meeting of the council the outstanding event has been the successful flotation of the all-important long-term loan. The full amount of the loan has been covered, but the French "tranche," for reasons not known to His Majesty's Government, has not yet been issued. American banks have subscribed a considerable amount, about 5,000,000*l.*, but the United States Government has in no way participated. From the proceeds of the loan the previous short-term loan is to be repaid, and the remainder should enable the Austrian Government to balance their budget by the end of 1924, *i.e.*, the period of two years contemplated in the reconstruction scheme adopted by the Council of the League in November 1922. The successful issue of the loan has been mainly due to the efforts of Mr. Norman of the Bank of England and Mr. Niemeyer of the Treasury; these services have been gratefully and publicly acknowledged by the Austrian Government.

2. The course of events in Austria, influenced by the reform and economies of the Government, has on the whole been satisfactory. The krone has been more stable in relation to the dollar than any other European currency; deposits have continued to accumulate in the savings banks; there has been a striking increase in the demand for Austrian stocks and shares, and unemployment is steadily decreasing. British commercial interests will presumably benefit from the fact that imports into Austria have begun to increase. Against the above must be set a further rise in the cost of living; one of the major problems before the Government is that of abolishing the cost of living index figure, which is psychologically an obstacle to any decrease.

3. The wave of Fascismo which has affected many parts of Europe has not left Austria wholly untouched There have recently been one or two fairly serious conflicts between the Nationalist "Hakenkreuzler" and the Social Democrats. At the recent International Socialist Congress at Hamburg Dr. Bauer, the Austrian Socialist leader, referred to the League of Nations as one of the strongholds of reaction. His suggestion was that Dr. Zimmermann was giving more than proper support to the Austrian Clerical Chancellor, Mgr. Seipel, and that recent social reforms were being swept away wholesale under the League scheme on the pretext of economy. The Foreign Office have no information showing that Dr. Bauer has countenanced any discrimination against the Social Democrats, but he has good ground for viewing with suspicion their obstructive tactics in the Extraordinary Advisory Council.

4. The Austrian Government have continued to carry out their administrative reforms; not wholly, however, to M. Zimmermann's satisfaction. The rate of reduction of officials has not been up to schedule, and no important economy has yet been effected in the railway administration, which is the real crux of the Austrian deficit. M. Zimmermann is likely to emphasise these two points at the forthcoming meeting of the council, and he may also dwell upon the need for Austria to break down the economic barriers which surround her by the conclusion of commercial treaties with her neighbours. His efforts in this direction have not so far been attended by much success. The Austrian Government have recently selected as technical advisers a railway expert from this country, Sir William Acworth, and an expert on the administration of the tobacco monopoly from Italy. There is reason to fear that sooner or later the Italian Government will endeavour to make their influence on the tobacco administration permanent; but this should be resisted, as it introduces an undesirable political element into the question.

5 There is no reason that the British representative should depart from the policy pursued by his predecessors at previous meetings of the council, viz., that of giving M. Zimmermann all support in stimulating the Austrian Ministers in their reforms, and of giving publicity to the not inconsiderable improvements effected since the previous council meeting.

Central European Department, June 22, 1923.

[321 y—2]

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C 41739 T-1000-74A
Automobile

PRIME MINISTER'S OFFICE

MEMORANDUM

Monday,
November 17,
1924

MR. KING:

Mr. A. F. Healey, M.P.,
will be a Laurier House at 2.30
this afternoon and will have with
him Mr. McGregor and Mr. Bartlett
of Windsor, also Mr. L. O. Clifford,
M.P., of Oshawa.

McG.

Called to ask that he may be out on automobiles
K.

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C 41740 I-1000 Vol 1, auto

PRIME MINISTER'S OFFICE

MEMORANDUM

Wednesday,
April 21,
1926

MR. KING:

The attached memorandum was handed to me this morning by Mr. E. G. Odette, to supplement or confirm particulars to which he referred in the course of his conversation with you last night.

LCM.

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C 41741

STATEMENT SETTING FORTH HOW THE RETAIL PRICE OF A NASH SPECIAL SIX FOUR DOOR SEDAN HAS HERETOFORE BEEN ARRIVED AT IN CANADA.

American List Price		$1315.00
Pluc 3% American Sales Tax		39.45
		1354.45
Duty 35%		474.05
		1828.50
Deduct 3% Sales Tax		39.45
		1789.05
5% Sales Tax		89.45
		1878.50
5% Excise Tax on $1200.00		60.00
		1938.50
10% Excise Tax on amount over $1200.		67.85
		2006.35
Freight and other charges made by Dealer		148.65
Price to purchaser in Ottawa		$2155.00

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C 41742 re Ropes

Founded 1844
THE CITIZEN PUBLISHING CO., Limited
PUBLISHERS
H. S. SOUTHAM
Vice-Pres. & Managing Director

The Citizen

Aims to be An Independent Clean Home Newspaper
MORNING - EVENING

OTTAWA,
Canada

Directors
WM. SOUTHAM, Pres.
W. M. SOUTHAM
F. N. SOUTHAM
R. SOUTHAM
W. J. SOUTHAM

Present Air Mail Service in Canada.

Winter service along north shore Gulf of St.Lawrence and to Anticosti.
Winter service from Moncton to Magdalen Islands and to Charlottetown.

During season of navigation on St.Lawrence--Rimouski to Montreal, Ottawa and Toronto--inward and outbound overseas mail.

Mining camp mail from stations on National Transcontinental Railway to Red Lake, Ont., Bissett, Man.,and neighborhood.

Victoria and Seattle, connecting with U.S. air mail service.

Contract let for Air Mail Service between Montreal, Albany and New York--daily service.

Feasible next steps (could be started this summer):

Daily Air Mail Service between Montreal, Ottawa, Toronto, Hamilton, London and Windsor.

Daily Air Mail Service between Toronto, Hamilton and Buffalo.

Connections with Detroit and Buffalo would give Canada the benefit of linking up with U.S.Air Mail at important points in the East. It would also give Post Office Department valuable experience for extension of Canadian Air Mail Service next year in Western Canada.

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CANADA

C 41743

Founded 1844
THE CITIZEN PUBLISHING CO., Limited
PUBLISHERS
H. S. SOUTHAM
Vice-Pres. & Managing Director

The Citizen

Aims to be An Independent Clean Home Newspaper
MORNING - EVENING

Directors
Wm. Southam, Pres.
W. M. Southam
F. N. Southam
R. Southam
W. J. Southam

OTTAWA,
Canada

Feasible first steps in Western Canada Air Mail Service.

Daily Air Mail Service between Winnipeg, Calgary and Edmonton.

Branch air lines from Regina to North Battleford and Prince Albert.

Experience would show how best to include Regina, Saskatoon, Moose Jaw, Lethbridge and other western points in the western service.

There is rivalry between Calgary and Edmonton for terminal position in the western air network. The Post Office can determine by experience how best to cover the territory.

When the air link between Prairie Provinces and British Columbia is established, the easiest route may be by Crow's Nest Pass. There is much preliminary work to be done, however, before the mountain route can be safely established. Emergency landing fields and aids to air navigation are needed.

Similarly, before the Eastern Canada service can be satisfactorily connected with Western Canada--Ottawa-Winnipeg airway--much preliminary work will have to be performed, such as the clearing of emergency landing fields and the building of air lighthouses for night flying.

A beginning in the West might well be made next spring by letting contracts to reputable western companies for the carrying of mail between Winnipeg, Calgary and Edmonton. This air mail service would save one day for ordinary letters.

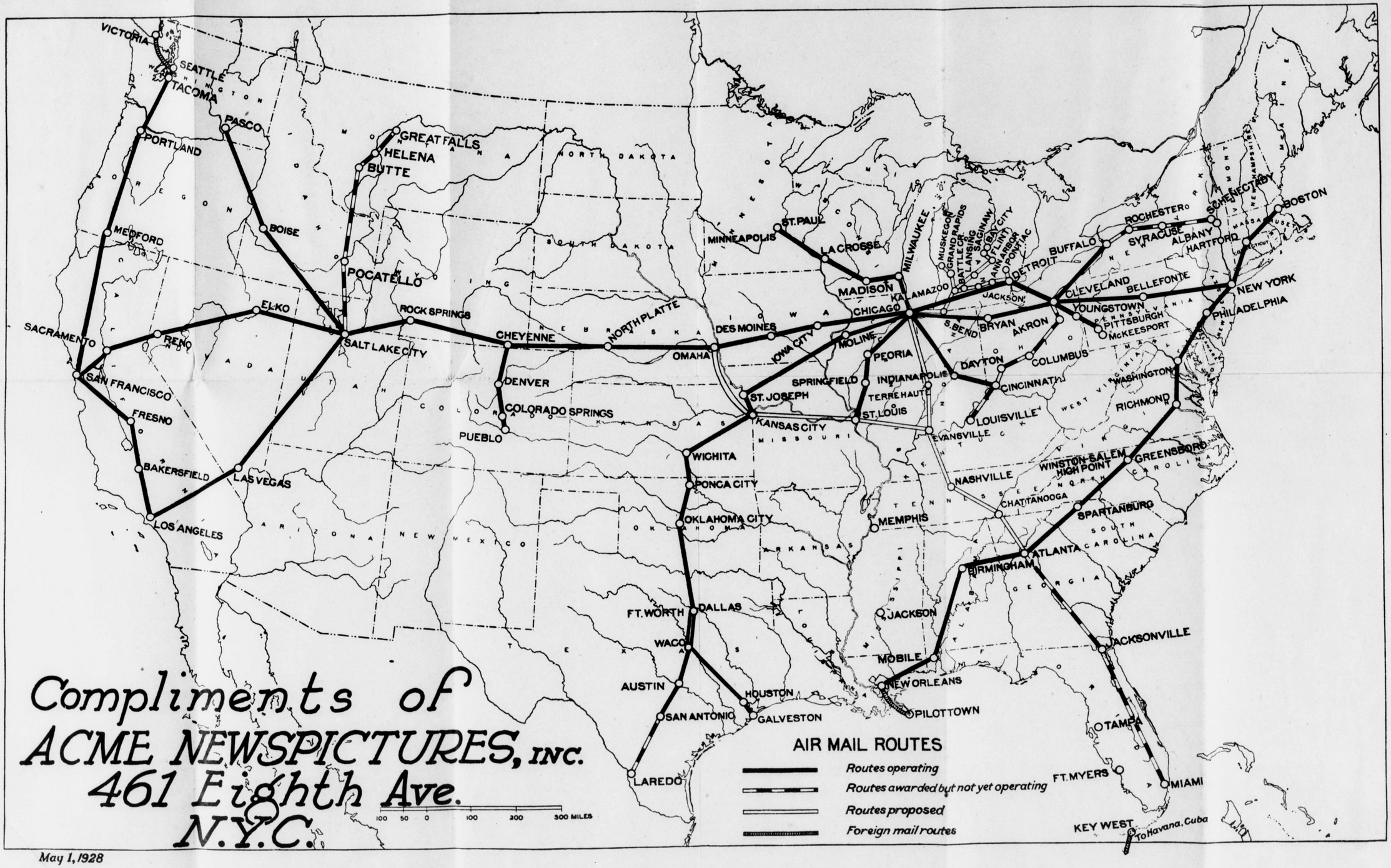
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C 41744

LATEST AIRWAYS MAP

APPROVED BY UNITED STATES POSTOFFICE DEPARTMENT



Compliments of
ACME NEWSPICTURES, INC.
461 Eighth Ave.
N.Y.C.

May 1, 1928

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C 41745

SIR ALAN COBHAM'S CONTRIBUTION TO CIVIL AVIATION.

When the Great War ended, the civilized world had come to think of aviation only in terms of war. During the war period, great strides were made in the improvement of the aeroplane, but only as a fighting machine.

It has taken longer than the period of the war, since 1918, to bring the public to think of aviation first of all as a new instrument for peace and commercial progress throughout the world. But many signs point to the coming of that desirable change in the public's attitude towards the flying machine: to see it as a great auxiliary to the ocean steamship and the railway train for long journeys, and as a speedier method of carrying mail and express packages.

Perhaps it may be modestly claimed for Canada that, since the war, the use of aircraft for forestry patrol service, for the prevention of forest fires, for aerial photography, for surveying, prospecting, fisheries protection and other civil purposes, has helped substantially to demonstrate the value of aviation for commerce and peace.

After years of research, experiment and adventure, a definite stage in the development of flying has been reached, from which in the near future, it is safe to predict, even greater progress will be made.

... .

During the seven or eight years of readjustment in aviation since the end of the war, in years of endeavor to direct the development of flying along constructive, rather than destructive, paths, no man has contributed more than this evening's distinguished guest of the Local Council of Women of this city, who has been induced to visit Ottawa to deliver his lecture--or air travelogue, as it has been termed--on some of the most thrilling air trips over Africa, Asia and Australia, about which the world has read from time to time, particularly in the last three or four years.

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Our gallant lecturer served brilliantly in the Royal Air Force during the war, on active service from September 1914 until demobilization in 1919. But it is in the broader realm of adventure in civil aviation, or perhaps it might better be termed trail-blazing and exploring in civil aviation, that he has won merited honor and world-wide fame.

The exploits of England's valiant mariners and merchant adventurers of the days of Queen Elizabeth, of Sir Francis Drake, Sir Richard Grenville, Sir Walter Raleigh, are written large in the pages of English history--as are the names of John and Sebastian Cabot, Jacques Cartier, Samuel de Champlain, Henry Hudson, Sir Alexander Mackenzie and Captain George Vancouver in the early records of Canadian land and sea voyages.

When one hears of Sir Alan Cobham's wonderful journeys made for the first time by aircraft--in 1924, from England to India and back in the same machine; in 1925, from England to South Africa and back, also in the same machine; and last year, from England to Australia and back, a trip of 28,000 miles--not as the crow flies, but as the British air pilot flies--one cannot help feeling that in history Sir Alan Cobham's name will be bracketed with the Elizabethan mariners and the pathfinders of the British Empire.

....

Just this week, the British air minister, Sir Samuel Hoare, has officially opened a new commercial airway by flying from England to India, accompanied by his wife, Lady Maud Hoare. A regular service is ~~in~~ being established on that new Imperial airway. It is to be followed by an air line to South Africa and later to Singapore and Australia. It is to our guest this evening that Great Britain, ~~and~~ the British Empire, is indebted for the pioneer flying work, the blazing of the trail in the air, which has demonstrated that commercial flying over long distances is practical and that air routes to link up the members of the ~~British~~ league of British nations are practicable.

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At one of the meetings of the Imperial Conference in London last October, Sir Samuel Hoare spoke hopefully of the contribution that civil aviation is making towards giving a physical unity to the British Empire which it has never possessed before. In an eloquent concluding statement, the British air minister said:

(see attached sheet from Imperial Conference report)

It is particularly because of his great contribution to civil aviation, the great service of inestimable value to the league of British nations and, indeed, to the human race, that Sir Alan Cobham has been honored by the King with the title of Knight Commander of the British Empire--and we welcome him to Canada and to Ottawa this evening as the greatest of civil aviators, in whom liveth anew the spirit of the gentlemen adventurers and mariners of England.

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~~it has never possessed before~~. Hitherto the invention of flying has brought more harm than good to the Empire and to the world. The aeroplane, the symbol of the terrible methods of modern warfare, has made these shores for the first time for centuries vulnerable to foreign attack. It has added to the budget of National expenditure, it has complicated almost every problem of defence. Let us try to redress this balance by insisting that the aeroplane shall be used not only for the purposes of destruction but also for the objects of peace and goodwill. Hitherto the air has been the scene of glorious though terrible conflicts; it has been the background from which death and destruction have been hurled upon camps and cities. The purest of the elements was not intended for the destruction of civilisation by high explosive or poison gas. The invention of the flying machine, which the pioneers of successive centuries strove to achieve, was meant for something better than an instrument of concentrated frightfulness. With the horror of the last war in our memories and the limitless terrors of any future war in our minds, let us make the air a highway of peace, and the aeroplane an instrument, not for severing nations and destroying civilised life, but for making closer and more constant the unity of Imperial thought, Imperial intercourse and Imperial ideals.

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C 41749

SIR ALAN COBHAM, WORLD-FAMOUS AVIATOR

LECTURE HERE

Sir Alan Cobham, the world's greatest aviator, who was knighted by King George ~~of England~~ Oct. 5 last following his 28000-mile flight from London to Melbourne, Australia, and return, will deliver at the Glebe Collegiate Hall next ~~on~~ Friday Jan 7th an illustrated lecture on his fascinating adventures in the sky. The event will be of unusual interest as the story Sir Alan has to tell contains much that is new in the conquest of the air.

Since he was mustered out of the British Air Service at the close of the War, Sir Alan has flown over 500,000 miles, and in the words of Sir Sefton Brancker of the British Air Ministry has done more to promote civil aviation than anyone ever to take off in an airplane. He has blazed a trail through cloudland from London to India & Australia and back, a distance of ~~14,000~~ 28,800 miles; from England to the southern tip of Africa and return, ~~an even greater distance~~, and to every European capital. He is a practical flyer who does not engage in aerial acrobatics, a fact attested to by the circumstance that he has always returned in the plane in which he started.

Sir Alan's adventures have been far more startling than the most vivid imaginings of Jules Verne and he has the faculty of telling of them most charmingly. His flight over ancient Egypt and the African jungle during his trip to Capetown; his narrow escape in getting a closeup of Victoria Falls, his landings among savages and his daily life far above the earth's surface are incidents of absorbing interest. Not less entrancing are his stories of his epoch-making Australian dash, made in 13 days and 8 hours of actual flying time, although three months elapsed between his take-off and the day he dropped down on the

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Thames before both Houses of Parliament to receive one of the greatest ovations the English people have ever accorded one of their illustrious sons.

It was on this adventure that Sir Alan's mechanician was mortally wounded by a shot from the rifle of a frightened desert nomad, hysterically alarmed by the great, roaring unknown bird of the skies. It was also during this flight that the plane was lost to civilization for four days during the worst monsoon ever to whip the sands of the Rangoon district. And it was on this same journey that in passing over the island of Komodo in the Malay Archipelago Sir Alan discovered twelve-foot "dragons" of a terrifying likeness to those depicted in the fairy tales and to be seen to this day emblazoned on the Chinese flag. They were later taken by an expedition sent out by the American Museum of Natural History and are now in the Bronx Zoo, New York.

Sir Alan will tell of these things and many more. He believes that the future of every nation lies in the air, so far as defense, offense commerce and pleasure are concerned, and his flights have been made for the dual purpose of showing that travel through the ether is safe and practical and to blaze air lines between England and ~~her colonies~~ the Dominions. It was because of the great service he has rendered to civilization that King George conferred knighthood upon him.

Sir Alan arrived in America Nov. 23 on the Homeric and received a truly remarkable reception. Since his arrival he has been the guest of honor at many banquets and luncheons. A dinner at the Waldorf-Astoria was given him by the Aeronautical Chamber of Commerce at which Herbert Hoover, Secretary of Commerce, was the chief speaker. The Government was further represented by Assistant Secretaries of War, Navy and Commerce. Among the luncheons was that of the Dutch Treat Club and the Advertising Club of New York.

Sir Alan, who is accompanied by Lady Cobham, says he will continue flying until too old to crawl into the cockpit of a plane.

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SIR C 41751 James B. Pond

ALAN J. COBHAM

Britain's Greatest Aviator

Telling the Story of the
FIRST FLIGHT
from the



Unique Illustrations
Showing All Africa
from the Air

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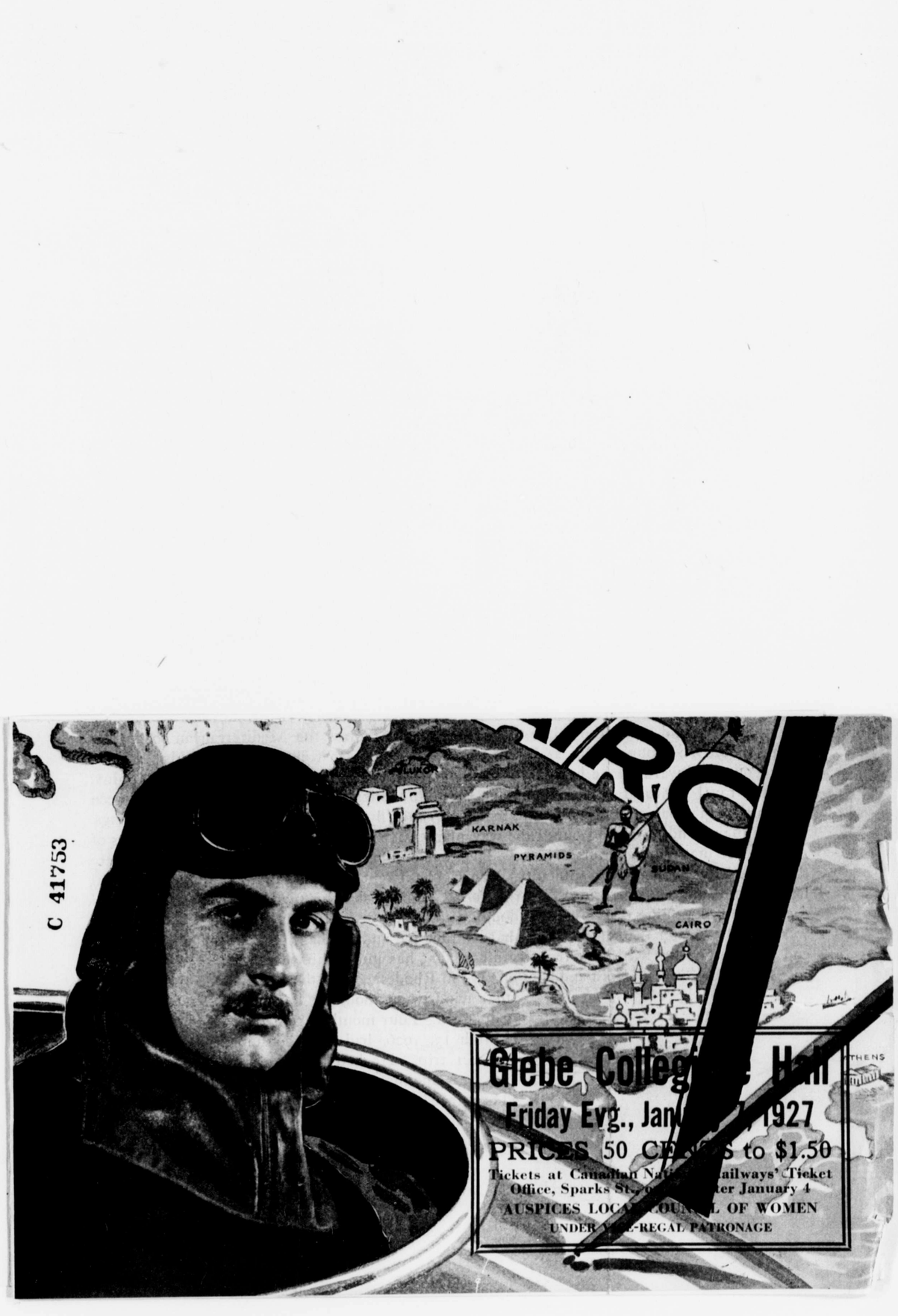
Britain's Greatest Aviator

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Alan Cobham, who is a fine lecturer, makes his first visit to America to lecture primarily on his epoch-making flight from London to Capetown and return. This was the flight which first put his name on the front page of American newspapers. He may also lecture on his recently completed flight to Australia, which has brought him even wider attention.

The African flight must surely thrill. Imagine seeing all of Africa from the air! Just the

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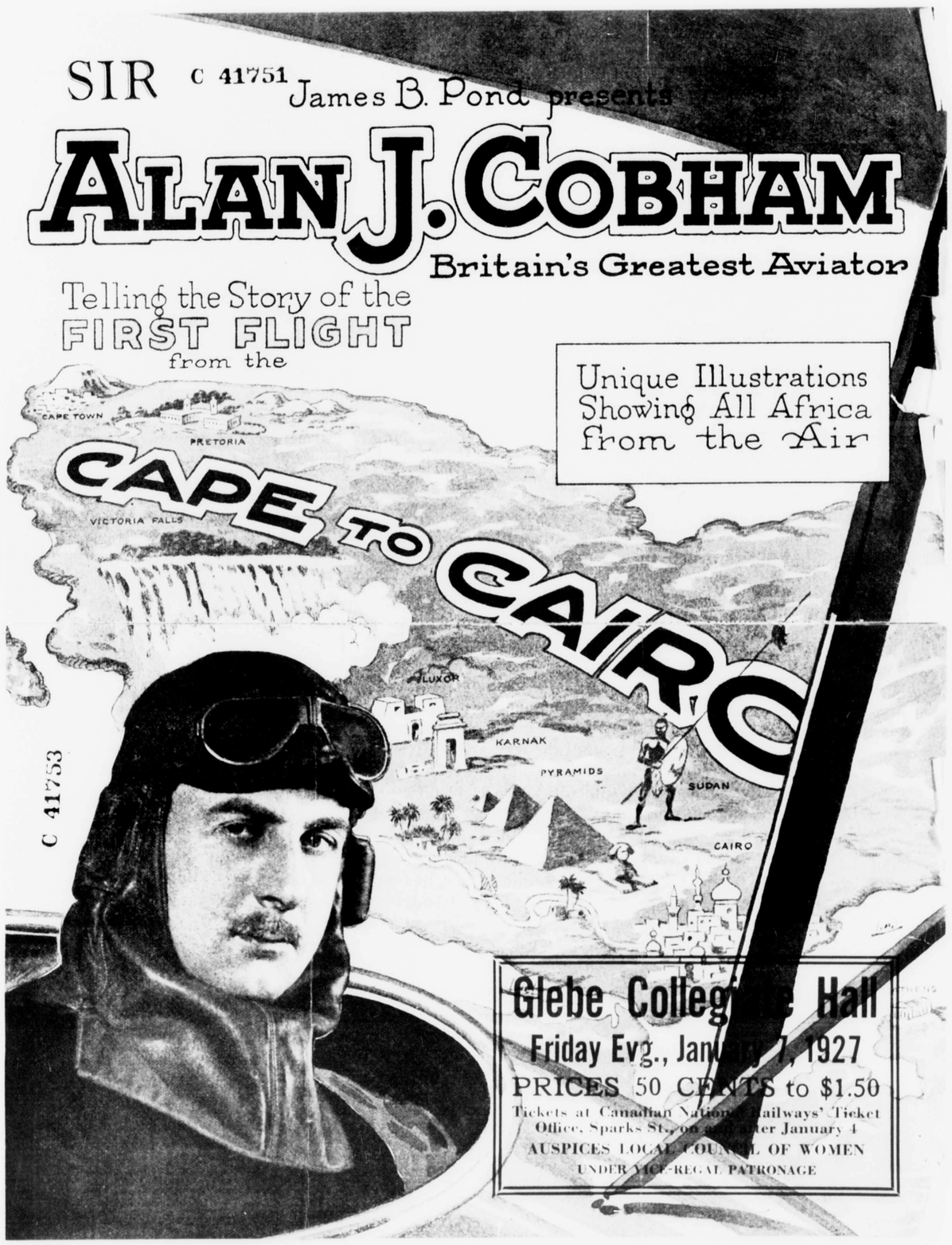
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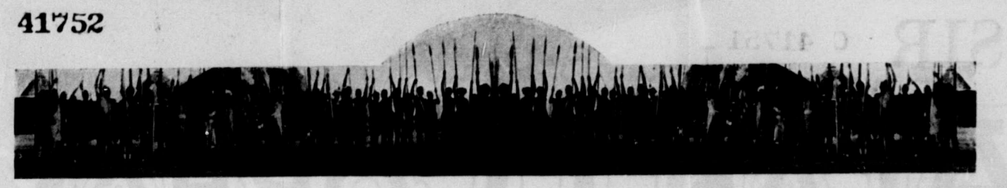
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The African flight must surely thrill. Imagine seeing all of Africa from the air! Just the trip from England, over the Alps, along the Riviera, across the Mediterranean to ancient Egypt should be enough. But at Egypt, the plane begins to conquer new worlds. Below, spread out southward to the horizon, is mother Nile. Over the Pyramids, over the Sphinx, over the royal tombs at Luxor, the plane flies into the land of savages. Never had they seen the white man's magic. It meant little that they could fly. White men did such mad things. Yet the plane landing in odd out-of-the-way places gave these argonauts of the air glimpses of African life that few explorers ever see. Then out of the hot sultry equatorial regions, where the plane lifted its load with difficulty, Alan Cobham kept south, flying over the Zambesi until he came to those awe-inspiring Victoria Falls. Here he flew his plane right over the crest of the cataract, skimming the very edge, dodging through the eternal mists until his carburetor was so full of water the engines could hardly function and Cobham thought that the trip must end in disaster. But with that resourcefulness that has pulled him out of many a danger, he rose from that gorge of death and kept on. On to Rhodesia, over the tomb of Cecil Rhodes on that wind-swept mountain top, on to Pretoria, on to Capetown. Four months, from November 16, 1925, to March 13, 1926, had been consumed in making that pioneer trip. He had to blaze a trail that other air voyagers, the merchants of a coming era, might follow. Then true to his own standards, he turned the same plane about and flew home in less than a month.



Over the Pyramids

Two men accompanied him on this great journey in a De Haviland plane: A. B. Elliott, mechanician, and R. W. G. Emmott, motion picture photographer.

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Thanks to both of these men the most marvelous pictures, still and motion, were made. It is these that Alan Cobham will use to illustrate his lectures. They are not stories of quick dashes over oceans or desert spaces, but human interest lectures of the new type—air travelogues. The old days are gone. The new travel lecturer journeys by air and photographs from the air. In England, where Mr. Cobham lectures extensively, he is regarded as one of the most entertaining men on the platform.



Flying Atop Pretoria

Followers of world news know more of the Australian flight. This was the flight for which Cobham was knighted. It started tragically, for Mr. Elliott was shot down and killed during the flight over the Syrian desert by desert tribesmen. His loss delayed the flight, but at last with a new mechanician, Alan Cobham kept on to Melbourne, where he arrived August 15. His engine had not been repaired once during the entire journey, itself an item of note. There were many exciting adventures, however, among them the finding of a real dragon on the island of Kamodo. The American press made much of the dragon story.

It is simply impossible to give any idea of Alan Cobham's achievements since the war. It is one long list of record-breaking flights across Europe, across Northern Africa, in the fields of competition. He has won trophy after trophy; he has added the medals of peace to those of war. He was in the War from September, 1914, to January, 1919. To him, air jaunts from London to Constantinople were routine trips. To go to North Africa in a day was but another job. He was the first man to fly the whole length of the North Coast of Africa from Egypt to Morocco (1923). He was the first man to fly across the English Channel in a light aeroplane, using a De Haviland plane with a 6 H.P. Motor Cycle Engine in it. In 1924, when Sir Sefton Brancker, Director of Civil Aviation in Great Britain, wanted to go to Rangoon, Burma, Alan Cobham took him there in his aeroplane, making the 17,000-mile journey without a hitch with the same engine and with the same machine.

Such is the unique record of Alan Cobham. His are not stunt flights. They are the pioneer work of peace. As Drake, Magellan, Frobisher, Vancouver, sailed the seas to find new ocean routes, so does Alan Cobham sail the skies, blazing air routes for the British Empire, blazing air routes for any of mankind who wish to follow him.

Fine speaker, peerless pilot, daring explorer, Alan Cobham deserves a warm welcome in America. He will not disappoint any audience. He is as resourceful behind the lecturn as in the pilot's seat.

Alan Cobham is under the Exclusive Management of
JAMES B. POND, 25 West 43rd Street, NEW YORK, N. Y.



Looking down on the Alps



Above Karnak

C 41755

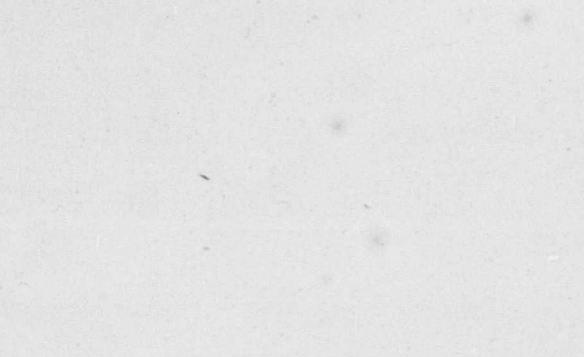
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Victoria Falls





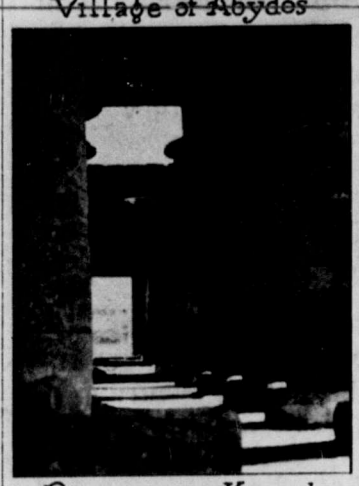
Pylons, Karnak

Village of Abydos

Cape Town



ROUTE OF THE FLIGHT
November 16th, 1925——March 15th, 1926.



Ramaseum, Karnak

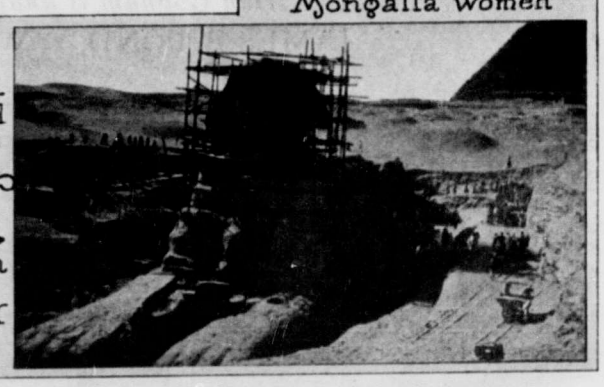


Mon$alla Women



Shulluks charging- at Malakal *Sudan*

Restoration of the Sphinx *Gizeh*



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Victoria Falls



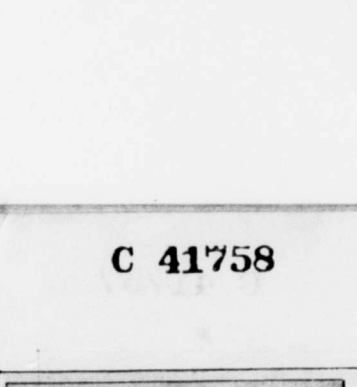
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Village of Abydos

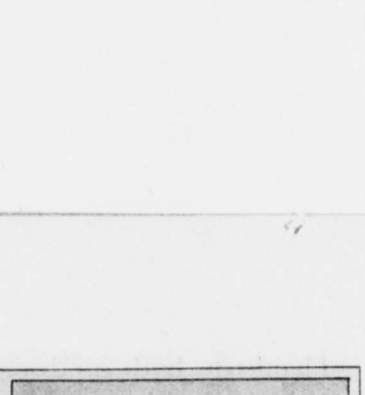


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Mongalla Women

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FOR RECORD.

STATEMENT BY THE SECRETARY OF STATE FOR AIR ON IMPERIAL AIR COMMUNICATIONS AT MEETING OF THE IMPERIAL CONFERENCE HELD ON THURSDAY, OCTOBER 28TH, 1926, AT 11.0 A.M.

SIR SAMUEL HOARE

The subject for discussion is the question of Imperial air communications. I propose with the approval of the Conference to deal with it from the civil as distinct from the military point of view. I would, however, desire to point out at the very beginning of my remarks that the civil and military aspects are inextricably connected and that the development of Imperial air lines, whether by aeroplane or airship, is a vital factor in the problem of Empire defence. I confine myself this morning to the civil side of the question for the sole reason that the Chief of the Air Staff will develop the military side of it at the meeting that is to be held upon air defence at the Air Ministry on Tuesday next.

I start by stating two broad propositions that I believe will be accepted without argument or even discussion. Firstly, the Empire is in urgent need of better communications. Secondly, if the communications are to be improved, a sustained and united effort will be required. At the very moment when better communications are urgently needed, improvements in sea and land transport are being made almost prohibitive by their increased cost. The Prime Ministers of Australia and New Zealand have still to spend over 60 days each upon the journey that they make to and from the Imperial Conference, and unless a sustained effort is now made to introduce new methods and to apply the results of invention and discovery, they are likely to continue to take over 60 days for many Conferences to come. It is because the history of the development of transport is one long record of doubts and delays and difficulties that I venture to emphasise at the opening of my remarks the importance of a resolute insistence upon the need for new and improved methods. Let us take warning from the events of a little more than a century ago when upon the eve of the great

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railway development a well known author in the Edinburgh Review wrote - "What can be more palpably absurd and ridiculous than the prospect held out of locomotives travelling twice as fast as stage coaches", and demanded that "Parliament shall in all railways where sanctioned limit the speed to 8 or 9 miles and hour", and when the use of steamships was officially discouraged "as calculated to strike a fatal blow at the naval supremacy of the Empire".

I am here to-day to press upon your attention a new method of transport that, although it has only been organised for 7 years, is one of the most effective instruments for stopping the waste of time that is now weakening the vitality and retarding the development of Empire intercourse.

We have now reached a turning point, a most important turning point, in the development of airways and air communications. If we look back over the 23 years of flight, indeed if we only look back as far as the last Imperial Conference in 1923, we must be struck by the speed and the extent of the progress that has already been made. You will see in the comprehensive memorandum entitled "The approach towards a system of Imperial Air Communications" that I have circulated, a picture of civil air transport as it is to-day. You will note that wider and wider use is being made of it. Since the last conference the mileage covered by the regular air routes of the world has more than doubled. You will note the technical improvement that has been made with machines, engines, wireless and meteorology. Machines have become more powerful, more dependable and, as I think the members of the Conference who made flights at Croydon last Saturday will admit, more comfortable.

As to safety, what better record could there be than the 5 million miles flown by British services for 4 fatal accidents, and the million miles flown in Australia for a single accident?

Let me remind you in comparison with this record that the press in 1845 commented with grim irony that "the largest item in railway returns bids fair to be the list of the killed", and even

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7 years later in 1852 declared that "railway accidents are the staple of our newspaper reading".

What better proof could there be of the regularity of the services than the fact that to-day freight insurance premiums per £100 are by air less than half the premiums charged for surface transport? What more conspicuous illustration could there be of the practicability of Empire air routes than the successive journeys of Sir Alan Cobham, and the series of long distance flights carried out by units of the British and Australian Air Forces?

These results seem to me to show that after years of research and experiment and adventure we have reached a definite stage in the development of flying, from which we can in the near future make progress altogether out of proportion to anything that has been achieved during the last few years. There is to-day no technical or operational reason why by aeroplane or airship London should not be brought within a fortnight of the furthest cities and territories of the Empire. There is no technical reason why the journey to Canada should not be reduced to 2½ days, the journey to India 5 days, to Cape Town 6 days, to Australia 11 days, to New Zealand 13 days. These claims I can, of course, support by detailed and expert evidence at the Imperial Air Communications Sub-Committee meeting this afternoon. This morning I do nothing more than state them for the purpose of illustrating to the Conference the power of the new instrument that is now within our reach.

Having, then, stated these propositions, let me suggest to the Conference certain ways in which we can make fuller use of this new instrument in the near future. If I speak mainly of British policy and British services, it is not because I do not fully appreciate the remarkable progress that has been made with the air routes in Australia, or with air survey work in Canada. I deal chiefly with British routes and British policy because I am for the moment taking London as the terminus of the principal

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Empire air routes.

Hitherto, whilst certain European services have been safely and punctually operated for several years, there has been no civil air service plying between one part of the Empire and another. In the Middle East an air route between Egypt and Iraq has been regularly flown by military machines carrying mails and official passengers for 5 years. The route, 866 miles in length, has been methodically equipped with landing grounds and refuelling stations, and over it for 5 years have passed mails and official passengers in as many hours as it would have taken them days by pre-war transport. It was over this route that the Secretary of State for the Colonies and I made our journey to Iraq 18 months ago, and it was by means of air transport that we were able to visit in the space of the short Parliamentary Easter recess almost every important point from Cairo to the Anglo-Persian oil fields. You will see in my memorandum that we now propose to substitute in place of this military service a regular civil line for the carriage of freight and passengers, not only between Cairo and Baghdad but between Cairo and Karachi. My wife and I propose to make the opening journey on this route at the end of the year, and already time-tables have been issued and passages booked for the subsequent flights. The service will in itself be of great interest, for it will enable us to test the demand for the saving of 7 or 8 days in the journey between England and India. Since there is as yet no air route between England and Egypt, a passenger will go by land and sea to Cairo or Gaza, and there change into one of the new three engined aeroplanes. But the essential importance of the route greatly transcends the saving of 7 or 8 days that will be made in the journey between England and India. Its real significance lies in the fact that it is the first section of the great Empire air route to the Far East. It is for us to consider whether the other sections could not be completed and a through air route created of incalculable importance for both military and civil communications. I do not wish at this stage to overburden the conference with details.

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The Sub-Committee upon Imperial Air Communications will have an opportunity of fully investigating the possibility of the project that I am now discussing. May I, however, in passing, offer certain suggestions for carrying this proposal into effect that the representatives of the Dominions may desire to consider at their leisure.

Would it be possible for the Government of India to consider the question of extending the service across India from Karachi to Bombay and Calcutta? Would it be possible for the Government of Burma to consider the possibility of carrying it a stage further, to Rangoon? Might it not then be practicable to link with the civil line experimental flights of the Air Force flying boats that it is intended to station in the Far East, and might they not again join up with occasional service flights of the Royal Australian Air Force from Australia? I do not expect answers to these questions at a moment's notice. I do, however, hope that we shall be able to consider them in some detail at the Sub-Committee. If in the not remote future links can be inserted in some such way as I have suggested, a long chain of great tensile power will have been forged across the Empire's framework.

So also with Africa. Just as there must be an Empire air route to the far East stretching to Australia and New Zealand, so there must be an Empire air route from London to the Cape with branches diverging to the West African Dependencies. Here again a beginning, I admit a small beginning, is being made during the next few months. An enterprising pioneer, with the help of the Governments of Kenya, Uganda and the Sudan, has organised an experimental service covering 1400 miles between Khartoum and Kisumu. As the route follows the course of the White Nile the machines will be hydroplanes. If this service is successful from 10 days to a fortnight will be saved in the journey between Khartoum and Uganda, and 8 days between Khartoum and East Africa. Why should not the Northern and Southern links be forged in this African chain,

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and a through aeroplane service run at least experimentally between Egypt and Cape Town? This would mean the addition of the Northern link between Egypt and Khartoum and the Southern link between Kisumu and Cape Town. I am prepared to say that we will attempt in the course of the training programme of the Royal Air Force to arrange for a certain number of flights, carrying mails and official passengers, to link up with the civil machines at Khartoum. Would it be possible for the South African Government to consider whether the South African Air Force could not make a certain number of flights linking up with the route in Uganda?

The first great African flight was brilliantly carried out by a famous S. African pilot, whom we welcome here this morning. Whilst it would be impertinent for me to press unduly the S. African Government, I hope that I may be allowed to say how greatly we should value the co-operation of the S. African Air Force in the pioneer work of organising the route that has already been rendered illustrious by the flights of Sir Pierre Van Ryneveld, Sir Alan Cobham and Wing Commander Pulford.

In the meanwhile we in Great Britain should be interesting ourselves in forging the link between London and Egypt. Already we have made considerable progress with the development of flying boats that will be suitable for the passage of the Mediterranean, and attention is being constantly given to the difficulties that have hitherto blocked the way to an England - Egypt service.

You will see from what I have just said that I am proposing for your consideration the creation of these two long distance air routes, the first to the Far East and Australia and the second to Cape Town, upon what I will call a mosaic plan. We are all too hard up for any one of us to undertake the heavy cost of an air route to Singapore or an air route to Cape Town. If, then, we are to form these routes, we must each of us insert

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our particular stone in the design. I have suggested a way in which we might each take our share and in which, what is no less important, military and civil aviation might co-operate at least for the pioneer work. If the Royal Air Force undertakes a certain number of service flights in conjunction with the civil lines, and the Governments of S. Africa and Australia allow their Air Forces to co-operate with us, not only shall we be obtaining valuable military training for our service units, but we shall also be making possible the experimental transport of mails and passengers over a large section of the British Empire. My proposal, as you see, involves no subsidy, it involves nothing more than co-operation between one Government and another and between military and service flying. If a certain number of pioneer flights can be successfully carried out in this way, I am certain that the formation of regular civil lines will follow as inevitably as the Cairo - Karachi service has followed the military mail across the desert.

There is another very important field where we need the co-operation of the Governments of the Dominions and the Dependencies in whatever part of the world they may be situated. If these routes are to be created and safely maintained, it is essential that landing grounds should be formed at the proper intervals and that these landing grounds should be kept in good order. I cannot too strongly emphasise this need for good landing grounds kept in proper condition. After each of his great flights Sir Alan Cobham has declared that good landing grounds are a first condition of success. Will the Governments of the Empire, whether of the Dominions or Dependencies, take their share in providing suitable landing grounds upon the great Empire routes and in keeping them in good order? I propose at the Sub-Committee to go further into this question and to provide the Members with a list of the principal landing grounds required upon the great Empire air routes, with a view to seeing whether each Government could not undertake the responsibility of

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keeping in order those within its territory.

I have now dealt in outline with the two main aeroplane routes, the route to the Far East and the route to Cape Town. Whilst I have purposely concentrated my attention on these two great trunk lines, I do not wish it to be thought that there are not wide opportunities for starting branch and internal lines. Australia has already pointed the way by her successful development of at least 3 long distance regular services. There are great opportunities for air communication in the West Indies; judging from Belgian experience in the Congo almost incredible saving of time can be achieved by internal air lines in Africa; whilst nearer at home with a comparatively short service the Irish Free State could link Ireland with the great air routes of the Empire and the world.

I pass, however, without further comment upon the Empire aeroplane routes to the Empire airship routes, and to a field of research, experiment and trial that we have been extensively exploring since the last Imperial Conference. Certain of the Delegates to whom this field of flying development may be less familiar than the field of the aeroplane, may harbour in their minds two grave doubts about the machine that is lighter than air. Why, they may ask themselves or me, should the Empire require both airship and aeroplane routes, and how can airships be ever immune from the catastrophies that destroyed the R.38, the Dixmude and the Shenandoah? Let me try in a sentence or two to give the answer to both these questions.

As to the first, airships will carry out the long distance non-stop air journeys of the future. The two airships that we are building should, with a normal load of freight and a 100 passengers, be able to fly without refuelling in good weather a distance of some 4,000 miles. The airship, being of great size and practically silent, will be much more comfortable than the aeroplane for long distance journeys. How comfortable it can be made is illustrated by a model that I have had erected for the Sub-Committee at the Air Ministry. The representatives of the conference will find that accommodation

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is being planned for a 100 passengers, promenade decks, outside cabins and ample smoking and dining rooms. The aeroplane and the airship are really complementary to each other and it is necessary, in my view, to organise both aeroplane and airship lines, the long distance aeroplane lines being invaluable for short stage traffic and for strategic as well as civil purposes, and being particularly needed at the present time when our airship programme is still in an experimental stage.

Then there is the objection, and a very serious objection, raised on the ground of danger. There is the danger inherent in so large and fragile a structure; there is the danger of storms of unexpected and incredible ferocity; there is the danger of conflagration in a ship composed of highly inflammable material. How can dangers such as these be ever surmounted? I would like the Conference or the Committee to examine my experts as fully as possible upon all these points. I need not tell you that, being a very cautious person myself, I have examined them again and again upon them. They and I are very far from being reckless optimists. Indeed our attitude towards this great problem has been well described by a well known Cambridge scientist as an attitude of "healthy cold feet". What I would say without fear of contradiction is that great progress has been made both on the theoretical and practical side during the last two years, and that we can claim to have made the fullest possible use of scientific theory, of fullscale and model experiment, of the testing of materials, and, by no means least important, of the study of meteorology. We believe that we have discovered many of the weaknesses and surmounted many of the difficulties that occasioned the failures in the past.
I will give you two or three instances of what I mean. The structure of both the airships that are being built will be incomparably stronger in the matter of material than the structure of any airship that has been built in the past. I hope that the Members of the Conference will find time to visit our construction shed at Cardington

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where they will see for themselves the great advance that has been made both in design and material over anything that has been previously attempted. As to weather, the pages of my memorandum describe in great detail the intensive study that the Meteorological department has made of the conditions of the air over these shores and on the route to India. You will find on pages 18 and the following a series of most interesting maps showing the scale and detail to which the study of weather conditions has been carried. Accurate climate and weather reports are quite essential to the development of airship routes and not only from the point of view of safety. For it should be remembered that whilst from the point of view of safety it is essential that the airship should be able to avoid storms by means of weather warnings, it is no less necessary in the interests of speed and economy that the airship should make the fullest possible use of the prevailing winds upon the various routes.

There is another way in which the danger of sudden wind currents has been met. Representatives of the conference will see at Cardington the newest type of mooring mast. The mooring mast is a post-war invention of great importance from the fact that it enables the airship to be easily moored without the risk involved by pulling a structure 700 ft. long into a shed.

Then again we have tried to meet the danger of conflagration. The airship that is being built at Cardington will be equipped not with petrol but with heavy oil engines. This change shows a great advance in the way of safety, and particularly in the case of airships operating in tropical climates.

In all these directions, then, we have made a serious and scientific effort to avail ourselves of the lessons of the past, and to avoid the dangers that have hitherto been so formidable. Slowly but surely our programme has been developing. In a year's time the two great airships should be completed. It is then proposed to carry out adequate home trials and subsequently to fly at least

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one of the airships regularly to and from India for a full period of trial in tropical conditions. When these trials are completed, it is hoped, if the Dominions so desire, to make demonstration flights to the capitals of the Empire. The details of this programme I hope to discuss fully at the Sub-Committee. To-day I desire only to emphasise one very important feature of it. If the demonstration flights are to take place to Austfalia and New Zealand, to Canada and South Africa, the co-operation of the Dominion Governments is essential. We cannot fly the two airships to the Dominions even for demonstration flights unless two conditions are satisfied. Firstly, there must be mooring masts to which the airships can be attached at the end of their journey. Secondly, there must be meteorological data upon which the choice of dates for the flight can be based, and a meteorological organisation for keeping the airship supplied with the necessary weather intelligence. These two conditions are vital to the programme and, what is more, they are very urgent. Although the expense need not be heavy, the provision of masts and meteorological organisations take a considerable time to complete. I am advised that this provision will take as long as two years to carry into effect. You will at once see the bearing of this fact. If the programme of demonstration flights is to be carried out without delay, the orders for the mooring masts ought to be given immediately, and arrangements made without delay for the meteorological organisations. I have with me the estimates of cost for the masts and meteorology, and I am prepared to discuss them either at the Conference or at the Committee according as is most convenient. I will only now say that the provision of both masts and meteorology does not involve any very large sums - (the masts and their equipment may cost £70,000 apiece, and meteorology should not entail more than a relatively insignificant expenditure). I much hope, therefore, that the Dominions concerned will examine as sympathetically as they can my request that they should, by ordering without delay the masts and by organising the

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necessary meteorological services, enable us to carry out without check or hindrance a series of demonstration flights that may mean a revolution in the means of Empire communications.

There is a further and no less important side of airship development that I desire to discuss in detail at the Committee - the question of developing this stage of airship experiment into the further stage of commercial airship operation. I wish to see a commercial airship line started at the earliest possible moment between Great Britain and the various Dominions. As to when it can be started and as to how it can be started, are questions that I suggest that I should discuss at the Committee. It may be that we shall find that the question must be kept under the closest attention during the remainder of the experimental period, and that further conferences are necessary between the Dominions and ourselves before the normal date of the next Imperial Conference. Will it be possible to hold some time between now and the next Imperial Conference an Imperial Air Conference at some suitable centre in the Empire, where we could discuss the quick developments that are constantly taking place and in particular give our attention to the question of forming a commercial company or companies for operating airship lines? I am most anxious that we should not lose any opportunity for starting these lines. At present we are ahead of any other nation in the development of airships and we have the chance of founding within the Empire an airship industry and the first airship lines. Let us hope that an experiment that means so much to the life of the Empire will prove successful and let us lose no opportunity for co-operation in starting the airship lines.

There then, I fear at very great length, is a picture of the Empire air route programme upon which I ask for your advice and co-operation. I do not believe that I am either a fanatic or a visionary in asking your support for these schemes. If they prove successful they may give a physical unity to the Empire that

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it has never possessed before. Hitherto the invention of flying has brought more harm than good to the Empire and to the world. The aeroplane, the symbol of the terrible methods of modern warfare, has made these shores for the first time for centuries vulnerable to foreign attack. It has added to the budget of National expenditure, it has complicated almost every problem of defence. Let us try to redress this balance by insisting that the aeroplane shall be used not only for the purposes of destruction but also for the objects of peace and goodwill. Hitherto the air has been the scene of glorious though terrible conflicts; it has been the background from which death and destruction have been hurled upon camps and cities. The purest of the elements was not intended for the destruction of civilisation by high explosive or poison gas. The invention of the flying machine, which the pioneers of successive centuries strove to achieve, was meant for something better than an instrument of concentrated frightfulness. With the horror of the last war in our memories and the limitless terrors of any future war in our minds, let us make the air a highway of peace, and the aeroplane an instrument, not for severing nations and destroying civilised life, but for making closer and more constant the unity of Imperial thought, Imperial intercourse and Imperial ideals.

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C 41772

IMPERIAL CONFERENCE, 1926.

Memorandum Submitted by the Civil Air Operations Committee at the request of the Right Honourable the Prime Minister.

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1. The Civil Air Operations Committee is a permanent Committee set up under an Order in Council dated May 3rd, 1926 (P.C.677), to prepare the programme and to recommend the methods and organization for carrying out all air operations required by the civil departments of the Government of Canada. Its members, in addition to the chairman, are the Director and the Secretary of the Royal Canadian Air Force, the Director of Forestry, and the Assistant Director of Topographical Surveys, the last mentioned being also Chief Aerial Surveys Engineer for the Department of the Interior. All air services required for Government purposes are carried out by the Royal Canadian Air Force, which supplies all personnel and equipment. The monies required for the purpose of these operations are included in the estimates of the Department of National Defence.

2. The principal stations from which the operations under the jurisdiction of the Committee are conducted are those at Vancouver, B.C., High River, Alta., Winnipeg, Man., Ottawa, Ont., and Dartmouth, N.S. The Royal Canadian Air Force makes some use of all these stations for the training of air force personnel, and a depot for the maintenance and repair of equipment and for stores of all kinds, is established at Ottawa. The principal station for the training of air force personnel is, however, at Camp Borden, Ont., from which no civil operations are carried on.

3. The civil air operations consist chiefly of forest fire detection and suppression and air surveys, topographical and exploratory, although certain customs revenue and fishery protection duties are undertaken on the British Columbia coast, and at all the stations special duties are from time to time performed as circumstances require. The accompanying map shows the areas under patrol for forest fire protection and suppression purposes in 1926, and also the areas which since 1923 have been covered by air surveys other than those numerous but minor surveys of particular localities undertaken for a special purpose.

4.- It has not yet been fully established that air patrols exclusively confined to the detection of forest fires are justified by the expenditure involved, but in areas in which the absence of mountainous country and the presence of numerous lakes (affording readily available access to all parts of the area), permits the organization of an air fire suppression service, the results secured have been extremely satisfactory. In the Winnipeg area in the season of 1926, 210 fires were detected, of which almost all were suppressed by personnel and equipment carried to the spot by air, and the few remaining were dealt with by the ground organization on the report of the air patrol.

5. The air surveys have been found invaluable. By the special methods worked out it has been found possible to prepare highly accurate maps of practically unknown country, of which maps are required owing to mineral discoveries and of which, apart from resort to aircraft, it would have been practically impossible to prepare any useful maps whatever. Ground control by the establishment of fixed points is, however, resorted to wherever possible, and when a number of such points can be established

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in the area to be surveyed, maps are obtainable containing a much greater wealth of detail and reaching as high a degree of accuracy as any that could be obtained by resort to enormously more expensive surveys on the ground. The mineralized area in Canada is generally of such a character as not to attract settlement, and frequently lies at considerable distances from railways, in a roadless country, so that these areas would generally have to remain entirely unmapped or very inadequately mapped apart from resort to aircraft.

6. In addition to these advantages of air surveys, the original photographs are of the utmost value for the study of the geology of the area, of the character of the forest cover, and of its features generally from the point of view of contemplated engineering works. The selection of areas to be surveyed is mainly determined by the probability of the photographs yielding useful information in one or other or all of these directions.

7. The presence on the Committee of the senior officer of the Roya l Canadian Air Force ensures that in the preparation of the Committee's programmes the utility of operations of civil character in increasing the facilities for the training of air personnel is never lost sight of.

8. There has been no demand as yet in Canada for the development of air mail services as a public enterprise, though their establishment has been under discussion with the Post Office Department for some years, and there is a possibility that they may be resorted to in certain localities within the next year or two.

9. The Royal Canadian Air Force has no airships in operation, all of the work being done by planes, and the Committee has not yet had under consideration the practicability or utility of making use of lighter-than-air craft for any purpose.

CHAIRMAN.

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Imperial Conference 1926

Extract from Mr. King's statement on Canada's co-operation in Air Communication scheme:

"As Civil aviation has a direct relation to the creation of a Military Air Force and serves to create a reserve thereto, in this field Canada may be in a position to lend very great assistance in Imperial Defence. By the Air Force Regulations an individual who obtains a pilot's certificate automatically becomes a Reservist.

Regulations have been prepared governing the formation of an Air Force Reserve and outlining the organization of an Aviation Association with branches in each Province.

Finally, when it is desired to extend an airship service to Canada the Canadian Government will be ready to consider methods of co-operation, as for example, as I have already mentioned, by the establishment of air bases. Possibly Canada will also be able to assist by the provision ofhelium gas, which can be extracted in the Dominion."

(Summary of Proceedings, p. 158)

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At the time Mr. Baldwin became Prime Minister in 1923 he became leader of what was still called the Unionist Party. The Party continued under that name until the General Election of 1924, when it was called the Conservative Party.

End

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MEMORANDUM C 41776
Prime Minister's Office

Ottawa,.....

This is an outline of a specimen
day of the Rt. Honble. S. Baldwin.

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C 41777

SPECIMEN DAY.

7.45 a.m.	Go for a walk.
9.0 a.m.	Breakfast. Read the daily papers.
9.45 a.m.	Read private letters and give Secretary any instructions about them.
10.0 a.m.	Interview with newly arrived Foreign Ambassador.
10.15 a.m.	Interview with distinguished person whose services the Government desire to secure on some important Committee of Enquiry.
10.30 a.m.	Interview with Cabinet colleague who desires to seek authority for taking a decision on policy in a matter not of sufficient moment to warrant consideration by the whole Cabinet but which transcends the competence of an individual Minister.
10.45 a.m.	Ditto.
11.0 a.m.	Ditto.
11.15 a.m.	Interview with Chief Whip to discuss course of Parliamentary business.
11.30 - 1.15	Preside over Cabinet Council or Committee of Imperial Defence, or some Committees of Cabinet investigating urgent problem e.g. Unemployment, Economy, China etc. Or Deputation from important bodies on matters of policy with which the departmental Minister concerned cannot authoritatively deal (there are not many of these).
1.15 p.m.	Go to lunch (to Club, 10 minutes walk away.)
2.15 p.m.	Leave for House of Commons.
2.30 p.m.	Read through Questions to be asked that afternoon, and the Answers prepared.
3.0 p.m.	Answer Questions in the House of Commons.
3.45 p.m. - 11.0 p.m.	As Leader of the House of Commons it is politic for the Prime Minister to be in his place during debates as much as possible. When he is not sitting on the Treasury Bench he has at intervals through the evening further appointments with e.g. Members of Parliament, or with persons

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specially qualified to give valuable information about Imperial or domestic matters of current interest. Sometime during the evening the Prime Minister would read the memoranda prepared by different Ministers in regard to matters on which they desire a decision of the Cabinet at an early date; reports from our Ambassadors abroad; and his official correspondence generally.

11.0 p.m. The House of Commons rises. The Prime Minister returns to Downing Street where, like the Kings in the "Gondoliers"

"With a pleasure that's ecstatic,
He retires to his attic
With a gratifying feeling that his duty
has been done."

The above programme contains no room for a speech by the Prime Minister in the House of Commons or at any public function, and he would have to make such a speech on an average once a week.

Generally speaking, interviews in the morning are at 10 Downing Street and in the afternoon and night at the House of Commons when the House is sitting.

On ordinary week days there is no time ear marked for private life. Personal friends come to breakfast and to lunch occasionally. The only time which the Prime Minister has to himself is Saturdays and Sundays, when he goes to Chequers and every effort is made to keep him free. As a rule there is no house party beyond close personal friends so that the Prime Minister can have time to himself to catch up his personal correspondence and think over any forthcoming speeches or the problems of the week ahead. A Private Secretary is nearly always there in case of any

emergencies/

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emergencies arising or to mop up work left over from the previous week.

You mention the Prime Minister's books. The only book in his name is a collection of the speeches he had delivered in the past and he took no personal part whatever at any stage either with the selection of the speeches or their production in book form.

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MAIL ROUTINE.

Letters marked Personal and Private, unless they are obviously impostures, are placed on the Prime Minister's table in the morning unopened. But a Private Secretary is there ready to take away and deal with any that the Prime Minister does not feel that he has to answer himself.

Letters addressed to any Private Secretary by name are given to that Private Secretary unopened. The general post addressed formally to "The Prime Minister" or "The Private Secretary" is opened and sorted out first thing in the morning by the Staff, and the letters are dished out to each Private Secretary correspondingly to their contents and to the special subject that each Private Secretary deals with.

The Prime Minister lives at 10 Downing Street: therefore, there is no private house where letters can go elsewhere than to the office. But, if he lived elsewhere, it would be necessary to represent to the Prime Minister that he must let the office collect and deal with the post arriving at his house, as otherwise all continuity of correspondence would be liable to be incomplete and there would be risks of every sort of slip up. It is neither fair to the office, nor in the Prime Minister's own interests, that people should be encouraged to think that by calling a thing "Personal" and sending it to the private house they can get behind the backs of the Private Secretariat. Letters sent in this way to Chequers are always returned to 10 Downing Street.

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Baldwin, Stanley

C 41781

Reference by Rt. Hon. Stanley Baldwin
to co-operation with Mr. King

(Toronto "Globe",
August 8, 1927)

"It is a well-known fact that a contemporary statesman of Baldwin was the great-grandfather of the present Premier of Canada. They didn't get along very well together. But two generations have passed, and I defy anyone to find two statesmen who pull together better for the good of the Empire than Mr. Mackenzie King and myself."

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C 41782

MEMORANDUM
Prime Minister's Office

Ottawa,.....

Returned by Mr. Rogers.

C 41783

MEMORANDUM
Prime Minister's Office

Ottawa, Jan. 12, 1928

The copy of the speech by Mr. Baldwin, sent to Mr.King by Sir Ronald Waterhouse, is in Mr. Rogers hands. He will send it to me at Laurier House tomorrow.

Meanwhile the attached letter is fyled with Autograph letters, and a reference to it is put also in our fyle of acknowledgments of The Message of the Carillon.

WHM

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MR. BALDWIN at CANADA CLUB DINNER.

Savoy Hotel, London, November 21st 1927.

---oOo---

Your Royal Highness, I should like to begin my remarks by saying to you, in reply to what you were good enough to say about me, that I do not yet know whether it was a greater honour or a greater pleasure to have travelled with you across Canada. I will say this, that no party that set out from these shores and travelled together for so long was a happier party or separated with more regret.

As to what my old friend, whom I still call Donald Howard, said about me, take it from me, it is too good to be true; but that he should say such things touches me very nearly.

I am to have the opportunity of saying a few words to the Canada Club about that wonderful visit which we paid in August - a visit consisting, as time goes, of some 19 days: so far as impressions go - impressions that will last for life - a visit of years.

We left this country, most of us, rather tired men, with a year's hard work behind us, wearying, perhaps of that

spirit/

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spirit in Europe which has been so prevalent since the war - that spirit of hopelessness and grumbling instilled into our ears by young and old of all nations on this old continent. And we sped out westward, and the days rested us, until after some four or five days we came across those guardian sentinels of that great continent. The icebergs streamed down south and the fogs blew up off Newfoundland. And we passed through the ice, and we passed through the fog, and we came into that great river - the most noble highway that enters into any continent in the whole world, and suddenly there lay before us the citadel of Quebec.

It was fitting that the first place where our feet rested should be that ancient city, in that ancient Province - a Province that was founded by those Frenchmen who were the first to bring the civilisation of Europe into that part of the American continent - a country where the names of Champlain and Frontenac still linger. We saw the spot where ended the secular conflict of centuries between these two great races who together had formed the civilisation of Western Europe - and whatever whispers and rumours of those old struggles may have lingered after all those years, we who sit at these tables to-night have seen them buried for ever in that long

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common grave that stretches from Dunkirk to the Vosges. My first memory is of the evening at Quebec, dining at the Lieutenant-Governor's house, where representatives of all that is best in the life and thought of Quebec were present. The sons of ancient seignories came now to do honour to our Prince of Wales, and there I saw and felt for myself that poise and exquisite breeding of the Old World 3,000 miles across the sea. Quebec left on us indelible memories, as it must on the minds of any Englishman with one spark of imagination.

We left there early next morning to travel up the river to Montreal, and there I had two pictures. I see one as that first evening was coming on - meadows as they might be at home, dotted with black and white Frisian cattle, and beyond them the Indian fireweed, scarlet and purple, banked up against the dark green of the firs, and above that the clear sky, reflected in the river. On our way we passed the mill where Madeleine de Vercheres had kept the Indians at bay for a fortnight, as a French girl of her blood and breeding would do. Her memory is as fresh to-day in the annals of her people as it was in the first generation after she died.

In Montreal, where we arrived after dark, we found the whole city illuminated. In the morning I went to Mount Royal, where I had stood thirty-seven years before, and I saw

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again that great city, compounded of both our nations, stretching long arms up the river in miles of docks that had no existence when I last saw it; and I thought to myself, as I thought when a young man, that never had mankind found a more beautiful spot on which to build a great city, nor was there ever a spot where all nature seems to combine to ensure the prosperity of that city in the present, and a greater prosperity still in years to come.

From there it was but a moment to Ottawa, and from there I take away the memory of a solemn half-hour in the remembrance chapel in the tower of the Parliament Building, the laying of a wreath on the grave of Sir Wilfrid Laurier, a happy afternoon in the Laurentian Hills with the Prime Minister of Canada, by the side of a lake in the woods, and the warm hospitality of Rideau Hall and the Governor-General and his lady.

Then we passed swiftly on to Brockville, and thence to the river and then to Kingston, with more illuminations, and I had the honour of laying a wreath on the grave of Sir John Macdonald. Then to the first great city of British origin, Toronto; and at Toronto I had the great pleasure of meeting the English Premier, Mr. Ferguson, and discussing with him more subjects than I could retail to-night, and with greater freedom than I should put in any interview.

At/

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At Toronto we entrained for the West. And then come a succession of pictures - 36 hours through Ontario, through and past territory which man has hardly scratched, until we go out into Manitoba, into Saskatchewan and into Alberta. Nothing on that long journey touched me more than seeing the new homes srpinging up, always recognisable by their smallness, their incompleteness, and the inevitable patch of potatoes - the potatoes for early sustenance and for cleaning the ground, but they made me happy, because they reminded me of a farmer at home who had said to me once that if God Almighty would give him the whole world for his farm, he would always want a little bit outside for a potato patch.

And so to Banff, and I admit we were looking forward to Banff, not so much because it was Banff, but because we were told that we might rest there for one day. My rest began early in the morning by exchanging the title of Prime Minister of Great Britain for that of Sitting Eagle of the Stoney Indians. Then I was packed into a motor-car and driven 120 miles to Lake ~~Louise~~ Louise, to Emerald Lake, and down the Kicking Horse Pass to Field, that it might be said that I had set foot in British Columbia. At Field there was a crowd on the platform, and who was there on the platform but a man who advanced to me and said, "Sir, would you say a few words?"

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The "day of rest" finished, we started back for home. At Calgary I had the pleasure of meeting His Royal Highness again. We both spoke to a wonderful audience, and I think we were inspired by the knowledge that our words were being broadcast to the Arctic Circle, which never happened to me before. I drove through the city, and was enormously struck with the beauty and the lay-out of all the streets, running out into the country - what we should call at home down-lands bounding the landscape at the end of every street looking west, and instead of forecourts and paved yards there is in front of every house a beautiful garden, full of flowers. And they are most beautiful homes, even down streets where the houses were small and where the tenants must have been what at home we should call working-class.

On we went, and we arrived in the morning at Regina. That I shall always remember because it was the hottest morning we had. And we had "a few words" there. Perhaps there stands out most in my memory the old North-West Mounted Police, to whom I was able to pay a tribute in which every Englishman will be glad to join.

Late that evening we came to Winnipeg. At Winnipeg we went to the ~~PARLIAMENT~~ Parliament Buildings. They were packed with people, and outside was a vast crowd, and I shall never/

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never forget, as I addressed them from a point high up on these buildings, the sight of that crowd, with their faces upturned and the light shining down on them. They sang "O Canada" and "God Save the King", and I said "a few words". That was the second day. And from Winnipeg we went on east, and I carry away with me from there the memory of sitting in the observation car at the tail of our train and watching the great plains and the railway line running away in distant perspective into a single line that seemed to go out of sight. I watched that a couple of hours one evening and a couple of hours the next. At every railway station going out and coming home, we got down and talked to everyone who talked to us; and we talked to every one of the veterans of the Great War at all these places.

From Winnipeg we went on to Saint John, New Brunswick. That was the third day or the fourth. Now I was very anxious to visit the Maritime Provinces, and I was very anxious because, while Canada, more perhaps than any other Dominion, has a wealth of history and romance behind her, perhaps there is nowhere more of these two things to be found in Canada, even in Quebec in some ways, than in the Maritime Provinces. I felt, too, that they had been going through a rough time, and I hoped that my presence there might be some slight help or

encouragement/

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encouragement to those who lived there. They struck me in my cursory visit as countries not so far removed in appearance from our own Scotland - the woods, the hills, the rivers, the lakes and the population. And I remembered how it was the home of ancient loyalty, and how, after the trouble further south in 1775, those who would not ~~xxx~~ separate from the British connection, at the sacrifice of all that they had, moved up into what was then Nova Scotia.

From Saint John we went to Moncton, and I felt I was near Rexton, where Bonar Law had come from; but it was impossible for me to go there, much to my regret. In Moncton there happened the most romantic incident I ever met in my life. There was by chance being held there the quinquennial convention of the Acadians. They came together from all parts of the American continent, and some of them - French-speaking - came from as far south as Louisiana. And there, 172 years after the Acadians were turned out of Canada from their homes, an English Prime Minister addressed their descendants and was greeted by them as ~~if he~~ had been their brother. The memory of that crowd of Acadians, thronged together in that little street, will never fade from my mind.

We pushed on, and the evening fell; and we crossed the ~~xxxxxx~~ water to Prince Edward Island, and then I felt I was

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going home, for all the stones were red, even as our rocks in Worcestershire; I found a red soil such as I have at home, and I found people who grew the best potatoes in Canada - or said they did. Charlottetown touched me nearly; but it was only one night there. A cruiser was waiting to take us to Pictou, and we headed across the water and we got down to Halifax by middle day. There I stood on the citadal, where the British flag has flown for nearly 180 years, and where it flew through all the sternest times of the 18th century on that continent - a ~~xing~~ virgin fortress, true from the beginning to the end. I left Halifax feeling almost more than anywhere that I was leaving a piece of the Homeland. But we had to get on. We travelled by night, and in the early morning we were running along past that beautiful lake the Bras d'Or. We got to North Sydney about noon, and there a large crowd assembled to meet us on the wharf. The Mayor of Sydney came from Preston, which I happened to remember always ~~kyk~~ styled itself Proud Preston. The last glimpse I had while we were waiting on the tender was that great crowd on the wharf, singing "O Canada" and "Auld Lang Syne".

Although we had only been 19 days in Canada, and although those days covered that ~~t~~remendous journey, with all those speeches from Calgary to the coast, we felt a plucking at

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the heart-strings in parting from the friends we had made. One feeling very predominant with every one of us was that we hoped it would be but a short time before we should go back.

That was our tour, and I want to supplement what the Prince of Wales said - ~~thusly~~ that is, that it is almost impossible to express our gratitude to those who made this tour possible and who did so much for our happiness and our comfort. It is impossible to mention the names of all to whom we owe a debt, but there are two or three that stand out pre-eminently, and that I cannot refrain from mentioning. First of all, the Prime Minister of Canada, whom I single out as the head of the Government that invited us to make the tour. I want to thank him for his personal kindness and the whole of the Canadian Government collectively for their kindness. And in that Government one name agains stands out pre-eminently - that of Colonel Ralston, the Minister of Defence. He it was who was mainly responsible for the organisation of the tour. He is a born organiser, and if he should ever be cast out from the Government, as happens to all of us at times, I should feel no anxiety as to Colonel Ralston's future, for I am sure there is not a travel agency or company in the world that would not be proud to have him as managing director. Then no list would be complete without Mr. Beatty - Mr. Beatty and

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the whole of his wonderful service. For what they performed for us we owe them, too, a great debt of gratitude. And if I put them last it is not because in any way they are least, but I do not think we ought to omit the names of Lord and Lady Willingdon for the encouragement they gave us to come to Canada, and for their great personal kindness to us while we were there.

I went to Canada with one principal object, and one only. I did want a Prime Minister in his term of office to go to Canada, it is true, but I wanted to attempt to interpret this country to the Canadians, because I felt that it had not been done properly. To that I devoted the whole of my endeavours, and if I have been but partially successful in what I attempted to do, I shall have been more than repaid for any trouble it took me to do it. As a corollary to that I wished to interpret Canada to England. At the Canada Club you will not expect me to say much on that subject. There are two or three words, however, I feel bound to say. The Prince of Wales has given you some impressions: I would give you two or three more. I had been there before, when I was 23, but Canada has changed, and I have changed, and I will give you my impressions to-day.

There was not one single spot where I stayed in Canada, east, west, or in the middle, where I did not in one

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moment feel absolutely at home, and where I could not have settled down that night for the rest of my life with perfect happiness and contentment. I say that in order to try to tell my fellow-countrymen what sort of environment they may expect if they go to live in Canada.

Then I found that Canada cherishes what I regard not only as the best of our ideals, but those which are absolutely necessary to be cherished if a democracy is to survive and is not to become anarchy and chaos. I found in all classes in Canada that same respect for law and order that we have at home. I think few things will be more remarkable to trace in Canadian history than the way in which, from the first, in the settlement of the West, the law and order of our people have prevailed. Then I found there a sense of what is meant by an incorruptible judiciary and an incorruptible police. I found it understood and I found it acted upon. These are our ideals; they are Canadian ideals; and we both know that if either of these two services are tainted, you can build up no civilisation in that country. One more thing - I found in Canada that she is maintaining the standards and the values of education - no small thing in a democracy. There is a

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temptation to reduce them, to make them easy. In Canada the work in the universities in the East is as good as the work in the best universities of Europe. And not there alone. I spoke to the principal of a Western university, and asked him anxiously: "Are you keeping up the standards in the West as they exist in the East?" and he said: "We are". Now these are all good things. They are the very essence of real and true and living democracy, and if these things fail no foundation can be built up.

As Lord Strathcona has said, indeed we brought back refreshment. I cannot tell you what it is to go out from Europe into a country that not only has no hereditary problems hanging like millstones round its neck, but where everyone is full of hope and where I met no "grousers". They may have kept out of my way. I do not know that such a spirit is necessarily a spirit to be found only is a new country, because although it is true we are an old country, yet a country is no older than its men, and there is no reason why our men at home should be old men. I hope and believe that this spirit - largely the result of the strain through which this country went from 1914 to 1918 - may, before the rising generation is in the saddle, be exorcised for ever, and that we may find at home that same spirit that we found in Canada.

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I have only one more thing to say. Canada has an enormous future before her; but, if it be no impertinence on my part to say one word to Canadians, I would say: The future is with you; do not be in too much of a hurry. Your country is a country for men from the North, the hardy virile races. Quality before quantity any day. Build up with the best. What does it matter if it is a hundred years, or two hundred years, or more, before your country is full? Keep the stock you have, and the men and women you have, and see that the coming generations are in no way inferior to them. I have often thought that it is as dangerous a thing to the morals of a nation to get rich too quickly as it is to an individual. Time is on your side. Maintain the values. Maintain the standards. And may the prayer of Canada always be the prayer of the Greek sailor which has been preserved for us by Seneca: "O God, You may save me if You will; You may sink me if you will; but, whatever happens, I will always keep my rudder true".

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Baldwin, Stanley

C 41798

Extract from "Grey of Fallodon"

by G. M. Trevelyan

Letter from Lord Grey to Mr. Stanley Baldwin -

6th January, 1929. Fallodon.

My dear Baldwin,--

It was good of you to write to me and I am very much touched by what you say.

I have had much sorrow, but also very wonderful happiness in my life. And is not the estimate of the sorrow also a measure of the greatness of the happiness? Both are agents in developing us, and I imagine that growth by experience and trial is the purpose of human life here.

But I have had so much of both happiness and sorrow that I feel exhausted and my mood is one of nunc dimittis.

I am sure you over-estimate my importance in public life, but now and then it comes to me to feel that I have something worth saying and that I want to say it and that will be so still. The difficulty is that to be a live person in politics one must take some hand in a party. I remain by conviction a Free Trader and that decides my party, but I do not feel zest for the old and eternal controversy, not from lack of conviction but from staleness and a feeling that there are plenty of others who can say what I think as well or better.

I am really echoing your own complaint that to be in public life one has to do much for which one has great distaste and no special qualification. One cannot pick and choose.

Every word, however, which you say about my importance to this country applies with more force to yourself. Personality is more than any special qualifications, more than all special qualifications put together. As long as you are at the head of a Government, it will stand for what is honourable.

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Letter from Lord Grey to Mr. Stanley Baldwin -

The iron entered into my soul, when Ll. G.'s Govt. after the War let down public life at home and destroyed our credit abroad. Ever since it has been a relief to have public honour re-established and you will always stand for that. And besides there are those personal qualities which can be summed up as the gift for making troubles better and not worse. So I hope you will not be discouraged! Though I know only too well the sacrifice that office and House of Commons mean.

I seem to have been writing your own letter to me backwards, applying it to you as I did so.

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C 41800

(1)

Stanley Baldwin - re Need for Lowering Trade Barriers

(Opening Session, Imperial Economic Conference - Ottawa, July 21, 1932)

"What then should be the first aim of this Conference? It should be to clear out the channels of trade among ourselves. .....

"We hope that as a result of this Conference we may be able, not only to maintain existing preferences, but in addition to find ways of increasing them. There are two ways in which increased preference can be given - either by lowering barriers among ourselves or by raising them against others. The choice between these two must be governed largely by local considerations, but subject to that, it seems to us that we should endeavour to follow the first rather than the second course. For however great our resources, we cannot isolate ourselves from the world. No nation or group of nations, however wealthy and populous, can maintain prosperity in a world where depression and impoverishment reign. Let us therefore aim at the lowering rather than the raising of barriers, even if we cannot fully achieve our purpose now, and let us remember that any action we take here is bound to have its reactions elsewhere.

"His Majesty's Government in the United Kingdom therefore place before the Conference as its general objective the expansion of Empire trade, brought about as far as possible by the lowering of trade barriers as between the several members of the Empire."

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C 41801

attitude of Parties.
Cokl - Central Bank

Re: Central Bank

Resolution No. 14, of the Commission on Public Finance, Adopted Unanimously by The International Financial Conference, Brussels, 1920:

"In countries where there is no central bank of issue, one should be established, and if the assistance of foreign capital were required for the promotion of such a bank some form of international control might be required."

(Report of the Conference, p. 20)

Delegates for Canada at Conference:

Hon. Hugh Guthrie;

Mr. J. H. Gundy;

Mr. G. C. Cassels (Ass't. General Manager, Bank of Montreal).

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C 41802

Re: Central Bank

Resolution No. 2, of the Commission of Finance, Endorsed by the Genoa Conference for the Economic and Financial Reconstruction of Europe - May 11, 1922:

"Banks, and especially banks of issue, should be free from political pressure, and should be conducted solely on lines of prudent finance. In countries where there is no central bank of issue, one should be established."

(Sessional Paper No. 35 - Vol. LIX 1923, p.68)

Canadian Delegates at Conference:

Sir Charles Gordon;

Professor Edouard Montpetit.

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Coll - Central Bank.
C 41803

K. Roy
Attitude re Pan Am Inc

Re Central Bank

(Proposed Resolution of Mr. G. G. Coote to establish a nationally owned central Bank.)

Mr. Bennett:

"I ask my hon. friend not to press his motion to a vote at this time because the country is not prepared to make the change that his motion involves, and until it is apparent it is, there is no good reason why the action should be taken. But I assure my hon. friend I am sufficiently alive to human progress to realize that time may come, and if when it comes, we are here, as we probably shall be half a century hence, that action will be taken."

- Hansard, May 13, 1931,
page 1562.

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Bfo. Currency & Banking
Central Banks (C.A. CURTIS ET AL. TO W.L.M.K.) (1932?)

C 41804 Prepared under Nat. Committee

Prof. Curtis
Plumptre,
Rogers re.

MEMORANDUM ON A CENTRAL BANK FOR CANADA

Banks - Central Bank
Liberal Party & Central Bank.

THE ARGUMENTS FOR A CENTRAL BANK.

A. Economic aspects.

1. The Place of Banking in our Economic Life.

It is difficult to over-emphasise the importance of banking and credit in our economic system. Every citizen of the country is affected by the operation of these institutions and it is impossible for him to escape from this situation. As the everyday life of citizens is thus involved it is necessary that they should give this matter careful thought. Although this situation has always been true to some extent, the monetary stability of the world in the past placed it, as a Canadian social problem, in the background. However, the tremendous growth in importance of monetary affairs and the recent social distress caused by monetary instability now make it essential that all persons should give the problem careful study and that a Canadian political party should have a definite philosophy on this matter.

2. The relation of Credit to Prices.

Although the banks of the country are important institutions in directing the flow of capital into industry, the importance of banking in the everyday life of the citizen lies primarily in the relationship between credit and prices. In this respect it requires no effort to show the incidence of prices generally, which may be termed the price level. If, other things being equal, prices are high, it may result in producers being tempted into uneconomic expansion; it means also that the consumer's dollar will not stretch so far. On this point one needs only to recall the "high cost of living" days which existed during the war period. If, on the other hand, prices are unduly low, the producer is affected, cessation of economic activity and unemployment may result, and all groups in the community are severely affected. This situation exists at the present time and current distress is too real and obvious to require elaboration.

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Now without going into the matter in extense it may be said that the general level of prices depends upon the money and credit - purchasing power - in existence to do the nation's business. When the banks make loans they in general create credit - bank notes or deposits - which is used by their customers to make added purchases and which results in increased bidding for goods, services and securities. If this process of lending is carried far enough, prices are bid up and every person in the community is affected by the consequences. As opposed to this, a diminution of credit may bring about a fall in prices because business does not have, through its own resources, the ability to bid for goods at existing prices and quantities. Either of these processes may be carried on by commercial banks with the above-mentioned results, in perfect harmony with the banks' own interests and with what appear to be the tenets of sound private banking. Although the chartered banks' sense of trusteeship must be clearly recognised, their first duty is to their depositors and shareholders. Thus private commercial banks may, as competitive units in pursuit of their own interests and without conflict with sound banking practice, be forced to follow policies which affect prejudicially the welfare of the great body of citizens of the country, especially during a period of uncurbed expansion and exploitation of resources as that of the years preceding 1929. This is one case of the conflict of the private with the public interest which, to quote Sir Arthur Salter, "is even greater in the case of currency, which must be a monopoly, and the general mechanism of credit and finance, where competition may itself bring dangers and abuses". In view of these considerations, there is a clear case for vesting the far-reaching powers of financial policy in an agency of public or social control.

3. <u>The Need for Credit Control</u>.

As outlined above the situation calls for some form of social control of credit. That is, there is need for a public or semi-public agency which, without attempting to run the banks, may supervise and exert a general control over the volume of credit in the broad outlines of its policy. The matter of credit control has become too important in our present economic system to be left to the administration of private business,

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even when this private business has developed traditions of public service and a high degree of efficiency and soundness.

4. The Banking Functions.

At this juncture it may be pointed out that banking may be divided into two aspects. The first is that of the social effects of banking action, which has been discussed and which may be termed credit control. The second one is the technique of carrying on the day-to-day business of banking, which may be called banking practice. Now the above conclusions in no way indicate antipathy to the chartered banks of this country. It may be said that Canadian bankers are well trained in banking practice and in general they carry it on in an admirable manner. The continued stability in the conditions for obtaining credit and the soundness of our banking institutions in the present crisis are evidence of this. Thus, while commendation is rightly and properly due to the Canadian banking system for the admirable way in which it has carried on banking practice, it still remains true that the present system does not meet the first aspect, the collective supervision of credit. But even this may not imply criticism for it is unreasonable to ask that private institutions should assume the responsibility of credit control under present conditions. In fairness to the banks this burden should not be placed upon, or left with them.

5. The Present Situation in Canada.

A word concerning the present monetary structure of Canada and its control of credit may be of value. Until 1914 the Canadian banking system was entirely responsible for credit control and, under the then existing conditions, performed the function well. At the beginning of the war, however, the whole structure was altered by the enactment of the Finance Act which gave the Department of Finance authority to lend Dominion notes - reserve cash - to the banks. Thus the banks could obtain added cash reserves upon which they could extend more bank credit with its effect upon prices. These added cash reserves could be obtained within a few hours upon deposit of approved securities with the Department of Finance. This process of "rediscounting", which had never existed before, was initiated as an

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emergency measure and made a very great change in the Canadian monetary structure. Previously the banks alone had been responsible for credit control; now they shared it in part with the Department of Finance which had the capacity to increase the banks' cash reserves - the ultimate basis of bank credit. The events of the last few years indicate that somewhere between these two parties this responsibility has tended to drop out of sight.

As an intermediate step the Finance Act was a sound measure but Canada has now reached a financial stature where it is unreasonable to place this responsibility upon private institutions or even upon an efficient civil service which is untrained in central banking functions. The developments of the last few years in Canadian finance and exchange have demonstrated clearly the seriousness of the responsibility and the fact that our present system is inadequate to carry the heavy load. Clearly the time has come to take the next step of giving this responsibility to a specialised institution and to round out the Finance Act into a completed enactment.

6. The Remedy - A Central Bank.

The remedy for these contributions towards the state of affairs discussed above is the creation of an institution which is found in practically any country of any financial importance - a central bank. At the present time there are some thirty central banks in existence; these banks are specialised institutions developed to meet the problems of monetary administration in their respective countries. Most of these countries have branch banking, very good commercial banks, and efficient treasury departments; yet central banks are found necessary. In the words of an eminent banking authority, " a Central Bank is the authority that issues currency notes, acts normally as the custodian of the cash reserves of the joint-stock (commercial) banks, controls the amount of credit available in the market, and is the source of additional credit in times of stress or emergency".

Such an institution in Canada would, among other things, take over the monetary functions and responsibility now exercised by the Department of Finance. Because it would be a specialised institution with

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a trained personnel, it would be able to perform the functions of central banking more adequately and intelligently than the Department, which, although a very efficient service, was not designed or trained to meet such monetary problems. Such a central bank, in handling rediscounting and bank reserves, would exercise its powers to give us the maximum of social control of credit for the general welfare of the nation.

7. International Aspects.

Another aspect of the duties of a Canadian central bank may be stressed. This aspect is the international one. More and more the financial markets of the world are becoming tied together in a common weal; more and more financial and monetary affairs are the subject of international conference and co-operation. Most of this takes place through the central banks which speak with semi-official voices for their respective countries. The course of reparations, the Bank for International Settlements, and even the monetary aspects of the recent Imperial Conference demonstrated this point. In the past, Canada, because of the absence of a central institution, has never been able to participate with her proper influence in such conferences; this was probably also true at Ottawa. A Canadian central bank would give Canada the necessary official institution so that her opinion could be voiced in the international financial councils of the Empire and the world.

It may be added that these international conferences are not isolated affairs but occur at frequent intervals, often under the auspices of the League of Nations. At the present moment the London Conference of the leading nations of the world is imminent. Its purpose will be to study the international financial situation and in particular the important problem of prices. The matters with which it will deal cannot be handled most effectively on a national basis; they can be met best - and in the long run met only - as international problems by international action.

Under present conditions Canada can have but little influence at this conference for there is no central institution to represent the nation or even to implement the conclusions reached. With a central bank established, not only to meet the internal need for a specialised rediscounting agency, but also to co-operate in the inter-

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national settlement of monetary and financial problems, this situation would be remedied. We have built up institutions abroad for the representation of our diplomacy; with the ever-increasing importance of finance in international affairs we need to develop an institution for the representation abroad of our financial and monetary views.

8. Conclusion - A Financial Report.

One more point on financial matters may be touched upon. In 1810 a committee of the British House of Commons studied the banking and credit structure then existing in Britain and brought forward the famous Bullion Report which ever since has been a directing landmark in English monetary policy. In 1930, another equally famous committee, the MacMillan Committee, made its report on the present monetary situation of Great Britain. It has been quoted throughout the world and is another guiding landmark for British financial policy. In 1910, when the future banking policy of the United States was being considered, a Monetary Commission was appointed which studied the situation with extreme care. Canada is now through many of the stages of a pioneer country and is becoming a financial power of some stature. The time is now here when we should take stock of our financial and monetary position so that we may acquire qualified guidance for our future monetary policies. An expert committee, as indeed was recommended in 1928 by the House of Commons Committee on Banking and Commerce which was then under Liberal guidance, to hear witnesses and to receive evidence, to study our Canadian monetary situation, and to formulate our financial and monetary objectives, is a vital and necessary step if an enduring stability is to be obtained for Canada and her citizens.

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B. POLITICAL ASPECTS.

1. The Intrusion of Banking into Politics.

The chartered banks have expressed regret that banking and finance, the control of currency and credit, have been brought within the range of political discussion. This regret is natural but the event itself would appear to have been inevitable. It may be recalled in passing that the chartered banks were definitely opposed to the measure of government inspection which was introduced some years ago, but have come to recognise this element of control as a salutary feature of the Canadian banking system. Active political discussion of the problems of currency and credit is the natural sequel to the growing recognition by the general public of the broad social implications of changes in the price level and the realisation that these changes are intimately connected with banking credit. This realisation has been intensified in recent years by the extraordinary fall in commodity prices and the consequent in most primary industries - more particularly in the agricultural industry which has a position of unique importance in our Canadian economy. This agricultural industry, in Western Canada and Ontario, was already organised for political purposes; it was natural, therefore, that changes in the price level should receive special attention at the hands of organised agriculture, and that banking policy as an element in the control of credit should be the subject of severe scrutiny and investigation. It may be acknowledged that this investigation was not conducted by experts and that its results have been vitiated in part by the strategy of political agitation. At the same time, it must be conceded that under the circumstances of the past few years banking policy was certain to be brought within the range of political disputation.

2. The Changing Objective of Agrarian Agitation.

During the past two years the U. F. A. and Progressive groups in the House of Commons have passed through several phases of thought on the problem of currency and credit. They have advocated the establishment of a central bank. They have urged the control of interest rates by legislation. Finally they believe they have discovered the end of the rainbow in a policy of deliberate inflation. It is a matter of common

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knowledge that the proposal for inflation has met with a remarkable response from the agricultural population of the Dominion. This response is accounted for no doubt by the apparent simplicity of the remedy proposed and the immediate improvement it promises to agricultural producers. The strength of the political agitation for inflation must be reckoned with as a fact of the utmost policital significance. It is equally important to realise that behind the demand for inflation is a widespread feeling of dissatisfaction with the manner in which the control of currency and credit has been exercised in past years by the chartered banks and the mechanism provided by the Finance Act. From a political standpoint it is necessary to recognise these attitudes in the electorate, and to deflect them if possible into constructive rather than destructive channels. The wise policy would seem to be to advocate the establishment of a mechanism of currency and credit control in which the public interest - as distinguished from the banking interests - shall have adequate representation, and in which the responsibility for credit control will be more visible and concentrated than under the present system. It may be urged at the same time that such a mechanism is a prudent and indeed a necessary prerequisite to a safe-guarded policy, of inflation. The agitation for reckless inflation must be countered by the advocacy of wise measures of credit control in the national interest with a minimum of disturbance to the proved foundations of the existing banking and credit structure.

3. <u>The Political Implications of Inflation</u>.

There may be a case for inflation. We must not close our minds against this or any other possible means of escape from the present crisis. On the other hand, it would be folly to adopt a policy of inflation without seeking to discover where it will lead us. It may be conceded that the immediate result of inflation would be the depreciation of the Canadian dollar in relation to other foreign currencies with a corresponding immediate benefit in terms of a return of Canadian dollars to the exporting industries of the country, and more especially to the exporters of agricultural produce. But no party with a sense of its national responsibility could be content with a knowledge of the immediate

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effects of such a policy upon certain groups of its population. It must not be forgotten that political power is a continuing trust. The duty rests upon those who advocate inflation to state how much inflation is needed, by what means it will be applied and how it will be controlled. It is not merely a question of inflation or no inflation. Within the past year the U. F. A. and Progressive groups have recommended at least four different objectives of inflation, culminating in the resolution passed by the meeting of the U. F. O. some weeks ago when a level below parity with sterling was adopted as a desideratum. Nothing could reveal more clearly the dangers of inflation by political action. If we are to remain for some time off the gold standard the alternative is a managed currency. But the emphasis must be placed upon the <u>management</u> of that currency.

4. <u>The Policy of the Liberal Party</u>.

The Liberal Party can reasonably take the position that it believes the monetary function of our economic life is so important in its social implications as to justify a more ample measure of control in the national interest. Consistently with this view, it can advocate the establishment of a central bank in which the public interest shall have adequate representation. It can also take the ground that such a mechanism is essential to an efficient control of currency or credit whether we are on the gold standard or off the gold standard. Assuming that we are ever to pursue a policy of inflation for social ends, it can be demonstrated that such machinery is absolutely indispensable if we are to avoid the disasters of uncontrolled inflation and the perils of a nominal control which is solely political in character. Finally, it may be pointed out that the control of credit and currency and foreign exchange is a specialised function - requiring experience and ability of a high order for its faithful and efficient performance. It is altogether probable that in future the broad purposes of credit control for price stabilisation will be achieved more and more by international co-operation. Competitive inflation, if pursued by the various exporting countries of the world, would bring us even closer to chaos than we are today. If the commodity price level is to be raised by international effort, it may be urged that central banks are the natural

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instruments through which the policies of co-operation in finance will be exercised and realised.

A CENTRAL BANK FOR CANADA: HEADS OF PROPOSALS.

Structure and Functions.

1. There shall be established at Ottawa a corporate body to be called "The Central Bank of Canada". The bank shall be managed by a board of eight directors appointed by the Governor-in-Council, of whom three experienced in banking and finance shall be nominated by the stock-holding banks. There shall be a governor and deputy-governor who shall be included in the Board as ex-officio members and who shall be nominated by the Board and appointed by the Governor-in-Council. The term of office of a director shall be six years. One third of the original directorate, excluding the governor and deputy-governor, shall be appointed for two years, one third for four years, and one third for six years, the vacancies being filled as they occur in such manner as to preserve the ratio between banking and government representatives.

2. The Governor and Deputy-Governor.

The governor and deputy-governor, who shall be persons of tested banking and financial experience and have no interest in any other bank, shall hold office for six years. They shall be eligible for re-appointment, shall devote their whole time to the business of the bank, and shall be paid such salaries, allowances and expenses as the Board may determine.

3. Qualifications, etc.,.

All directors must be Canadian citizens and resident in the Dominion of Canada. No person shall be appointed a director (unless he is a banking representative) if he is a director, officer or employee of another bank or if he is a member of either House of Parliament, or of a provincial legislature or council.

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4. Capital.

The authorised capital of the bank shall be $10,000,000. divided into shares with a par value of $100.00, and the designated amount of paid-up capital at any time shall be subscribed by the existing banks. The banks, hereinafter called the member banks, shall subscribe at par to the capital of the central bank in proportion of their paid-up capital and rest or reserve fund.

5. Dividends and Surplus.

After provision for bad and doubtful debts, depreciation in assets, superannuation of staff and usual items provided for by bankers, and after payment out of net profits of a cumulative dividend of 6%, the surplus shall be allocated to the reserve fund until the reserve fund equals the amount of the paid-up capital. After the reserve fund has reached this amount, a dividend not in excess of 8% may be paid to shareholders and any balance shall be paid to the government.

6. Establishment of Offices, etc.,.

In addition to the head office at Ottawa, the bank may establish offices or appoint agents and correspondents in any part of the Dominion and, with the consent of the government, anywhere without the Dominion.

7. Bankers and Financial Agents of the Government.

The bank may act as bankers and financial agents of the government.

8. Business in which the Central Bank may engage.

The bank may engage in the following business:-

(a) It may make and issue notes.

(b) It may buy, sell or rediscount bills of exchange, promissory notes, or other commercial papers bearing two or more good signatures, of which one must be that of a member bank, of a maturity in no case exceeding 120 days.

(c) It may buy, sell or rediscount bills and promissory notes bearing two or more good signatures, of which one must be that of a member bank, drawn or issued for agricultural purposes or based on live-stock, and having a

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maturity not exceeding nine months and not to exceed 20% of the total advances made by the bank.

(d) It may make loans or advances on current account to member banks against one-name bills of exchange or promissory notes, secured by documents of title representing staple commodities having extensive and active markets to an amount not exceeding 75% of the value of such commodities at current market prices.

(e) It may buy, sell or rediscount bills of exchange and promissory notes with a maturity not exceeding 120 days, bearing the endorsement of a bank, issued or drawn for the purpose of trading in Dominion of Canada securities.

(f) It may make loans or advances against (i) the security of stocks, debentures or bonds of the governments of Great Britain, the United States and the Dominion of Canada; (ii) The security of stocks, debentures or bonds of the provincial or municipal governments of Canada at the discretion of the board of directors; (iii) gold coin or bullion or the documents relating to the storage or shipment thereof; (iv) such notes, drafts, bills of exchange, and banker's acceptances as are eligible for purchase by the bank.

(g) It may buy and sell foreign currencies, effect transfers by telegram or letter, and buy and sell sight drafts, trade acceptances, banker's acceptances, and bills of exchange drawn in or on places abroad having not more than thirty days maturity.

(h) It may buy and sell stocks, debentures and bonds and bills of the political divisions mentioned above.

(i) It may buy, sell or deal in contracts for loans of gold and bullion.

(j) It may open accounts in foreign countries and act as agents or correspondents of any bank carrying on business in or outside the Dominion. It may carry balances in foreign centres in any form the bank seek fit.

9. Business in which the Bank may not engage.

The Bank may not-

(a) Engage in trade or otherwise have a direct interest in any commercial, industrial or other undertaking save as specially provided in the Act.

(b) Purchase its own shares or the shares of any other bank, or grant loans on the security of same.

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(c) Advance money on mortgage of fixed property or on notarial or other bond or cession thereof, or become the owner of fixed property except so far as is necessary for its own business premises.

(d) Make unsecured loans or advances.

(e) Accept money on deposit for a fixed term or allow interest on credit balances on current account.

10. Issue of Bank Notes.

The member banks shall continue to enjoy the privilege of note issue to the extent of the volume of their respective private issues in circulation at the time of the incorporation of the central bank. Beyond this volume the central bank shall have the sole right to issue (bank) notes in the Dominion. The denomination of notes issued by the bank shall be as the government may from time to time prescribe, and shall be redeemable in goldat the main office of the bank or at any agency designated in each province.

11. Holdings of Gold and Foreign Exchange.

The bank shall keep on hand such quantities of gold and foreign exchange as it may deem necessary and prudent for the maintenance of business and the redemption of its notes, deposits and other liabilities.

12. Reserve Balances.

Every bank transacting business in the Dominion shall be required to establish and maintain reserve balances in the bank equal to at least to 8% of its liabilities to the public. Deposits with the central bank and reserve bank-notes in the possession of member banks may be included in this calculation.

The central bank may make the necessary arrangements for the inspection and audit of member bank reserve balances.

13. Assistant Receiver-General's Offices deemed Offices of the Bank.

For the purpose of this Act every assistant receiver-general's office may be deemed an office of the bank, and a supply of bank-notes shall be

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carried by every such office. Upon telegraphic, telephonic or written notice from the head office of the central bank that adequate and ~~xxx~~ satisfactory collateral or rediscounts have been provided by the member bank, the assistant receiver-general may pay out to an authorised representative of the member bank the designated amount of bank notes. The assistant receiver-general may also accept from representatives of the member banks the notes of the central bank, notifying the head office of such receipts. Nothing in this section shall prevent the central bank from establishing branches if it deems such action necessary.

14. The Central Clearing Fund.

The central bank shall take over the duties and functions of the central clearing fund and the said central clearing fund shall be abolished.

15. The Central Gold Reserve.

The central gold reserve shall hereby be abolished, and any remaining or necessary duties shall be performed by the central bank.

16. The Dominion Note Issue.

The Dominion note issue, except the small note issue of one and two dollar denominations, shall be incorporated in the note issue of the central bank. The gold holdings of the government shall be turned over to the bank and the government shall make such adjustments with government bonds or in any other satisfactory way as will ensure that the bank will receive an equal amount of assets and liabilities.

17. Returns.

The central bank shall transmit the following returns, which shall be published, to the government: -

(i) Weekly account of assets and liabilities.

(ii) Annual reports.

The central bank may also require from the member banks such returns and statements as it deems necessary and useful, and shall transmit these returns or statements to the government for immediate publication.

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18. Research and Statistics.

The central bank shall engage such expert opinion as is deemed necessary and may establish a division of research and statistics which shall be in charge of any publication, monthly or otherwise, established by the bank.

Such changes to be made in the Bank Act, Dominion Notes Act, Finance Act and Currency Acts as shall being them into conformity with the present Act.

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Bank of Canada General

Prepared under direction of Committee Plumptre Curtis Roper 52

C 41819

THE CENTRAL RESERVE BANK OF CANADA

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a matter of policy - number of directors a point that could be allowed

There shall be established at Ottawa a corporate body to be called "The Central Reserve Bank of Canada". The Bank shall be managed by a board of eight directors of whom three experienced in banking and finance shall be nominated by the stock-holding banks, and three who are at the time of their election actively interested in agriculture, commerce, or some industrial pursuit, shall be nominated by the Governor-in-Council. There shall be also a governor and deputy-governor who shall be ex-officio members of the Board of Directors and who shall be selected by the Board and confirmed by the Governor-in-Council. Except in the case of the governor and deputy-governor any person qualified as above may, with the consent of the board, be appointed alternate to any director. All directors must be Canadian citizens and resident in the Dominion of Canada.

The governor and deputy-governor, who shall be persons of tested banking and financial experience and have no interest in any other bank, shall hold office for seven years and shall devote their whole time to the business of the bank, and shall be paid such salaries, allowances, and expenses as the board may determine.

No person shall be appointed a director or alternate director of the bank (unless he is a banking representative) if he is a director, officer, or employee of another bank, or if he is a member of the Houses of Parliament, or of a provincial legislature or council.

govt might possibly subscribe to capital but doubtful

The authorized capital of the bank shall be $10,000,000, divided into shares with a par value of $100, and the designated amount of paid-up capital at any time shall be subscribed by the existing banks. The banks, hereinafter called the member banks, shall subscribe to the capital of the central bank in proportion to their paid-up capital and rest or reserve fund. at par

After provision for bad and doubtful debts, depreciation in assets, superannuation of staff and usual items provided for by bankers, and after payment ~~and after payment~~ out of net profits of a cumulative dividend of 6 per cent. the surplus shall be allocated to the reserve fund until the reserve fund equals the amount of the paid-up capital. After the reserve fund has reached this amount a dividend not in excess of 8 per cent. may be paid to shareholders and any balance shall be paid to the government.

The bank may establish branches or appoint agents and correspondents in any part of the Dominion and with the consent of the Government anywhere without the Dominion.

The bank shall act as bankers and financial agents of the Government, ~~including the railways and harbours, administrations,~~ and government institutions.

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The bank may engage in the following business;

1. It may make and issue notes.

2. (a) It may buy, sell, or rediscount bills of exchange, promissory notes, or other commercial papers bearing two or more good signatures, of which one must be that of a member bank, ~~with no longer issuance than is customary in the trade and~~ in no case exceeding 120 days.

   (b) It may buy, sell, or rediscount ~~to an amount not exceeding 20 per cent. of the bank's total discounts~~, bills or promissory notes bearing two or more good signatures, of which one must be that of a member bank, drawn or issued for agricultural purposes or based on live stock and having a maturity not exceeding six months and not to exceed 20 per cent. of the total advances made by the bank.

   (c) It may make loans or advances on current account against one-name bills of exchange or promissory notes, secured by documents of title representing staple commodities having extensive and active markets to an amount not exceeding 75 per cent. of the value of such commodities at current market prices.

   (d) It may buy, sell, or rediscount bills of exchange and promissory notes with a maturity of not exceeding 120 days, bearing the endorsement of a bank issued or drawn for the purpose of trading in Dominion of Canada securities.

   (e) It may make loans or advances ~~on current account~~ against (a) the security of stocks debentures or bonds of Great Britain, the United States, or other obligations and the Dominion of Canada, ~~or any of its political subdivisions~~, (b) gold coin or bullion or the documents relating to the storage or shipment thereof, (c) such notes, drafts, bills of exchange, and banker's acceptances as are eligible for purchase by the bank.

3. It may effect transfers by telegram or letter, buy and sell sight drafts, trade acceptances, banker's acceptances, and bills of exchange drawn in or on places abroad, having not more than 30 days to run to maturity.

4. It may buy and sell, stocks, debentures, bonds and bills of the political divisions mentioned ~~above~~ in section 2, subsection (a).

5. It may invest a sum not exceeding its paid-up capital and reserve in securities having not more than two years to run of the Canadian government and other governments specified above in section 2, subsection (e).

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~~6. It may buy and sell securities for customers.~~

7. It may buy, sell or deal in precious metals and contracts for loans of gold and bullion.

~~8. It may accept the custody and management of moneys, securities and other articles of value.~~

9. It may open accounts in foreign countries and act as agents or correspondents of any bank carrying on business in or outside the Dominion. It may carry balances in foreign centres on call or in any form which the bank sees fit.

The bank may not:

(a) Engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking save as specially provided in the last preceding section.

(b) Purchase its own shares or the shares of any other bank or grant loans upon the security of same.

(c) Advance money on mortgage of fixed property or on notarial or other bond or cession thereof or become the owner of fixed property except so far as is necessary for its own business premises.

(d) Make unsecured loans or advances.

(e) Draw or accept bills payable otherwise than on demand.

(f) Accept money on deposit for a fixed term or allow interest on credit balances on current account.

2. The bank shall have the sole right to issue (bank) notes in the Dominion.

The denomination of notes issued by the bank shall be as the Government may from time to time prescribe and shall be redeemable in gold at the main office of the bank or at an agency designated in each province.

The bank shall keep on hand such quantities of gold and foreign exchange as it may deem necessary and prudent for the maintenance of business and the redemption of its notes, deposits and other liabilities.

Every bank transacting business in the Dominion shall be required to establish and maintain reserve balances in the bank equal to 8nper cent. of its liabilities to the public. Only deposits with the central bank may be counted in this calculation, and gold or reserve bank-notes in the possession of member banks cannot be included. The Bank may make the necessary arrangements for the inspection and audit of member banks.

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For the purpose of this act every assistant-receiver general's office may be deemed an office of the bank and a supply of bank notes shall be carried by every such office. Upon telegraphic, telephonic, or written notice from the head office of the Reserve Bank that adequate and satisfactory collateral or rediscounts have been provided by themember bank, the assistant-receiver general may pay out to an authorized representative of the member bank the designated amount of bank notes. The assistant-receiver general may also accept from representatives of the member banks the notes of the Reserve Bank and shall at once ntoify the head office of the bank of such receipts. Every assistant-receiver general shall at the close of each day's businesstelegraph the amount of the day's transaction to the head office of the bank. Nothing in this section shall prevent the Central Reserve Bank from establishing branches if it deems such action is necessary.

The Reserve Bank shall take over the duties and functions of the central clearing fund and the said central clearing fund shall be abolished.

The central gold reserves shall hereby be abolished, and any reamining or necessary duties shall be performed by the banks.

The Dominion note-issue shall be taken over by the bank and shall be incorporated in its own note-issue. The gold holdings of the government shall be turned over to the bank and the government will make such adjustments with government bonds or in any other satisfactory way as will insure that the bank will receive an equal amount of assets and liabilities.

The Reserve Bank shall transmit the following returns, which shall be published, to the government:

(1) Weekly account of assets and liabilities.

(2) Annual reports.

The Reserve Bank may also require from themember banks such returns and statements as it deems necessary and useful and shall transmit these returns or statements to the government for immediate publication.

The bank shall engage such expert opinion as is deemed necessary and may establish a division of research and statistics which shall be in charge of any publication, monthly or otherwise, established by the bank.

Such changes shall be made in the Bank Act, Dominion Notes Act, Finance Act, and Currency Acts as shall bring them into conformity with the present act.

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(N.M. ROGERS TO W.L.M.K.) Bank of Canada - General

1932. C 41823

Prepared by Mr. Rogers 1932.

A Central Bank For Canada

Banks - Central Bank
Liberal Party & Central Bank

The Place of Banking in our Economic Life

It is difficult to over-emphasize the importance of banking and credit in our economic system . Every citizen of the country is affected by the operation of these institutions and it is impossible for him to escape it . As the everyday life of our citizens is thus affected it is necessary that they should give this matter careful thought . Now although this situation has always been true to some extent, the monetary atability of the world in the past placed it, as a Canadian social problem , in the background . However, the tremendous growth in importance of monetary affairs and the recent social distress caused by monetary instability makes it necessary both that our citizens should give careful study to the problem and that a Canadian national political party should have a definite philosophy on this matter .

The Relation of Credit to Prices

Although the banks of the country are important institutions in directing the flow of capital into industry, the importance of banking in the everyday life of the citizen lies primarily in the relationship between credit and prices . It requires no effort to show the importance of prices generally - what may be termed the price-level - in our everyday life. If, other things being equal, prices are high it may result in producers being tempted into uneconomic expansion; it means also

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that the consumer's dollar will not stretch so far. On this point one needs only to recall the '' high cost of living'' days which existed during the war period . If prices are unduly low, the producer is affected, cessation of economic activity and unemployment may result, and all groups in the community are severely affected . This situation exists at the present time and the present distress of mankind is too real and obvious to require elaboration .

Now without going into the matter in extenso it may be said that the general level of prices depends upon the money and credit - purchasing power - in existence to do the nation's business. When banks make loans they in general create credit - bank notes or deposits - which is used by their customers to make added purshases and which results in added bidding for goods, services, and securities. If this process of lending is carried far enough prices are bid up and every person in the community feels the effects of this policy . If the banks follow the opposite policy of reducing credit the effect may be a fall in prices because business does not have, through its own resources, the ability to bid for goods at existing prices and quantities. Either of these processes may be carried on by commercial banks, with the above-mentioned results, in perfect harmony with the banks' own interests and with what appears to be the tenets of sound commercial banking . The banks(first duty is to its depositors and shareholders. Thus it can be seen that the commercial banks may, in pursuit of their own interests and without conflict with sound banking practice, pursue policies which affect prejudicially the interests of the great body of

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citizens of the country . Clearly such a condition should not longer be tolerated and such tremendous potential powers should be in some manner placed under an agency of public or social control .

The Need for Credit Control

As outlined above the situation calls for some form of social control of credit, or in brief, credit control . That is, there is need for a public or semi-public agency which, without attempting to run the banks, may supervise a general control over the volume of credit in its broad outlines of policy . The matter of credit control has become too important in our present economic system to be left to the administration of private business, even when this private business has developed traditions of public service .

The Banking Functions

At this juncture it may be pointed our that banking may be divided into two aspects . The first is that of social effects of banking action, which has been discussed, and which may be termed credit control . The second one is the technique of carrying on the day-to-day business of banking, or what may be termed banking practice . Now the above conclusions in no way indicate antipathy to the chartered banks of this country, for it may be said that Canadian bankers are well trained in practical banking practice and in general they carry it on in an admirable manner . The stability of our banking institutions in the present period of distress is evidence of this . Thus, while commendation is rightly and properly due to the Canadian banking

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system for the admirable way in which it has carried on banking practice, it still remains true that the present system does not meet the first aspect, credit control . But even this may not imply criticism for it is unreasonable to ask that private profit-making institutions should assume the responsibility of credit control under present conditions . In fairness to the banks the burden of this responsibility should not be placed on, or left with them .

The Present Situation in Canada

A word concerning the present monetary structure of Canada and its control of credit may be of value . Until 1914 the Canadian banking system was entirely responsible for credit control and, under the then existing conditions, performed the function well . At the beginning of the war, however, the whole structure was altered by the enactment of the Finance Act which gave the Department of Finance authority to lend Dominion notes- reserve cash- to the banks . Thus the banks could obtain added cash reserves, upon which they could extend more bank credit with its effects on prices . These added cash reserves could be obtained within a few hours upon the deposit of approved securities with the Department of Finance . This process of '' rediscounting'' had never existed before and was initiated as an emergency measure . It made a very great change in the Canadian monetary structure . Previously the banks alone had been responsible for credit control; now they shared it in part with the Department of Finance which had the capacity to increase the banks' cash reserves - the ultimate basis of bank credit . The events of the last few years indicate that

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somewhere between these two parties this responsibility has tended to drop out of sight .

As an intermediate step the Finance Act was a sound measure but Canada has now come to a financial stature where it is unreasonable to place this responsibility on profit-making institutions or even on an efficient civil service which is untrained in central banking functions . The developments of the last few years in Canadian finance and exchange have demonstrated clearly the seriousness of the responsibility, and the fact that our present system is inadequate to carry the heavy load . Clearly the time has come to take the next step of giving responsibility to a specialized institution and to round out the Finance Act into a completed enactment .

The Remedy - A Central Bank

The remedy for the present unsatisfactory state of affairs discussed above is to be found in the creation of an institution which is found in practically every country of any financial importance - a central bank . At the present time there are some thirty central banks in existence ; these banks are specialized institutions developed to meet the problems of monetary administration . Practically all of these countries have branch banking, very good commercial banks, and efficient government treasury departments ; yet central banks are found necessary .

Such an institution in Canada would, among other things, take over the monetary functions and responsibility now exercised by the Department of Finance . Because it would be a specialized institution with a trained personnel it would be

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able to perform the functions of central banking more efficiently and intelligently than the Department of Finance . It ~~mx~~ may be emphasized that this is no criticism of the Department of Finance which is a very efficient service, but which was not designed or trained to meet such monetary problems. Such a central bank, in handling rediscounting and bank reserges, would exercise its powers to give us the maximum of social control of credit for the general welfare of the nation .

International Aspects .

Another aspect of the duties of a Canadian central bank may be stressed . This aspect is the international one . More and more the financial markets of the world are becoming tied together in a common weal ; more and more financial and monetary affairs are the subject of international conferences and co-operation . Most of this takes place through the central banks of the various countries and these banks speak with semi-official voices for their respective countries . The course of reparations, the Bank for International Settlements, and even the monetary aspects of the recent Imperial Conference, demonstrated this point . In the past Canada, because of the absence of a central institution, has never been able to participate with her proper influence in such international conferences ; this was probably also ~~due~~ true in the recent Imperial Conference . A Canadian central bank would give Canada the necessary official institution so that her opinion could be voiced in the international financial councils of the Empire and the world . It may be added that these international conferences are not isolated affairs but occur at frequent and close

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intervals, often under the auspices of the League of Nations . We have developed institutions for the representation abroad of our diplomacy ; with the ever-increasing importance of finance in international affairs we need to develop an institution for the representation abroad of our financial and monetary views .

The London Monetary Conference .

The next important international monetary conference is to be held in London this winter . Its purpose is to study the general international financial situation and in particular the important problem of prices . Now the present depressed state of producers' prices is a fact too well known to need elaboration . It may be mentioned here, however, that the problem is not entirely one of low prices . It is even more a problem of the disparity in the rates of change for different price groups . For example, agricultural and raw material prices have fallen much more rapidly than the prices of processed goods ; the problem is as much to correct these disparities as to increase prices . This whole situation of depressed producers' prices,however, is not confined to Canada but is a world condition . But because of the great importance of international trade in our economy, in particular our trade in agricultural and raw materials, this price problem is of peculiar significance to us .

Now it is not a problem which can be most effectively handled as a national problem ; it can be met best - and in the long run met only - as an international problem by international action . The Monetary Commistee of the Imperial

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Conference concluded that even the British Commonwealth countries could do little on this problem and that the matter be referred to the London Conference where the leading nations of the world could grapple with it . Thus while realizing the seriousness of the problem and the necessity of meeting it in every possible way, one must be wary of the many short-run, ill-thought-out panaceas being offered . Our best policy is to start at once to develop an institution which will permit us to meet the problem in the most intelligent and effective way .

Under present conditions Canada can have little influence at the forthcoming conference for there is no central institution to represent the nation or even implement the conclusions arrived at . With a central bank Canada will not only meet her internal need for a specialized rediscounting institution to handle the question of credit control, but will also have an official voice to be raised in the financial councils of the world . Once established, the general policy of such a bank should be to co-operate in the international settlement of monetary and financial problems; with respect to the particular problem of producers' prices its policy should be to implement immediately any world policy designed to give stability and improvement .

A Financial Report

One more point on financial matters may be touched on . In 1810 a committee of the British House of Commons studied the banking and credit structure then existing in Britain and brought forward the famous Bullion Report which ever since has been a directing landmark in English monetary policy . In 1930, another

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equally famous committee, the MacMillan Committee, made its report on the present monetary position of Great Britain . This Report is quoted the world over and is another guiding landmark for British monetary policy . In 1910 when the future banking policy of the United States was being considered, a Monetary Commission was appointed which studied the situation with extreme care . Canada is now through many of the stages of a pioneer country and is becoming a financial power of some stature . The time is now here when we should take stock of our financial and monetary position so that we may develop a landmark to guide us on our future monetary policies . An expert committee, as indeed was recommended by the House of Commons Committee on Banking and Commerce in 1928 which was then under Liberal guidance, to hear witnesses and receive evidence, to study our Canadian monetary situation, and to formulate our monetary and financial objectives, is a vital and necessary step if an enduring monetary stability is to be obtained for Canada and her citizens .

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N. M. ROGERS TO WLMK

C 41832

Sept. 26. 1932.

Mr. King .

On returning to Kingston Saturday, I took up with Dr. Curtis the two questions you asked arising out of your examination of the memorandum on a Central Bank for Canada .

One question related to the manner in which the banks were able to expand their credit to customers as a result of increased cash reserves obtained through the operations of the Finance Act . You will find enclosed an opinion expressed by Dr. Curtis on this point .

The other question related to the structure of the proposed Central Bank and the manner in which it would be organized. The precise form which the bank would assume, and the policies it would inaugurate, are obviously open to debate, but the enclosed memorandum from Dr. Curtis will enable you to visualize the form which a Canadian Central Bank might finally assume, and the functions it might legitimately perform . The detail of organization is not likely to concern you in the South Huron speech . At its inception, the Central Bank might at least assume the monetary functions now undertaken by the Department of Finance under existing legislation . Its permanent functions and policies might

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well await the report of an enquiry conducted by a Canadian counterpart to the Macmillan Committee in Great Britain. I hope you still propose to deal with this subject, at least in its broad outlines, in the South Huron by-election .

N. McL. R.

If you have not already done so, you might send Dr. Curtis a little note of appreciation. I know this was in your own mind, so you will forgive my speaking of it. Curtis has been very helpful in this matter - and his special knowledge of the subject is likely to be of great value later / In the meantime I have given him your message of thanks and commendation.

W.L.M.K.

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C 41834

Supplementary Memorandum on a Central Bank .

Effect of Operations of Finance Act on Bank Credit .

In considering the effect of an accretion of reserve cash upon the extension of credit a distinction must be made between (a) a banking system and (b) an individual bank within the system .

The position of the individual bank may be considered first. When an individual bank receives an accretion of reserve cash - either through import or rediscount - it cannot extend credit to its customers very much in excess of the actual cash received. The explanation of this is that its credit is given mainly in the form of a bank deposit subject to check, and when the borrower issues checks against the deposit usually a large proportion of the checks comes into the possession of other banks where they are taken by their recipients. It is very improbable that any borrower will have business dealings with the customers of his bank only and issue all his checks to them . The other banks send these checks through the clearing house to the first bank for payment ; the first bank pays this additional clearing house demand with its cash reserve which can thus be drained away . Accordingly the first or expanding bank cannot extend its credit much beyond the probable clearing house losses which will be a large proportion of the amount of credit extended ; therefore the new credit extended cannot be much in excess of the accretion of cash reserve .

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The position of the banking system may be examined now . When the other banks find themselves in possession of additional cash reserves; because of the favourable clearing house balances which came from the first bank, they in turn can use the cash to extend further credit to their customers. The results are the same as in the first case ; cash is lost by the expanding banks to the first bank, which in turn can now expand further credit to its customers. These oscillations of cash among the banks keep on - but becoming weaker and weaker - until the system is in equilibrium again . The effect of all this is, however, that the system will have erected a body of credit several times the amount of the original cash accretion . The actual amount of credit erected will depend upon the conventional reserve ratio which the system maintains . In the Canadian banking system this ratio is approximately ten percent .

The small number of the Canadian banks increases their ability to expand credit because, when one bank begins to expand, the Dominion notes lost through the clearing-house can go only to the other banks, which are few in number and, if they in turn expand upon the basis of the Dominion notes received from favourable balances in the clearing-house, some of the notes will flow back again to the bank which initiated the movement . Thus further expansion would be possible for it.

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Also the small number of Canadian banks makes it possible a more even expansion for all the banks in the system than could occur where the number of banks was greater .

Another factor of importance in connection with the small number of banks is the failure of cash to flow out from an expanding bank . In a system where there are only a few banks, and especially when these banks have numerous branches, there is a greater liklihood that the cheques drawn upon the deposit, which arose out of a loan, will be presented for deposit at some office of the same bank, and this will not result in the expanding bank losing any cash . This is probably even more important to the expanding bank than the backflow of cash . In any case, both these factors are of importance in explaining the ability of individual banks, in a system, to expand .

Thus the operations under the Finance Act, by increasing the cash reserves of the Canadian banking system, greatly increased the capacity of the system to extend credit. Presumably the increased amount of credit granted by the banking system was a source of profit to its constituent members .

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C 41837

F-1001-H11 (L)

PRIME MINISTER'S OFFICE

Banks - Can Bank of Commerce
Bank Merger

MEMORANDUM

Friday,
August 17, 1923

MR. KING:

After endeavouring all last evening without success I finally got Mr. Birge on long distance phone at Oakville at 2.30 this afternoon, - just a few minutes before the receipt of his telegram. Mr. Birge said that it would be quite agreeable and satisfactory to him to come to Ottawa and see you on Wednesday morning and that he would have one or two others with him.

LCM.

L.C. MOYER

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1933. Coll - Banking

Revision of Bank Act C 41838

Purpose of Bill - postpone for year revision of bank act.

Duty of Parliament - revise Bank Act every 10 years;

decennial revision.

Must be Strong Reasons for not so doing

1923 it was urged there should be postponement for year -

Mr. Fielding objected;

Mr. McLean, chairman committee, objected;

Mr. Meighen objected.

1912 postponement - due to general elections and new government -

May have general election before 1934;

Certain to have change of government.

Reasons urged by Government for Postponement

Given in speech from throne - World Economic Conference

at time-stated date definite;

now indefinite;

not known yet.

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(1) Not certain Conference will be held

Oct. 6, 1932 - told it would be held;

almost 5 months.

(2) If held, not certain will contribute anything.

(3) If it does contribute, Act can be amended next year.

Reason not a Reason, but Excuse for postponing, Doing Nothing

(1) e.g. Discussion re currency postponed for Imperial Conference;

(2) ~~Last night~~ currency told World Conference excuse for not proceeding with negotiation of reciprocal agreement with U. S.

(3) Dominion-Provincial Conference excuse not to proceed with unemployment insurance.

(4) Conference now excuse not to proceed re Bank Act.

Always Postponement

Unwillingness of government to face or grapple with problems;

No policy on anything.

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C 41840

Strongest of Reasons why Revision should be made this year:

Questions of banking, currency, etc. to fore;

Unsettling effect upon conditions -

from point of view of banks & business

desirable to avoid agitation, more especially if election in offing;

from point of view of public & people

desirable there should be immediate consideration questions of banking, credit & currency.

Central National Bank

to perform functions of rediscount;

to control issuance of currency;

to represent Canada at international conferences.

C 41841

1871 first confederation
1st Cent. Renewal 1881
2nd " " 1891
3rd " " 1901
4 " " 1913
1912 - New Gold in Alta
5 " 1923.
6 "

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C 41842

Purpose of bill - good form

Early draft - to revise

Reasons given

(1) clause general terms - Remedy not clear

(2) " lost time - cost time

Affected lost time

(3) Shares from Union - Confusion

are exempt not a reason

lost income & profits

Int. currency - Imperial Conference

Unemployed Com - Com. Non-Com

Reciprocity - World Conference

Banking - war

Reasons for - (demand decision lost Imperial currency

(1) workers

(2) parties

(3) national control trade

(4) unemployment Shell Mex Bill

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Coll - Banking (1)

C 41843

Chapter 12, R.S.C., 1927

An Act respecting Banks and Banking.

Section 5.

1. Each of the several banks under the name mentioned in Schedule A to this Act is, and shall continue to be, a body politic and corporate until the first day of July, one thousand nine hundred and thirty-three, and this Act shall form and be the charter of each of the said banks until the first day of July aforesaid.

3. As to all other particulars this Act shall form and be the charter of each of the said banks until the first day of July, one thousand nine hundred and thirty-three. 1923, c.32,s.5.

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C 41844 Coll - Banking

TOTAL OF BANK CHEQUE TRANSACTIONS IN CANADA.

FIRST TEN MONTHS

1929	$28,689,000,000.	
1931	26,106,000,000.	
Decrease	12,583,000,000.	or 32.5%.

October 1929	$4,713,000,000.
" 1930	3,617,000,000.
" 1931	2,586,000,000.

Percentage of decrease	1930	on 1929	23.25%
"	1931	" 1930	28.5%
"	1931	" 1929	45.1%

DOMINION NOTES IN CIRCULATION.

1919	$300,000,000.
1930	174,000,000.

BANK NOTES IN CIRCULATION.

1919	$218,000,000.
1930	160,000,000.

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(ANONYMOUS, 1925) 10

C 41845

Notes for Prime Minister

Union Bank

(HANDWRITING OF J.A. ROBB)

1925

10

MEMORANDUM FOR HONOURABLE MR. ROBB RE UNION BANK OF CANADA.

If asked for a statement, it is suggested that the least said the better for the reason that the press announcement speaks for itself.

The following are several possible questions which might be asked with suggested answers thereto:

What is the explanation for the falling off in the Bank's earnings?

At the last Annual Meeting of the shareholders of the Bank in January, the General Manager made the following statement:

> "The contraction in current loans and "lower rates of interest on other earning "Assets have resulted in lower profits "than those of a year ago. Full provision "having been made for all Bad and Doubtful "Debts, you will see that our net earnings "for the twelve months amounted to $911,942.15, "a reduction of $121,490.00 from the previous "year."

The profits shown for the year, $911,942.15, were only sufficient to take care of dividends, taxes and amounts appropriated for contingencies, bank premises written off and Officers' Pension Fund contribution.

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Dividends at 8% took.....	-	$640,000.
Note Circulation and Dominion Government Income Taxes, approximately	-	135,000.
Appropriations already referred to	-	135,000.

The falling off in earnings for the year was very substantial in comparison with the total shown. One contributary cause was that the Bank found it difficult to employ their funds to the maximum in desirable loans. This situation still exists. As explained in the press announcement, it has been found extremely difficult to curtail operating costs in proportion to the falling off in earnings and at the same time maintain efficient service in order to meet competition properly.

Another contributary cause of reduced earnings (<u>one that perhaps should only be mentioned as a last resort</u>) is that a fairly

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substantial amount of loans are of a non-productive character, that is that while they are considered ultimately realizable at the value given them at present, the Bank is not warranted in taking interest into its profits.

Could not the Bank have reduced its dividend and continued independent?

It was felt by the directors that any further readjustment such as this, coming within less than two years after a reduction in the Bank's rest and also in its dividend, would not only cause the shareholders a substantial loss but would be very apt to weaken the confidence of the general public in the institution, thereby creating a serious situation.

Is the price for the stock adequate?

On the basis of one share of Royal Bank stock for each two shares of Union Bank stock, shareholders of the Union get approximately 118 for each share as compared with recent market quotations of 108 to 111. Royal Bank stock sold Saturday at 237 ex dividend. The Union Bank stock,

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after the readjustment in 1923 sold as low as approximately $95 per share.

What proportion of the capital stock was held by shareholders in the Prairie Provinces?

Out of the paid-up capital of $8,000,000, less than $2,200,000 was held by shareholders in Alberta, Manitoba and Saskatchewan, and approximately $350,000 by shareholders in British Columbia. Very large amounts were held in Eastern Canada and also to a considerable extent in Great Britain and United States.

Did the Inspector General of Banks recently conduct an examination of the affairs of the Union Bank?

Yes. He visited Winnipeg towards the end of March and was engaged for about three weeks on the work. He reports that every facility was afforded him and that the head office officials of the Bank discussed the situation frankly. He was fully satisfied that conditions are as represented and that the amalgamation is the best solution that could be arrived at.

Did the Inspector of Banks suggest a sale to the Royal Bank?

No. In fact it is understood that the negotiations commenced shortly before he visited Winnipeg. They originated without his knowledge.

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5.

To what extent is there duplication of branches?

Disregarding subsidiary branches in large cities, there is a duplication of approximately only fifty points

The largest in individual provinces:

Ontario - 16
Saskatchewan - 10
Alberta - 9

The Royal Bank has 536 branches in Canada and the Union 327.

536
Total 863

By what amount was the Union Bank's Reserve Fund reduced in 1923 and what was the extent of their dividend reduction?

Their Reserve Fund was reduced from $6,000,000 to $1,750,000. The dividend was reduced from 12% to 8%. but the bank paid as high as 12% in 1920 - 2% being by way of bonus.

The Union Bank's Government statement for March 31st shows the following figures:

Capital	$8,000,000.
Reserve Fund	1,750,000.
Deposits by public, approximately	83,000,000.
Loans, including short term, grain ~~current~~ advances, approximately	60,000,000.

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Total assets, approximately. . $115,000,000.

The combined assets of the Royal and Union Banks are approximately $720,000,000 as against the total assets of the Bank of Montreal, according to their March monthly statement, of $741,000,000.

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C 41851 F-1001-H

Vol. I

EXTRACTS FROM LETTERS

RE

THE HOME BANK OF CANADA

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C 41852

EXTRACT

FROM: Z. A. Lash, Toronto ("I concur - M.J.Haney")
TO: Hon. Sir Thomas White, Minister of Finance, Ottawa.
DATE: March 23, 1916.

"The Board feel strongly that if they are allowed to conduct this investigation from the inside, instead of having it conducted by someone sent in at the instance of the Finance Department or the Canadian Bankers' Association nothing will happen, which would cause a run by depositors, but that if the investigation be conducted at the instance of any outside authority, the chances are that statements will be made, and things will be said about the Bank which will cause a run, and which will force the Bank to close its doors."

. . . . . .

"I think it will be evident to you that all these matters which I have referred to, and which still require attention, can be better attended to under the directions of the present Board than under the directions of a curator or liquidator, in fact it would be impossible for a curator or liquidator to bring any of them to a successful termination."

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C 41853

EXTRACT

FROM: W.A.Machaffie, Assistant to the President, Home Bank of Canada.
TO: M.J.Haney, President & Chief Executive Officer "
DATE: Toronto, February 13, 1918.

"On several occasions in my prsence Directors, among others our Vice-President, Mr. Gough, have complained that they are uninformed of the position of large and important accounts. Because of this our Depositors are deprived of that measure of security contemplated by Parliament when enacting Clause 58, of the Bank Act. A statement in our Annual Reports regarding Inspection is misleading. I am impelled therefore to draw your attention in this formal manner because the penal clauses in Sec. 153 of the Bank Act apply equally to officers like myself, and to Directors and officers vested with authority; it is therefore essential that my non-concurrence should be a matter of record."

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C 41854

EXTRACT

FROM: W.A.Machaffie, Assistant to the President, Home Bank of Canada
TO: R.P.Gough, Vice-President. Home Bank of Canada, Toronto.
DATE: Toronto, February 15, 1928

"If my information is correct, only one inspection report of Toronto Office Liabilities has been placed before the Board in the past ten years - a state of affairs which I believe has only one parallel in the history of Canadian banking."

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C 41855

EXTRACT

FROM: W. A. Machaffie, Assistant to the President, Home Bank of Canada
TO: Hon. Sir Thomas White, Minister of Finance, Ottawa
DATE: February 25, 1918

"New Orleans matter. I advised you that a sum, approximately $230,000, was advanced to acquire an equity in a link of railway in which the Bank had no direct interest; it was expected that a bond issue would be floated and the Bank reimbursed. This expectation has not been realized. The large amount mentioned in the report to you of two years ago remains in a position of grave jeopardy.

"A. C. Frost. Since reported to you this account has been again written up some $200,000 for interest. I cannot let this opportunity pass without pointing out that the aggregate amount written up in this account if added to the amount of Home Bank Stock carried by the Bank would account for the greater bulk, if not the whole of the Bank's capital, while, as you have been advised, there are numerous other accounts in a precarious position.

"Mr. Haney, the President, has also been appointed Chief Executive Officer, and as such is practically a Dictator.

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I have endeavoured to have an inspection system installed, and wrote Mr. Haney on the subject on the 13th inst. and now enclose a copy of that letter for your further information.

"Mr. Haney's policy is to endeavour to rehabilitate the Bank by a series of speculative ventures, chiefly in steamship activities. While withholding comment on this policy, I cannot refrain from offering criticism of the methods in use. Briefly stated, the Bank furnishes large sums of money without security, and is to receive but a moiety of the expected profits, the bulk of such profits going to Haney, C. A. Barnard, another Director, and F.J.M. Stewart, a personal friend.

"Mr. Barnard has a liability to the Bank of some $260,000 in connection with Home Bank stock, but neither he nor Haney are personally responsible for the Bank for these fresh advances.

"In conclusion I beg to state that the contents of this letter have been placed before Mr. Haney."

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C 41857

EXTRACT

FROM: W.A.Machaffie, , Late Assistant to the President, Home Bank of Canada, Oakville, Ontario.
TO: Hon. Sir Thomas White, Minister of Finance, Ottawa.
DATE: Oakville, August 29, 1918

"Section 153 of the Bank Act is of course violated, Head Office officials unwilling to share the guilt are obliged to get out; since matters were reported to you the following gentlemen have had to resign:

Mr. Kennedy,	Toronto Manager
Mr. Adair	Supervisor
Mr. Hase	"
Mr. Machaffie	Assistant to President

"The shareholders' auditor, who was the late Colonel Mason's selection is not, I am told, a chartered accountant nor a trained banker; the position of important matters is concealed from the Board, and consequently the public are denied that measure of protection contemplated by Parliament at Section 58 of the Bank Act."

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C 41858

EXTRACTS

FROM: Draft Resolution of Directors of the Home Bank of Canada, October __ 1918

"Owing to the disturbed condition of business and finances in Canada two and a half years ago, the Board was of the opinion that any investigation into the affairs of the Bank by the Minister of Finance, or by the Canadian Bankers' Association, would be misunderstood, would cause a run upon the Bank, and would compel it to close its doors, with all the injurious consequences which would result therefrom, not only to the Bank itself but to its customers and to the public interests. The Board did not then. and does not now fear the fullest investigation, but they do fear the consequences to the Bank, its customers and the public, which would result from an investigation ordered by the Minister through the Bankers' Association or otherwise.

"The Board recognized two and a half years ago, and now recognizes, the responsibility placed upon the Minister of Finance with respect to the Banking System of Canada, and if, after full consideration and hearing the representations of the Bank, the Minister should conclude that, notwithstanding the consequences referred to, he is called upon in the public interests to order an investigation, the Board would, of course,

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submit and afford all assistance possible."

. . . . . .

"The Minister of Finance said that, on the representations made to him, and in view of Mr. Haney's promise, he would not then order an investigation which might have the consequences referred to, and he would rely upon Mr. Haney and Mr. Lash keeping him informed of any changes in the Bank's position which would call for action on his part."

. . . . . .

"Mr. Machaffie's statement that Section 153 of the Bank Act has been, or is being violated, is untrue, and his insinuation that he and three other officials, whom he names, resigned from the service of the Bank because they were unwilling to share the guilt, and others not named were "obliged to get out", or to resign because they were "unwilling to share the guilt" is untrue. Mr. Machaffie was quite willing to remain in the service of the Bank but the Board did not feel justified in retaining him, or appointing him to the position to which he aspired."

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C 41860

EXTRACT

FROM: Hon. Sir Thomas White, Minister of Finance, Ottawa.
TO: Z. A. Lash, Esq., K.C., Toronto, October 31, 1918
DATE: October 31, 1918

"If, as a matter of fact, the capital of the Bank is represented by interest amounting in the aggregate to a large sum and added over a course of years to the principal of inactive accounts, a serious question arises as to whether the true position should not be declared and the capital and reserve of the Bank written down accordingly."

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C 41861

EXTRACT

FROM: Z. A. Lash, Toronto
TO: M. J. Haney, President of the Home Bank of Canada, Toronto.
DATE: November 4, 1918

"I infer, from the fact that certain information only has been asked for, that the Minister's intention to order a full investigation will not now be carried out."

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C 41862

EXTRACT

FROM: Z. A. Lash, Toronto
TO: Hon. Sir Thomas White, Minister of Finance, Ottawa
DATE: December 26, 1918

"I am in receipt of yours of 23rd, When I received your former letter asking for the information, I sent it at once to the Bank and expected that it would be attended to. I confess that the matter then passed out of my mind, and I did not make enquiries about it."

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C 41863

EXTRACT

FROM: Unsigned memorandum, dated Toronto, January 7, 1919

"The matter was re-opened in September 1918, when the Minister wrote a letter to Mr. Lash, asking for a report of the Directors dealing with the several charges made in Mr. Machaffie's letter . . . "

. . . . . .

"While the Directors fully recognize their personal responsibility in their office, they are of opinion that the improvement in the Bank's position more than justifies the Minister's former acceptance of the situation, . ."

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C 41864

EXTRACT

FROM: Z. A. Lash, Toronto
TO: Hon. Sir Thomas White, Minister of Finance, Ottawa
DATE: January 25, 1919

"I see no reason to think that the efforts will not be continued or that the position will not continue to improve. I feel that the conclusion which you arrived at, to allow the new management to make these efforts was a wise one in the public interest, and I feel equally sure that a continuation of this attitude on your part will be further justified by the result."

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C 41865

EXTRACT

FROM: Z. A. Lash, Toronto
TO: Colonel Mason, The Home Bank of Canada, Toronto.
DATE: January 31, 1919

"I was in Ottawa yesterday and saw the Minister of Finance. He told me he had received my letter and the enclosed statements. He said he was satisfied to defer any further action unless something was brought to his attention which would make it necessary for him to take up the matter again. Please inform the Board of this."

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C 41866

EXTRACT

FROM: Miller Lash, Toronto
TO: Sir Harry Drayton, Minister of Finance, Ottawa.
DATE: January 15, 1920

"I am telling you this as it may be that you would wish to ask me to look further into these accounts and to write you about them, somewhat in the same manner as my father has previously done. This is, of course, a matter for you to decide."

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C 41867

EXTRACT

FROM: Sir H. W. Drayton, Ottawa
TO: Miller Lash, Esq., Toronto.
DATE: January 22, 1920

"Don't trouble at all about the Home Bank matter. I note your assurance that the position of the three accounts in question and of the Bank generally has been much improved during 1919, and thank you for writing me."

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C 41868

EXTRACT

FROM: H. J. Daly, Toronto
TO: Hon. Sir Henry Drayton, Minister of Finance, Ottawa.
DATE: April 28, 1921.

"I discussed these three accounts with you about a year ago, pointing out that considerable progress had been made with regard to same."

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C 41869

EXTRACT

FROM: "J. C. M."
TO: H. J. Daly, Esq., Toronto
DATE: April 29, 1921

"In this connection I am enclosing copy of a letter from Sir Henry Drayton to Miller Lash, dated January 22nd, 1920. You will note from this letter that no reports were required or submitted at that time."

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EXTRACTS

FROM: Miller Lash, Esq., Toronto
TO: Sir Harry Drayton, Minister of Finance, Ottawa.
DATE: May 25, 1921.

"You will remember that a little over a year ago, when my father was very ill, I wrote you in reply to an enquiry about some of the Home Bank accounts which had been the subject of correspondence between your predecessor and my father.

"I understand from Colonel Mason, the General Manager of the Bank, that you are making some further enquiries to bring the matter up to date, and as my father had always dealt with Sir Thomas personally about this particular matter, the Bank would like me, as its Counsel, to take it up with you, particularly as both before my father's death and since I have been in touch with these accounts and am quite familiar with their general position."

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TO HIS EXCELLENCY GENERAL THE RIGHT HONOURABLE LORD BYNG OF VIMY, G.C.B., G.C.M.G.,M.V.O. GOVERNOR GENERAL OF THE DOMINION OF CANADA, IN COUNCIL.

THE PETITION of the undersigned members of the Executive Committee of the depositors in the Home Bank of Canada, humbly sheweth:-

(1) Your Petitioners are residents of various parts of the Dominion of Canada and are the duly appointed executive committee representing about sixty thousand depositors in the Home Bank of Canada.

(2) The said Bank was a Chartered Bank doing business under the provisions of the Bank Act. Your petitioners are informed and believe that in the year 1915 and again in 1916 and in 1918 representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada and revealing a state of affairs that would have justified an investigation by the Department of Finance under the powers conferred upon the Minister of Finance under Section 56A of the Bank Act, whereby he was authorized to examine and enquire specially into any of the affairs or business of the Bank.

(3) Your Petitioners realize the seriousness of such action on the part of the Minister of Finance, and that the mere fact of causing an audit to be made might in itself bring about the failure of the said Bank.

(4) Your Petitioners are also aware that at the time such representations and disclosures were made, the Country was at War and that the Minister of Finance, having regard to the public interest, was unwilling to precipitate a bank failure or crisis, or in any way disturb the financial condition of the Country, and that for such reason and on other good and sufficient public grounds, may not have deemed it advisable to exercise the

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power above referred to.

(5) If such audit had been made your Petitioners believe that the condition of the Bank would have been shewn to be such that its continuance in business could not have been further permitted.

(6) Your petitioners believe that if the said Bank had ceased doing business at the time the said disclosures were made the then existing assets would have been almost, if not quite sufficient to meet all claims of creditors, whereas, by reason of the Bank continuing in business until the 17th day of August 1923, and greatly increasing the amount of money belonging to the public on deposit, and at the same time permitting the assets of the said Bank to be greatly diminished in proportion to the amount of the deposits, the present depositors have suffered and will unless relief is granted, suffer a very severe loss.

(7) Your Petitioners submit that the reasons an audit was not made of the said Bank, in accordance with the powers vested in the Minister of Finance, were reasons of a public and national character, and intended for the benefit of the public at large, and that therefore the loss to the present depositors occasioned by the Bank being permitted to continue to do business should be borne by the public at large and not by the present depositors.

(8) The said Bank and its predecessors, The Toronto Savings Bank and the Home Savings and Loan Company had for over fifty years been regarded as a safe depository for the savings of the public and the class of people who deposited their money in the said Bank was largely composed of wage earners with small earnings and their deposits consisted in many cases of the whole savings of a life-time.

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(9) Your Petitioners submit that the confidence of the simple people throughout Canada in the banking institutions of the Country is of the very greatest importance to the industrial and commercial interests of the country and that the lack of such confidence would have a serious and detrimental affect on the whole industrial and commercial prosperity of the country.

(10) Your Petitioners therefore submit that whether rightly or wrongly the depositors of the Home Bank of Canada were largely of the opinion that the Finance Department of the Government of Canada exercised such supervision over Chartered Banks that it was impossible for a depositors to lose their savings entrusted to such a Bank the charter of which had been renewed from time to time by Parliament and it is further submitted that the confidence of the people as a whole would be greatly restored if adequate relief were granted to these depositors.

WHEREFORE YOUR PETITIONERS PRAY that your Excellency be pleased to submit to Parliament an Act for the full indemnity of the depositors of the Home Bank of Canada against any loss suffered by reason of the failure of the said Bank.

AND YOUR PETITIONERS AS IN DUTY BOUND WILL EVER PRAY.

DATED this 23rd day of January, 1924

(SD.) W.T.J.Lee

(SIGNATURES)

Edgar C. Sanders	Henry Winfield	Paul Poisson	J.O.Reilly
R. M. G. Anglin	Arthur English	A.G.Browning	J.F.Edgar
E. H. Cleary	S.S.Henderson	W.T.Kernahan	J.P.Greacy
W. A. Dover	H.H.Higginbokan	J.H.Mitchell	W.A.Buchner
J.A.Sinclair	A.B.Campbell	J.C.Brudy	J.I.Weedon

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C 41874

LOSSES INCURRED SINCE 1916 - (Estimated)

EXHIBIT "C".

Manufacturers Holding Company -	$400,000.00
King Shoe Company -	350,000.00
A. C. Frost & Company -	1,500,000.00
British Dominions -	1,100,000.00
Bank premises -	400,000.00
Arnprior Cabinet -	115,000.00
Athletic Suit Company -	60,000.00
Canadian Realty Co. -	40,000.00
A. G. Holmes -	200,000.00
Lamont -	75,000.00
W. G. Mitchell & Co. -	250,000.00
A. J. Patterson -	200,000.00
H. J. Daly -	75,000.00
J. S. O'Connor -	30,000.00
Staff loans -	50,000.00
Foreign Department -	100,000.00
Call loans -	50,000.00
Security losses -	150,000.00
Branch loans -	750,000.00
Fixtures and Furniture -	150,000.00
Pellatt Companies -	300,000.00
	$6,345,000.00
Goodwill - $1,000,000.00	

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EXHIBIT "D".

RE DOMINION BANK -

DATE	DUE PROVINCIAL GOVERNMENTS	DUE DOMINION GOVERNMENT	DUE DOMINION GOVERNMENT UNDER FINANCE ACT
Aug.31-1923	348,136.	348,136.	-------
Sept.30-1923	539,646.	364,559.	-------
October 31-1923	1,896,001.	6,016,853.	2,800,000.

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RE UNION BANK OF CANADA

April 30-1923	5,329,958.	553,300.	-------
July 31-1923	2,957,304.	2,734,505.	-------
Aug.31-1923	2,961,733.	6,670,947.	-------
Oct.31-1923	3,723,858.	1,588,435.	12,500,000.

.....

RE STANDARD BANK OF CANADA

April 31-1923	770,899.	2,359,737.	-------
July 31-1923	475,766.	2,080,446.	-------
August 31-1923	564,669.	3,861,456.	-------
Oct.31-1923	1,033,814.	8,636,032.	3,000,000.

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EXHIBIT "B". C 41876

PRIME MINISTER'S OFFICE

Exhibit "B"

Subject.....

Date January 7, 1924 *Publication* Montreal Gazette

SIR THOMAS WHITE MAKES STATEMENT AS TO HOME BANK

No Facts Justified Suspension While He Was Minister of Finance

INVESTIGATION IN 1916

Z. A. Lash Conducted Inquiry and General Manager Mason Was Displaced as Result

(By Canadian Press.)

Toronto, January 6.—Sir Thomas White, former minister of finance in the Dominion Government, declares in a statement given out here today that no facts were at any time brought to his attention, while minister, justifying action on his part which would have brought about the suspension of the Home Bank, which eventually suspended payment on August 17 last, and is now in liquidation.

Sir Thomas recalls that in 1916 certain investigations were made by Z. A. Lash, K.C.

"As the result of my action at this time, General Mason was displaced as general manager, and the board of directors harmonized and reorganized under the presidency of Mr. Haney," says Sir Thomas. "It was reported to me that the reorganized board was satisfied that it would be found that the capital of the bank was intact, and that there would be no danger of loss to creditors or depositors."

The statement of Sir Thomas says, in regard to the Frost Timber account in 1918, that there was at that time no sound ground for instituting an investigation which would then have had most serious consequences, with respect not only to the Home Bank, but the general financial situation. Canada was at that time in the midst of the $700,000,000 Victory loan campaign, and the loan was most vital to the agricultural and business interests of Canada, whose products it financed.

"Under no circumstances would I have allowed a bank to fail during the period in question," said Sir Thomas. "If it had appeared to me that the bank was not able to meet its public obligations. I should have taken steps to have it taken over by some other bank or banks, or, failing that, would have given it necessary assistance under the Finance Act, 1914. Such action would have been justifiable in the public interset at that time."

SIR THOMAS'S STATEMENT.

The statement issued by Sir Thomas White says:

"In view of publicly-made allegations to the effect that during my period of office as Minister of Finance disclosures were made to me which should have resulted in the closing of the Home Bank, I desire to make the following statement:—

"No facts were at any time brought to my attention while I was minister justifying action on my part which would have brought about suspension of the bank.

"In 1916, complaint was received by me on behalf of the three western directors of the bank, Messrs. Crerar, Kennedy and Perse, with respect to three accounts of the bank, viz., The Frost Timber account, the Pellatt account and an account with the Prudential Trust Company, relating to the bonds of a New Orleans traction company. As the questions involved related to the legality of the account with the trust company, and the taking of further security from the Pellatt Land Co., I suggested that Mr. Z. A. Lash, K.C., should look into these matters and report to me. I have in my possession a letter from Mr. John Fisher, K.C., who acted for the three western directors, expressing satisfaction at the selection of Mr. Lash for this purpose.

"As the result of my action at this time, General Mason was displaced as general manager and the board of directors of the bank harmonized and reorganized under the presidency of Mr. Haney.

"It was reported to me that the reorganized board was satisfied that it would be found that the capital of the bank was intact, and there was no danger of loss to creditors or depositors. I was assured by letter on behalf of the three western directors who had brought the three accounts to my attention that no external audit or inspection was necessary."

It was reported to me that Messrs. Crerar and Haney had visited British Columbia to investigate the Frost Timber Limits, and that they had advised that the security thereon held by the bank was adequate to cover the debt to the bank. There is a minute of the board in this connection.

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"I was advised that Mr. Haney had visited New Orleans and reported favorably to the board as to the fraction bonds account and that no loss would result to the bank in connection therewith.

"I was advised that all arrears of interest upon the Pellatt account had been paid up and provision made for the reduction of the principal. Further security had been taken through the services of Mr. Lash, which ensured, in the opinion of the board, that no loss would result to the bank on this account.

"By reason of the allegation contained in the complaint respecting the Frost Timber account, it is now claimed that an investigation should have been made and the bank closed. An investigation at that time at the instance of the minister would have resulted in the destruction of the credit of the bank whether it was solvent or insolvent.

IN MIDST OF LOAN CAMPAIGN.

"The fact that interest had been added to the Frost Timber account constituted no sound ground for instituting an investigation, which would have had most serious consequences with respect to the same bank and the general financial situation. We were in the midst of the $700,000,000 Victory loan campaign of 1918, which extended over the autumn of that year, with payments by subscribers extending throughout many months of the following year. The loan was vital to the agricultural and business interests of Canada, whose products it financed; to the returned soldiers, whose gratuity of $110,000,000 it supplied; and to the Government in connection with its immense war liabilities.

"The Minister of Finance, under the Bank Act, is given no power to order the suspension of a bank. He can, it is true, institute proceedings, or order an investigation which may have that effect, but the judgment as to whether he will do so in a particular case must be his own, to be determined by the facts and circumstances before him.

"I had many difficult and dangerous financial situations to deal with during the war. At its outbreak, in view of the panic which prevailed, the Government, at my instance, placed itself behind the banks of Canada and gave public assurance that it would loan them such sums as they might require to meet the conditions of the war, and would take all further steps necessary to safeguard the financial situation during its continuance. At a later period I found it necessary to make a statement in the House to allay unrest caused by the agitation for the so-called conscription of wealth.

"It is not unusual for ministers to receive complaints from ex-officials respecting financial or other institutions. If any Minister of Finance since Confederation took greater pains in connection with any such complaint than I did in the Home Bank case, I should like to have his name and the particular instance drawn to my attention.

APPEARED SOUND IN 1919.

"When I left Ottawa in 1919 times were prosperous. All financial institutions were doing well. The Home Bank had an important and expanding business. Its deposits were large and growing and there was no reason known to me why, with the legitimate profits which it might be expected to make, it should not be able to take care of any marginal losses which it might sustain upon any of the accounts which had been brought to my attention.

"At no time was it suggested by the western directors or anyone else that the bank was not able to meet its liabilities or that it should be wound up.

"I have no desire to hamper the depositors of the Home Bank, the condition of some of whom is deplorable, to seek relief in any way they may deem expedient. I merely desire to place the facts before the Canadian public, whom I had the honor to serve, I believe, to the best of my ability as Minister of Finance during the war."

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PRIME MINISTER'S OFFICE C 41878

EXHIBIT "T".

Subject.....

Date Oct. 16, 1923 *Publication* Ottawa Citizen

NO RIGHT OF ACCESS TO PRIVATE PAPERS

Finance Minister's Reply to Sir Thomas White Regarding Home Bank Letter.

Right Hon. W. S. Fielding, minister of finance, last night issued a statement in regard to the letter of W. N. Machaffie, a former official of the Home Bank, published in the Toronto Globe, and the comment upon it by Sir Thomas White, former minister of finance.

Mr. Fielding said his attention had been called to the following statement from Sir Thomas White:

"While Sir Thomas admitted having received the letter from Mr. Machaffie, the Globe was informed at Ottawa that it was not now on the files of the finance department. Sir Thomas says when he left Ottawa in 1919 he left this and other correspondence with his secretary 'so as to be available should further questions arise affecting the bank'."

"The statement from Ottawa," continued Mr. Fielding, "that the Machaffie letter was not on the files of the department was correct. Sir Thomas White's private secretary was and still is an officer of the finance department. Any papers of a private character left by Sir Thomas White with his private secretary on his retirement from office would be the private property of Sir Thomas. I, as one of his successors, have never had access to such papers, nor have I any right to see them."

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C 41879

Delegation representing Depositors of

Home Bank of Canada which waited

upon the Government, Wednesday,

January the 23rd, at 11.00 o'clock.

Personnel of Committee
comprising delegation:

J. C. Brady, Toronto.
A. G. Browning, K.C., Deputy Attorney General of Alberta.
U. A. Buchner, London, Ont.
A. B. Campbell, Toronto, Ont.
E. A. Cleary, Windsor, Ont.
W. A. Dover, Toronto, Ont.
J. F. Edgar, Toronto, Ont.
Arthur English, Winnipeg, Man.
G. G. Henderson, Mayor - Fernie, B.C.
H. H. Higginbotham, Sec. U.F.A., Calgary, Alta.
R. A. Jeffery, Mayor - Arnprior, Ont.
W. T. Kernahan, Toronto, Ont.
W. T. J. Lee, Toronto, Ont.
R. J. McLaughlin, K.C., Toronto, Ont.
J. H. Mitchell, Alliston, Ont.
John O'Reilly, Reeve, - Lindsay, Ont.
Dr. Paul Poisson, Mayor, - Tecumseh, Ont.
W. G. Ross, Moose Jaw, Sask.
Edgar C. Sanders, St. Thomas, Ont.
V. A. Sinclair, K.C., Tillsonburg, Ont.
Rev. Dr. Treacy, West Toronto, Ont.
H. Weinfield, Montreal, Que.
I. E. Weldon, Toronto, Ont.

Members of Government present:

The Right Honourable the Prime Minister,
The Honourable J. A. Robb,
The Honourable Dr. J. H. King,
The Honourable E. J. McMurray,
The Honourable James Murdock,
The Honourable W.R. Motherwell,
The Honourable Dr. H. S. Beland,
The Honourable Jacques Bureau,
The Honourable Charles Stewart,
The Honourable George P. Graham,

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Mr. W. T. J. LEE, Chairman of the Committee, introduced the delegation and read a petition to His Excellency in Council. (Exhibit "A") In answer to a question put by the Prime Minister, Mr. Lee stated that the total loss as nearly as could be estimated at present had been between $7,000,000 and $8,000,000.

Mr. R. J. McLAUGHLIN, K.C., of Toronto; explained that the Committee represented 60,000 depositors who had suffered by the Home Bank suspension. He referred to the service that this Committee had rendered in suppressing a tendency towards turbulence in a number of depositors' meetings already held. The Committee considered that the proper precedure was to appeal to the Crown, in doing which a service was rendered not only to the Depositors, but to the banking interests and the general credit of the country.

The first ground of appeal for relief was that of moral justice. The Bank Act conferred on Ministers of the Crown "trusts" in favour of the public. The law permitted an injured party to institute proceedings against a defaulting private trustee, but no such action was possible against a public trustee.

The Bank Act of 1913, in Section 56-a, authorizes Minister of Finance to appoint an Auditor to investigate the affairs of any bank with which he has reason to believe that all was not well. The liquidator's report showed that the affairs of the Home Bank

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were far from sound in 1916. Mr. McLaughlin mentioned three accounts, by way of illustrations: (a) the Frost account and its subsidiary accounts which was $1,500,000 "to the bad" in 1916 and over $4,000,000 at the time of suspension; (b) the Pellatt account, $1,800,000 in 1923 (very little security); (c) the New Orleans Street Railway account, $1,100,000 in 1923.

If ever there had been justification for exercising the power conferred by section 56-a that occasion arose in 1916. The Minister of Finance of the day, however, had merely referred the matter to the late Z. A. Lash, K.C., who was then Counsel for the Home Bank and such investigation as the latter made "merely smoothed things over". The three accounts mentioned above were not banking accounts at that time. They were purely speculative, and not investments, which a bank should make. The Lash so-called investigation was not adequate. These rotten accounts became more rotten as time went on. (Mr. McLaughlin read extracts from Sir Thomas White published statement of January the 7th last, of which a copy is attached marked "Exhibit B").

The dilemna of 1916 has presented two horns: (a) if the facts were not then brought out (and they were not) therehad

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been negligence on the part of the Government of the day;

(b) if the facts were then realized and steps to clear up the situation were not taken on account of the country being at war, there was still stronger reason to appeal to the Government now for relief on grounds of public policy.

If the powers conferred by Section 56-a had been carried out in 1916, the depositors would not have lost their money although the shareholders would probably have lost. The situation had now become a national obligation to relieve, which would simply mean assessing the people of Canada ,75¢ a head.

Mr. ROBB: What would the losses have been had the Bank suspended in 1916?

Mr. McLAUGHLIN: "I can't say. Conditions got continually worse from that time up to the failure. But irresponsible, foolish and dishonest speculators should not have been allowed to continue their depredations after 1916".

Reverting to the public policy argument, Mr. McLaughlin expressed the opinion that the hard times of to-day were largely the result of lack of public confidence which had been so strikingly shaken by banking conditions in Canada. First there had been the Merchants, then the Home, then the Bank of Hamilton amalgamation and the run on the Dominion Bank.

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This lack of confidence would spread unless the Dominion Government showed the public that it was ready to stand by them and by the credit of the country. The people of Canada have on deposit in the chartered banks nearly $1,500,000,000 at 3%, - a fund which supports the agricultural, commercial and industrial interests of the country. It is of the utmost importance that faith should be kept with these humble depositors who have no means of knowing of the comparative solvency of the different banks. The Depositors' Committee had restrained an agitation which would have done the country vastly more harm and would have cost the country vastly more money than it would not cost to make good the loss suffered by the Home Bank depositors. A solution of the present problem was suggested by the recent action of the Government of Quebec in loaning $15,000,000 to permit of the amalgamation of La Banque Nationale and the Bank of Hochelaga.

The Government, said Mr. McLaughlin, had made bank currency safe and reliable, but the practical currency of to-day was the cheque and the draft, and it was just as important that savings deposits should be made safe so that the cheque and draft could be relied upon.

Lastly Mr. McLaughlin asked the Government to regard the matter from the point of view of compassion and mercy.

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The depositors were mostly poor people. In many cases their life savings had been wiped out. The miners of the Crow's Nest Pass had lost nearly $1,000,000 of savings. Toronto depositors had been largely labouring men. Many depositors were returned soldiers.

For seven long years a condition had gone on which should have been investigated and stopped, and the depositors now look to the Dominion Government to relieve them on grounds of infallible justice, public policy and mercy, - to make good what had been lost by the Crown not taking proceedings authorized by the Bank Act.

The PRIME MINISTER: pointed out that the Speaker had claimed that the Crown had not done its duty through one of its representatives (in 1916). Was it possible for the Crown for reasons of public policy not to do its duty?

Mr. McLAUGHLIN: "I will leave that to the Crown to decide".

The PRIME MINISTER: "Have you, as depositors, made up your minds whether your appeal is justified on grounds of public policy or on grounds of negligence?"

Mr. McLAUGHLIN: "I am accepting Sir Thomas White's statement".

Hon. CHAS. STEWART: Did he know the Bank was unsafe in 1916?

Mr. McLAUGHLIN: "No".

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Hon. CHAS. STEWART: He assumed the Bank was solvent?

Mr. McLAUGHLIN: Yes, but no adequate investigation was made by Sir Thomas White.

The PRIME MINISTER: You, as a deputation, present a petition to the Crown to act on one or two incompatible grounds:

(1) the Crown had a public duty to make the public at large make good losses suffered by a section of the public;

(2) the Crown had neglected its duty; therefore an obligation rested on a subsequent Ministry to make good the ensuing loss.

On which of these two grounds are we being asked to indemnify the depositors?

Mr. McLAUGHLIN: In legal proceedings we plead alternatives.

The PRIME MINISTER: Have you any view as to which is the right ground?

Mr. McLAUGHLIN: The representations made in 1916 justified an investigation under the Bank Act. That investigation was not made. Sir Thomas White said the reason it was not made was that the country was at war. In other words, he assigned the higher duty of preserving the credit of the whole country as a reason for failing to perform the minor duty.

The whole question resolved itself to a basis of the two alternatives suggested above, viz (a) a Minister of the Crown had neglected a duty which should have been performed or (b) on grounds of public policy he had been forced to sacrifice a minor to a higher duty.

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Mr. J. F. EDGAR, of Toronto: stated that the Committee held no brief for the shareholders but represented the depositors alone. He did not reflect on any advisor of the Crown nor on the provisions of the Bank Act or any other Act of Parliament. This was a case in which the question of negligence or tort did not arise. In matters of Royal Prerogatives the only right of the subject was under contract or statute or to get his relief as a matter of grace.

The PRIME MINISTER: Are not the advisors of the Crown liable to impeachment if they give wrong advice?

Mr. EDGAR: Yes, but impeachments in such cases has been unheard of for a long time". Amendments to the Bank Act might be made at the next session of Parliament, but could not help these depositors whose only remedy was to ask for relief as a war claim."

Sir Thomas White's statement of January the 7th was doubtless correct in claiming that a real investigation of the Bank Act in 1916 would have resulted in the destruction of the credit of the Bank, whether it was solvent or insolvent.

The PRIME MINISTER: Was not Mr. Lash retained to investigate?"

Mr. EDGAR: He was retained to make an inquiry as a lawyer. Section 56-a provides for a different kind of investigation by an Auditor."

The speaker admitted that, in his opinion, Sir Thomas

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White should have known enough of the facts in 1916 to have been justified in authorizing a real investigation under Section 56-a.

Mr. BUREAU: pointed out that although Mr. Lash had reported that all was well in 1916, there must have been some reason for changing the personnel of the bank heads.

Mr. EDGAR: read a statement prepared by the Liquidator showing the estimated spread in losses of twenty-one accounts between 1916 and the time of suspension, 1923 (Exhibit "C ").

In 1916 the Home Bank, if investigated, would have been found to have lost in one distinct account (New Orleans and Belle Isle Railway Co) $500,000, which was covered up by being tacked on by a subsequent New Orleans loan. This one item wiped up the reserve of the Bank and seriously impaired its capital.

Mr. GRAHAM: If it is sound policy for the Government to save the credit of Canadian banking, would it not have been wise to do so in 1916 (by way of investigation)?

Mr. EDGAR: "I think so. For one thing there was then a good-will of perhaps $1,000,000, which no longer exists, but I will say that I consider that Sir Thomas White was guilty of nothing more than a mistake in judgment. I don't think he was careless."

From 1916 to 1923 the Bank opened many new offices and the deposits almost doubled and meanwhile the continual losses

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were covered by deposits. If the Bank had been sold in 1916 or wound up, the reserve, and to a large extent the capital would have gone, but I think the depositors would have been taken care of.

In reply to a question by Mr. McMurray, Mr. Edgar said that the spread in losses sustained on the twenty-one accounts mentioned above between 1916 and 1923 was estimated by the Liquidator at $6,345,000.

There had been no bank amalgamations during the war. In fact, Sir Thomas White had objected to the proposed amalgamation of the Royal Bank and Bank of Commerce.

In conclusion Mr. Edgar appealed to the Government to grant relief to the depositors on morai and compassionate grounds.

Mr. I. E. WELDON, Secretary of Committee, Toronto: reminded the Government that there was plenty of precedent for granting departmental relief to banks which had got into difficulties, viz, (a) Dominion Bank run, 1923; (Dominion Government raised deposits from $348,000 to $8,800,000); (b) Union Bank, 1923, $553,300 to $14,000,000; (c) Standard Bank, 1923, -$2,300,000 to $11,600,000 (Exhibit "D ")

Relief of this nature to the Home Bank would have avoided the crash.

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Hon. CHAS. STEWART: pointed out that in all the cases cited above the banks assisted had turned over to the Government ample securities. The Home Bank, however, did not possess the necessary securities.

Mr. WELDON: urged that it was not in the public interest that public credit should suffer, as it was doing, (in the Home Bank), and referred to ~~in~~ the instances already mentioned of the Quebec bank amalgamation.

The PRIME MINISTER: Do you want us to loan or give?

Mr. WELDON: No matter which. We want you to pay us and it is possible to do so along the lines taken by the Quebec Government.

Mr. KERNAHAN: (Treasurer of the Committee): reminded the Government that prior to this failure the public had believed that depositors could not suffer by the collapse of a Canadian chartered bank. Canadian banks, with the Canadian Bankers Association behind them, were regarded as perfectly safe, but public confidence had now been shaken in a way that could not be exaggerated. The Bankers Association had known long ago that the Home Bank was in a rotten condition. Sir Thomas White had also known, but had considered that he did not dare to expose its rottenness during the war. The Lash report was not available and had probably been verbal. The departmental records had been regarded as personal and had been taken away (Mr. Fielding had said as much) - Exhibit "E".

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The Committee was pleading for those unfortunates who had relied on the confidence given by the Canadian Bankers Association, and the Government should feel this responsibility and should introduce legislation to compensate the depositors and to restore confidence in Canadian banks.

REV. DR. TREACY: said he wished to correct the impression which obtained in many quarters that the Home Bank was a Catholic institution. 82% of the Ontario depositors were, as a matter of fact, Protestants. Every section of Canada had been affected by this national disaster. Of the 60,000 depositors most were married men, so that probably 400,000 people were directly affected.

Sir Thomas White, Sir Henry Drayton and even Mr. Fielding had known of the conditions of the bank....

The PRIME MINISTER: objected to the latter statement in Mr. Fielding's absence and stated that Mr. Fielding has assured him to the contrary. ([redacted]t " ').

REV. DR. TREACY: At any rate, the Bankers Association knew the conditions and nothing was done. Our plea is for justice and mercy.

Mr. V. A. SINCLAIR, K.C.: spoke on behalf of American depositors, and mentioned one concern who had had $600,000 on deposit in anticipation of building a $2,000,000 plant in Canada. On grounds of public urgency and policy the Government of Canada must restore the shattered confidence of foreigners.

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Mr. : spoke on behalf of the Returned Soldiers' depositors.

Mr. H. WEINFIELD: drew attention to the fact that trustees were required by law to deposit certain trust funds in Canadian chartered banks, and in the execution of this legal duty many such funds had been lost .e.g. labour unions, Montreal. Yet the sufferers were estopped from suing the Government.

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Exhibit "A". **C 41892**

TO HIS EXCELLENCY GENERAL THE RIGHT HONOURABLE LORD BYNG OF VIMY, G.C.B., G.C.M.G. M.V.O. GOVERNOR GENERAL OF THE DOMINION OF CANADA, IN COUNCIL.

THE PETITION of the undersigned members of the Executive Committee of the depositors in the Home Bank of Canada, humbly sheweth:-

(1) Your Petitioners are residents of various parts of the Dominion of Canada and are the duly appointed executive committee representing about sixty thousand depositors in the Home Bank of Canada.

(2) The said Bank was a Chartered Bank doing business under the provisions of the Bank Act. Your petitioners are informed and believe that in the year 1915 and again in 1916 and in 1918 representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada and revealing a state of affairs that would have justified an investigation by the Department of Finance under the powers conferred upon the Minister of Finance under Section 56A of the Bank Act, whereby he was authorized to examine and enquire specially into any of the affairs or business of the Bank.

(3) Your Petitioners realize the seriousness of such action on the part of the Minister of Finance, and that the mere fact of causing an audit to be made might in itself bring about the failure of the said Bank.

(4) Your Petitioners are also aware that at the time such representations and disclosures were made, the Country was at War and that the Minister of Finance, having regard to the public interest, was unwilling to precipitate a bank failure or crisis, or in any way disturb the financial condition of the Country, and that for such reason and on other good and sufficient public grounds, may not have deemed it advisable to exercise the power above referred to.

(5) If such audit had been made your Petitioners believe that the condition of the Bank would have been shewn to be such that its continuance in business could not have been further permitted.

(6) Your petitioners believe that if the said Bank had ceased

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doing business at the time the said disclosures were made the then existing assets would have been almost, if not quite sufficient to meet all claims of creditors, whereas , by reason of the Bank continuing in business until the 17th day of August 1923, and greatly increasing the amount of money belonging to the public on deposit, and at the same time permitting the assets of the said Bank to be greatly diminished in proportion to the amount of the deposits, the present depositors have suffered and will unless relief is granted, suffer a very severe loss.

(7) Your Petitioners submit that the reasons an audit was not made of the said Bank, in accordance with the powers vested in the Minister of Finance, were reasons of a public and national character, and intended for the benefit of the public at large, and that therefore the loss to the present depositors occasioned by the Bank being permitted to continue to do business should be borne by the public at large and not by the present depositors.

(8) The said Bank and its predecessors, The Toronto Savings Bank and the Home Savings and Loan Company had for over fifty years been regarded as a safe depository for the savings of the public and the class of people who deposited their money in the said Bank was largely composed of wage earners with small earnings and their deposits consisted in many cases of the whole savings of a life-time.

(9) Your Petitioners submit that the confidence of the simple people throughout Canada in the banking institutions of the Country is of the very greatest importance to the industrial and commercial interests of the country and that the lack of such confidence would have a serious and detrimental effect on the whole industrial and commercial propserity of the country.

(10) Your Petitioners therefore submit that whether rightly or wrongly the depositors of the Home Bank of Canada were largely of the opinion that the Finance Department of the Government of Canad a exercised such supervision over Chartered Banks that it was impossible for a

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depositors to lose their savings entrusted to such a Bank the charter of which had been renewed from time to time by Parliament and it is further submitted that the confidence of the people as a whole would be greatly restored if adequate relief were granted to these depositors.

WHEREFORE YOUR PETITIONERS PRAY that your Excellency be pleased to submit to Parliament an Act for the full indemnity of the depositors of the Home Bank of Canada against any loss auffered by reason of the failure of the said Bank.

AND YOUR PETITIONERS AS IN DUTY BOUND WILL EVER PRAY.

DATED this 23rd day of January 1924

R. J. Lee

Edgar L. Sanders.
A. G. Browning
W. Kennedy
J. Strachan
J. C. Brady
A. S. Campbell
E. F. Clary.
Thos. Walmsley
Arthur English
S. J. Henderson
W. A. Dowler.
H. St. Huggintbotham.
Paul Poisson
M. Simpson
J. J. O'Reilly
J. T. Hayes
J. P. Gray
U. A. Buchner
J. S. Weedon

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EXHIBIT "B".

C 41895

PRIME MINISTER'S OFFICE

Exhibit "B"

F-1001

Subject.....

Date Jan 7th/24 *Publication* Montreal Gazette

SIR THOMAS WHITE MAKES STATEMENT AS TO HOME BANK

No Facts Justified Suspension While He Was Minister of Finance

INVESTIGATION IN 1916

Z. A. Lash Conducted Inquiry and General Manager Mason Was Displaced as Result

(By Canadian Press.)

Toronto, January 6.—Sir Thomas White, former minister of finance in the Dominion Government, declares in a statement given out here today that no facts were at any time brought to his attention, while minister, justifying action on his part which would have brought about the suspension of the Home Bank, which eventually suspended payment on August 17 last, and is now in liquidation.

Sir Thomas recalls that in 1916 certain investigations were made by Z. A. Lash, K.C.

"As the result of my action at this time, General Mason was displaced as general manager, and the board of directors harmonized and reorganized under the presidency of Mr. Haney," says Sir Thomas. "It was reported to me that the reorganized board was satisfied that it would be found that the capital of the bank was intact, and that there would be no danger of loss to creditors or depositors."

The statement of Sir Thomas says, in regard to the Frost Timber account in 1918, that there was at that time no sound ground for instituting an investigation which would then have had most serious consequences, with respect not only to the Home Bank, but the general financial situation. Canada was at that time in the midst of the $700,000,000 Victory loan campaign, and the loan was most vital to the agricultural and business interests of Canada, whose products it financed.

"Under no circumstances would I have allowed a bank to fail during the period in question," said Sir Thomas. "If it had appeared to me that the bank was not able to meet its public obligations. I should have taken steps to have it taken over by some other bank or banks, or, failing that, would have given it necessary assistance under the Finance Act, 1914. Such action would have been justifiable in the public interset at that time."

SIR THOMAS'S STATEMENT.

The statement issued by Sir Thomas White says:

"In view of publicly-made allegations to the effect that during my period of office as Minister of Finance disclosures were made to me which should have resulted in the closing of the Home Bank, I desire to make the following statement:—

"No facts were at any time brought to my attention while I was minister justifying action on my part which would have brought about suspension of the bank.

"In 1916, complaint was received by me on behalf of the three western directors of the bank, Messrs. Crerar, Kennedy and Perse, with respect to three accounts of the bank, viz.: The Frost Timber account, the Pellatt account and an account with the Prudential Trust Company, relating to the bonds of a New Orleans traction company. As the questions involved related to the legality of the account with the trust company, and the taking of further security from the Pellatt Land Co., I suggested that Mr. Z. A. Lash, K.C., should look into these matters and report to me. I have in my possession a letter from Mr. John Fisher, K.C., who acted for the three western directors, expressing satisfaction at the selection of Mr. Lash for this purpose.

"As the result of my action at this time, General Mason was displaced as general manager and the board of directors of the bank harmonized and reorganized under the presidency of Mr. Haney.

"It was reported to me that the reorganized board was satisfied that it would be found that the capital of the bank was intact, and there was no danger of loss to creditors or depositors. I was assured by letter on behalf of the three western directors who had brought the three accounts to my attention that no external audit or inspection was necessary."

It was reported to me that Messrs. Crerar and Haney had visited British Columbia to investigate the Frost Timber Limits, and that they had advised that the security thereon held by the bank was adequate to

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cover the debt to the bank. There is a minute of the board in this connection.

"I was advised that Mr. Haney had visited New Orleans and reported favorably to the board as to the traction bonds account and that no loss would result to the bank in connection therewith.

"I was advised that all arrears of interest upon the Pellatt account had been paid up and provision made for the reduction of the principal. Further security had been taken through the services of Mr. Lash, which ensured, in the opinion of the board, that no loss would result to the bank on this account.

"By reason of the allegation contained in the complaint respecting the Frost Timber account, it is now claimed that an investigation should have been made and the bank closed. An investigation at that time at the instance of the minister would have resulted in the destruction of the credit of the bank whether it was solvent or insolvent.

IN MIDST OF LOAN CAMPAIGN.

"The fact that interest had been added to the Frost Timber account constituted no sound ground for instituting an investigation, which would have had most serious consequences with respect to the same bank and the general financial situation. We were in the midst of the $700,000,000 Victory loan campaign of 1918, which extended over the autumn of that year, with payments by subscribers extending throughout many months of the following year. The loan was vital to the agricultural and business interests of Canada, whose products it financed; to the returned soldiers, whose gratuity of $110,000,000 it supplied; and to the Government in connection with its immense war liabilities.

"The Minister of Finance, under the Bank Act, is given no power to order the suspension of a bank. He can, it is true, institute proceedings, or order an investigation which may have that effect, but the judgment as to whether he will do so in a particular case must be his own, to be determined by the facts and circumstances before him.

"I had many difficult and dangerous financial situations to deal with during the war. At its outbreak, in view of the panic which prevailed, the Government, at my instance, placed itself behind the banks of Canada and gave public assurance that it would loan them such sums as they might require to meet the conditions of the war, and would take all further steps necessary to safeguard the financial situation during its continuance. At a later period I found it necessary to make a statement in the House to allay unrest caused by the agitation for the so-called conscription of wealth.

"It is not unusual for ministers to receive complaints from ex-officials respecting financial or other institutions. If any Minister of Finance since Confederation took greater pains in connection with any such complaint than I did in the Home Bank case, I should like to have his name and the particular instance drawn to my attention.

APPEARED SOUND IN 1919.

"When I left Ottawa in 1919 times were prosperous. All financial institutions were doing well. The Home Bank had an important and expanding business. Its deposits were large and growing and there was no reason known to me why, with the legitimate profits which it might be expected to make, it should not be able to take care of any marginal losses which it might sustain upon any of the accounts which had been brought to my attention.

"At no time was it suggested by the western directors or anyone else that the bank was not able to meet its liabilities or that it should be wound up.

"I have no desire to hamper the depositors of the Home Bank, the condition of some of whom is deplorable, to seek relief in any way they may deem expedient. I merely desire to place the facts before the Canadian public, whom I had the honor to serve, I believe, to the best of my ability as Minister of Finance during the war."

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PRIME MINISTER'S OFFICE

Subject .....

Date Oct 13/23. Publication Toronto Globe

HOME BANK EX-OFFICIALS REVEAL HEAD OFFICE ACTS THAT LED UP TO COLLAPSE

Former Assistant to President Declares He Protested in 1914 to M. J. Haney, Then President, Against Interest Being Added to Frost Account to Swell Bank's Apparent Profits—Was Told It Must Be Done "in Order to Make a Showing"—"Dividends for Years 1916 and 1917 Based on Addition of Interest to Doubtful Accounts"

WESTERN DIRECTORS SCENT TROUBLE AND ADVISE FINANCE MINISTER WHITE

Former Assistant Manager of Toronto Branch Refused to Sign Profit and Loss Account for That Branch in December, 1915, and Was Suspended—Sir Thomas White Ordered Three Accounts Adjusted and "Secured," Receiving Assurances in 1918 That This Had Been Done and Bank Was "Steadily Growing Stronger"

Information which reached The Globe a few days ago, and which subsequently was made the subject of careful inquiries in Toronto, Ottawa, Stratford and Kitchener, is believed by those in touch with the situation to have an important bearing on the affairs of the defunct Home Bank.

It is now known that as far back as 1914 some of the trusted officials of the bank expressed alarm regarding the institution's future, and asked for an inspection and inquiry by the Board of Directors. At that time news of so startling a nature was conveyed to the bank's three Western directors by Mr. W. N. Machaffie, then Manager of the bank's Western business, that investigations were at once commenced. Mr. Machaffie, according to his own statement, obtained information regarding some transactions from one of the bank's officials in Toronto.

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EXHIBIT "B".

C 41897

PRIME MINISTER'S OFFICE

Subject.....

Date Oct 13/23. *Publication* Toronto Globe

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Urged to Inform Minister.

Mr. Machaffie in September, 1915, actually asked the Western directors to take legal advice as to whether the Minister of Finance, Sir Thomas White, ought not to be informed.

These Western directors—Messrs. T. A. Crerar, John Kennedy and John Persse—did act, and James Fisher, K.C., of Winnipeg, laid before the Minister the statements as reported by Mr. Machaffie. Sir Thomas White asked that Z. A. Lash, K.C., look into these accounts and advise him. In addition, Sir Thomas called for special returns, and insisted that interest in the A. B. Frost account should not be taken into profits.

Seemed to Be Satisfactory.

In a statement made to The Globe last night Sir Thomas said that he was satisfied at the time that matters had been arranged in a businesslike manner, including payment of interest on the Pellatt account and the receipt of additional securities to guarantee it.

In 1916 Mr. Machaffie came to Toronto, at first in an advisory capacity. Desiring an inspection of Head Office, an inspection was instituted, which, he claims, showed a discrepancy, but the man who discovered it, Mr. Machaffie claims, was soon afterward ordered to a far-away branch, and he subsequently resigned.

Mr. Machaffie, who is now a resident of Stratford, told The Globe that in 1916 he had discussed the famous Frost account with President M. J. Haney, telling him how wrong it was to add unpaid interest to such an account. According to Mr. Machaffie, he was told that the interest must be added "in order to make a showing." Mr. Machaffie had discussed taking over the General Managership with the Board of Directors, but his nearest approach to this office was when he became Assistant to the President. Again he urged Head Office inspection, but nothing came of it, and, according to his own description of events, he was virtually frozen out of his position.

Says Dividends Came From Deposits

In 1918, shortly after his retirement, he wrote quite a lengthy letter to Sir Thomas White outlining what he conceived to be the critical position of the pank. This letter, from a man who had been Assistant to the President, bluntly and baldly claims that the bank's dividends for the years ending May, 1916, and May, 1917, were "based on the addition of interest to doubtful accounts." He further alleged that in each year some 30 per cent. more than the amount of dividend was added to the Frost account alone. He charged to the Minister of Finance that it was evident that the actual cash disbursed in dividends came out of the increase in deposits.

It was a serious and almost unprecedented action to take—this writing the Minister direct in those critical days, when everything in the world seemed to hang in the balance. Sir Thomas promptly replied, saying that he would take the matter up immediately. Again, Mr. Lash was summoned and apprised of the allegations made.

Sir Thomas Receives Assurances.

Sir Thomas was soon in receipt of a report from the bank's Board of Directors, which made what may be characterized as a sweeping denial of the statements in the Machaffie complaint. This report, "unanimously adopted by the board," said the Pellatt account, for instance, had been reduced by nearly $300,000, and that the balance had been fully secured by additional collateral. The report claimed that there was ample security in the timber lands and limits for the claims of the bank in the Frost account, and confidence was expressed that no loss would be entailed. The report further stated the board's opinion that no loss would result in connection with the New Orleans bond account. No dividends had been paid out of capital, said the directors. It was claimed that the annual earnings were considerably more than twice the amount of the dividend. Denial was made that false statements had been sent out. According to Sir Thomas White, he was given "assurance that the position of the bank was steadily growing stronger, and that the management was efficient and satisfactory, and that the business of the bank was progressing in a very satisfactory manner."

Further Assured by Mr. Lash.

Sir Thomas said last night that he had received subsequent confirmation from Mr. Lash that the interest on the Frost account had not been taken into profits, and that negotiations were pending for the sale of some timber at prices in excess of the bank's valuation. Other information of a like encouraging nature was brought by Mr. Lash. Sir Thomas stated that he had exceeded his powers as Minister of Finance in insisting that interest should not be taken into profits for distribution to shareholders, and that accounts should be additionally secured and placed in process of liquidation. Only three accounts were brought to his attention.

While Sir Thomas admitted having received the letter from Mr. Machaffie, The Globe was informed

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at Ottawa that it was not now on the files of the Finance Department. Sir Thomas says when he left office in 1919 he left this and other correspondence with his secretary, "so as to be available should further questions arise affecting the bank."

Refused to Sign Report.

The Globe also had an interview with Mr. J. H. Kennedy, now a manufacturer, of Kitchener, a former official of the Home Bank, in which he related how he was suspended for three months because he refused to sign a statement for the year ending December, 1915, which he believed to be false.

Mr. M. J. Haney, former President of the Home Bank, whose name is frequently mentioned in the reopened controversy, could not be seen by The Globe yesterday, though inquiries were made at both his business offices and his home at Port Credit.

Documents He Wrote.

Mr. Machaffie, when seen in Stratford, admitted that he was one of those who had made complaint as to the banking methods adopted by the Home Bank. He said he had to rely on his memory for most of the information though he had one or two important documents with which to back up his statements.

"Now that liquidation has been decided upon, I am quite willing to give the public any facts or information which I have relating to this serious matter," he added. "The documents to which I refer were written by myself."

He stated that in September, 1914, a senior officer of the bank at the head office in Toronto had written him a personal letter describing the position of several accounts at the Toronto office. At that time Mr. Machaffie was Manager of the Home Bank in Winnipeg, and in charge of its Western business. This letter described the Frost account, the Pellatt account, the New Orleans Railway business, the King Shoe Co. account and some smaller matters.

Various Investigations Start.

"The letter was of a most alarming nature," he said. "At that time three directors of the bank were resident in Winnipeg—Messrs. T. A. Crerar, John Kennedy and John Persse. I at once gave them the information I had received and they arranged to visit Toronto at an early date. During the next 12 months these three directors made several visits to Toronto, and various investigations were under way.

"On September 28, 1915, I addressed a letter to the Winnipeg directors which contained some very strong statements regarding men who are not now alive, and for that reason I would rather not now make it public, but you may quote one paragraph:

"'With the President and General Manager and also the Assistant General Manager absolutely discredited, I, while not an executive officer, feel that in the opinion of the banking world some responsibility may be thought to descend to me as Senior Branch Manager. I, therefore, ask the Western directors to take legal advice, particularly as to whether matters ought not to be placed before the Minister of Finance and by whom.'

Saw Minister of Finance.

"A little later in the year—I think in December—I was summonded to a meeting of the Western directors with their solicitor, Mr. James Fisher, K.C., of Winnipeg. There was an inspection report of the Toronto branch on the table, which I did not peruse, but answered various questions on banking matters which were put to me.

"In February, 1916, I learned that Mr. Fisher came East, saw the Minister of Finance (then Sir Thomas White), and handed him a letter based on what was found in that inspection report. In March, 1916, I received a telegram to come to Toronto, and met Mr. M. J. Haney, who had recently been elected Vice-President and Chief Executive Officer of the bank. Mr. Haney told me that, while retaining my rank as Winnipeg Manager, I would be required to spend some time in Toronto with him in an advisory capacity. On looking over the minute book I found record of a resolution recently passed that the capital of the bank was intact.

Wanted an Inspection.

"I was anxious to have the whole bank inspected by a competent officer, and, to make a beginning, suggested that the Head Office department (this is distinct from the Toronto branch) should be inspected at once. It had not been inspected since the organization of the bank in 1906. Mr. Haney agreed to this. A discrepancy was found in the bank premises account as a result, and reported to Mr. Haney. The following week the officer who made the inspection was ordered by Mr. Haney to take charge of a branch in another Province, and his resignation, much to my regret, came in a week later. I then resolved to let the question of inspection stand over for the present. In May I returned to Winnipeg for a time, but when saying good-bye to Mr. Haney he asked me if I would take the General Management. I asked him to allow that to remain in abeyance until my return to Toronto in June.

"In August there was a full meeting of the board, the Western men being present. I was asked whether, and on what terms, I would take the

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General Management. We agreed on terms, but I think, because of my remarks on the position of the bank, Mr. Haney suggested that the appointment be deferred for a week or two, as he desired to consult with Mr. Z. A. Lash, who had recently been appointed General Counsel for the bank. In the meantime I was to be appointed Assistant to the President (Mr. Haney), which was done. In January, 1917, I asked Mr. Haney to send me back permanently to Winnipeg. He became angry and would not do so. I then kept to my rooms in the bank and ceased to attend any board meetings."

Told Them It Was Wrong.

"Why did you take this stand?" Mr. Machaffie was asked.

"There were a number of reasons. For instance, I had discussed the Frost account with Mr. Haney on several occasions, and told him how absolutely wrong it was to add interest to such an account."

"What do you mean by adding interest?"

"That means swelling the bank's apparent profits by increasing a debt of that nature with the accruing, but unpaid, interest."

Continuing, Mr. Machaffie said: "Mr. Haney's reply to my protest was that another year's interest must be added 'in order to make a showing.' There were also transactions in which Mr. Haney or some of his friends were personally interested. Applications for such loans did not come through a branch Manager in the ordinary course, but were brought directly before the board by Mr. Haney himself."

Mr. Gough Unfamiliar With It.

Mr. Machaffie refused to be drawn into a discussion of any other details in this connection, saying that they were matters of more or less personal concern, but other questions switched the conversation to a new phase.

"In June, 1917," he said, "I had a conversation with Mr. Gough, Vice-President, on a train between Toronto and Oakville, and told him how wrong it was to add interest to the Frost account. Mr. Gough agreed with me in principle, but said he was not sufficiently familiar with that account to form an opinion.

"In August I was summoned to a conference with Messrs. Haney, Gough and Daly, the latter having recently been elected a director. I was told that my former position in Winnipeg had been filled and was asked in what capacity I thought I could best serve the bank. I replied that the bank badly needed a proper inspection department and that I was quite willing to undertake its formation. Nothing came of this. A few days later Mr. Haney sent for me again. He was alone at the time and said to me that if he and I 'could adjust our mentalities' our old relations might be resumed. Nothing came of that either.

Nothing Left to Do.

"On November 1, owing to personal and family reasons, I left on three months' leave of absence. Upon my return in February, 1918, I found that the Head Office premises had been rearranged and that there was no room or even a desk available for my use. After some scrapping for a month or two terms were agreed upon, and my resignation went forward in May.

Letter to Sir Thomas.

"After leaving the service I felt very uneasy as to the outcome and decided to write to the Minister of Finance as follows:

" 'Oakville, Ont., Aug. 29, 1918.
" 'Hon. Sir Thomas White,
" 'Minister of Finance,
" 'Ottawa.

" 'Dear Sir Thomas: Referring to the report of James Fisher, K.C., to you in February, 1916, and to a conversation with the writer in December of that year; at that time there seemed some hope of selling a substantial portion of the British Columbia timber held in the A. C. Frost account to a pulp company. This sale, however, did not materialize; the situation, therefore, is that the dividends for the years ending May, 1916, and May, 1917, were based on addition of interest to doubtful accounts—in each year some 30 per cent. more than amount of dividend being added to the Frost account alone.

(A paragraph of the letter at this juncture Mr. Machaffie refused to make public, stating that it contained figures and facts which he could not check up in his memory, but he was certain an examination of the books would show that he was justified in writing it. It had to do with the bank's British Columbia venture.)

" 'In view of the foregoing it seems evident that the actual cash disbursed in dividends during the years under review was furnished by the increase in deposits, and that the aggregate risk of the public is much greater today than when Mr. Fisher approached you.

" 'The total amount written up in the Frost account over the purchase price of the timber, if added to the amount of capital stock carried by the bank, would account for the entire capital.

" ' Section 153 of the Bank Act is, of course, violated. Head Office officials unwilling to share

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the guilt are obliged to get out; since matters were reported to you the following gentlemen have had to resign:

(Following this the letter gave four names, one of which was the writer's, but he refused to give out the other three. Their bank rank was stated to be Toronto Manager and two Supervisors.)

"'The shareholders' auditor, who was the late Col. Mason's selection (obviously Brig.-Gen. Mason, father of the late General Manager), is not a chartered accountant, nor a trained banker; the position of important matters is concealed from the board, and consequently the public are denied that measure of protection contemplated by Parliament in section 58 of the Bank Act.

"'Transactions in which Mr. Haney and his friends have a personal interest were becoming rather frequent, and in some cases the outcome was disastrous to the bank.

"'This lack of disinterestedness on the part of Mr. Haney, coupled with the fact that much important information is withheld from Mr. Lash, seems to justify the conclusion that the arrangement made by you with these two gentlemen does not afford the public an adequate measure of protection.

"'All of which is respectfully submitted. I am,

"'Yours faithfully,

"'W. N. Machaffie,

"'Late Assistant to the President.'"

The Bank Act Explained.

"What is the significance of the paragraph in the letter in which you refer to section 58 of the act?" Mr. Machaffie was asked.

"It is this: that, where dividends are paid at a time when the bank's capital is impaired, the directors become personally liable for the amount of those dividends, unless they can prove their ignorance of the true position of affairs."

The text of section 58 of the Bank Act of 1913 reads:

"No dividend or bonus shall be declared so as to impair the paid-up capital of the bank.

"The directors who knowingly and wilfully concur in a declaration or making payable of any dividend or bonus whereby the paid-up capital of the bank is impaired shall be jointly and severally liable for the amount of such dividends or bonus, as a debt due by them to the bank."

Records show that the directors in 1918 were: James Mason, Honorary President; M. J. Haney, President; R. P. Gough, C. A. Barnard, Hon. A. Claude Macdonell, J. Ambrose O'Brien, H. J. Daly, S. Casey Wood and John Kennedy, the latter being from Swan River, Manitoba.

One Result of the Letter.

Concluding, Mr. Machaffie said: "I may say that in a conversation with Mr. Daly in the autumn of 1920, after he became President of the bank, he told me that as a result of my letter to the Minister all the directors had been required to sign a document admitting full knowledge of the bank's affairs."

There is no doubt that Sir Thomas White, while Minister of Finance, received the foregoing letter, because on September 4, 1918, he replied to Mr. Machaffie as follows:

"Upon my return to the office I find your letter of the 29th ultimo, which will at once have my attention. Thanking you for bringing the matter before me."

Why Officials Resigned.

In Mr. Machaffie's letter to Sir Thomas reference is made to section 153 of the Bank Act, which he claimed caused the resignations of several bank officials, among them himself. This section reads:

"(a) The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank, or,

"(b) the using of any false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank, with intent to deceive or mislead any person . . . is an indictable offense punishable . . . for a term not exceeding five years."

Mr. Kennedy Justified.

One of the men who resigned from the bank mentioned in Mr. Machaffie's letter, The Globe learned, is Mr. J. H. Kennedy, now a manufacturer, of Kitchener, Ont., who readily admitted his identity. He was formerly with the Banque Internationale, and when that institution was taken over by the Home Bank he was appointed Assistant Manager of the Toronto branch, under the late Col. J. Cooper Mason. That was in May, 1915.

"Does the letter of Mr. Machaffie properly explain the reason why you left the bank?" he was asked by The Globe.

"It justifies the position I took at the time," answered Mr. Kennedy. "I refused to sign the statement showing the return of the profit and loss account for the fiscal year end-

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ing December 31, 1915. This was the statement from the Toronto branch alone."

"What reasons did you give for such a refusal?"

"The interest may have been earned and not paid. I claimed that attesting to the statement was fraud and made me liable to imprisonment."

Suspended for Three Months.

"What happened then?"

"I was suspended for three months by Brig.-Gen. Mason."

Mr. Kennedy also said he had demanded an inspection of the branch, and, while things had never gone right since he joined the Home Bank, the climax came when he was asked to sign the profit and loss statement.

Pressed to stipulate what was not all right, Mr. Kennedy replied: "Several things were not right. For instance, as I remember it, we could not make head or tail of the Frost loan."

The directors would not confirm the suspension of Mr. Kennedy, and he was then made Manager of the Church street branch, but he resigned in March, 1916.

Sir Thomas Remembered the Letter.

Sir Thomas White last night thanked The Globe for the opportunity of making a statement in connection with the publication of the letter to him from Mr. Machaffie, which he remembered having received about five years ago. Three accounts in which the Home Bank was interested had been drawn to his attention in 1916 by Mr. James Fisher, K.C., acting on behalf of certain directors of the bank. These accounts were:

(1) The Pellatt account.
(2) The Frost account.
(3) An account with a trust company in the Province of Quebec.

Sir Thomas stated that he at once took up these matters with the President of the bank, General Mason, and requested that Mr. Z. A. Lash, K.C., should look carefully into the position of these accounts and advise him as to the security held therefor.

Asked for Special Returns.

Sir Thomas continued: "I also called for special returns as to these accounts. Mr. Lash at once brought these matters to the attention of the Board of Directors of the bank, and later I was advised by Mr. Lash and Mr. Haney that the President, General Mason, had been relieved of his duties as General Manager and certain changes were made in the personnel of the board.

"I insisted that the Pellatt account should be additionally secured, that arrears of interest should be paid, and the principal gradually liquidated.

"As to the Frost account, I insisted that interest upon it should be no longer taken into profits.

"I took a similar course regarding the transaction with the trust company, which was connected with a loan of three or four hundred thousand dollars upon the bonds of a New Orleans railway company.

Pellatt Interest Paid Up.

"I was advised later that these matters had been taken up by the board; that the interest upon the Pellatt account had been paid up, additional security taken and the principal debt substantially reduced. I was advised that the members of the board who had brought these matters to my attention were in harmony with the rest of the board and satisfied with the outcome of my action.

"I was advised by Mr. Haney that the board had discussed all doubtful accounts, and that appropriations had been set aside for losses made, together with a considerable additional sum transferred from rest account. I was assured by Mr. Lash that interest upon the Frost account and the New Orleans bond transaction account would not be taken into profits distributed to shareholders by way of dividends.

"In August, 1918, I received Mr. Machaffie's letter, which I immediately brought to the attention of Mr. Lash to be taken up at once with the board. Later I received a report from the President of the board, Mr. Haney, which, he said, had been unanimously adopted by the board, expressly denying the allegations made in the letter, and pointing out, among other things, the following:

Report From the Board.

"(1) That the board had gone carefully into the affairs of the bank, and that committees had visited the places where the interests of the bank were greatest, and made themselves familiar with the position.

"(2) That the Pellatt account had been reduced by nearly $300,000, and that, in the opinion of the directors, the balance was fully secured through the taking of additional collateral.

"(3) That, in the board's judgment, there was ample security in the timber lands and limits for the claims of the bank in the Frost account, and that the value of the security had increased. The report expressed confidence that no loss would be sustained by the bank in this connection.

"(4) The report expressed confidence that no loss would result in connection with the New Orleans bond account.

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No Dividends Paid Out of Capital.

"(5) The report affirmed that no dividends had been paid out of capital, and that the actual earnings of the bank were amply sufficient to warrant the payment of the dividends which had been declared. It was pointed out that the annual earnings of the bank were considerably more than twice the amount of the dividend.

"(6) With respect to Mr. Machaffie's statement as to the British Columbia shipbuilding enterprise, the report stated that the indebtedness was liquidated in full prior to December 31, 1917, and that the transaction was a profitable one for the bank.

"(7) The report denied that section 153 of the Bank Act had been violated.

"(8) The report stated that changes in the staff had been brought about without any improper motive.

"(9) The report stated that the auditor was a man of the highest reputation and ability; that he was Bursar of Trinity College, and auditor for other institutions, and that he was duly appointed by the shareholders of the bank. It was stated also that he had been most careful, and even exacting, in obtaining information for the purposes of his audit.

Claimed Nothing Was Concealed.

"(10) Denial was given to the statement that important matters were concealed from the board. It was stated that all advances of $5,000 and over had been reported and discussed by the board.

"(11) Denial was given to the statement that transactions in which Mr. Haney and his friends had a personal interest were becoming frequent or that any losses in connection therewith had occurred. It was stated further that all important matters had been discussed by Mr. Haney with Mr. Lash and nothing done contrary to Mr. Lash's advice or opinion.

"(12) Assurance was given that the position of the bank was steadily growing stronger, and that the management was efficient and satisfactory, and that the business of the bank was progressing in a very satisfactory manner. Figures were quoted to substantiate these statements.

Chance to Sell Timber.

"Later, upon request, I received confirmation from Mr. Lash that interest upon the Frost account had not been taken into profits, and that, upon report of the most competent cruisers the board could find, the board valued the limits at nearly three million dollars, and regarded the valuation as conservative. He stated further that negotiations were pending for the sale of some of the timber at prices in excess of the values fixed by the bank. Mr. Lash was instructed to say that, in the opinion of the board, the whole amount of the bank's claim, including interest not taken into profits, was fully secured. As to the New Orleans account, Mr. Lash advised that the board was convinced that, outside of the liability of the trust company (which denied any liability), the securities held would realize for the bank the full amount of its claim, leaving the liability of the trust company to the good. Mr. Lash stated that he had been consulted continuously with reference to the accounts in question and had given the bank his considered judgment and advice."

Had Exceeded His Power.

In answer to questions of The Globe Sir Thomas said that only the three accounts mentioned had been brought to his attention. The bank at that time had a good business and good earnings, and it was his view at the time that the three accounts in question, which he had been assured were adequately secured, would work out, or that any marginal loss would be provided for out of earnings. He had gone farther than any power conferred upon the Minister under the Bank Act in insisting that interest should not be taken into profits for distribution to shareholders, and that accounts should be additionally secured and placed in process of liquidation.

Asked as to the file of correspondence, he stated that upon leaving Ottawa in August, 1919, he had left it with his secretary for the information of his successor, so as to be available should any further questions arise affecting the bank.

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Losses incurred since 1916 (Estimated

EXHIBIT "C". C 41904

[illegible]s Manufacturers Holding Company -		$400,000.00
King Shoe Company -		350,000.00
A. C. Frost & Company -		1,500,000.00
British Dominions -		1,100,000.00
Bank premises, -		400,000.00
Arnprior Cabinet		115,000.00
Athletic Suit Company -		60,000.00
Canadian Realty Co., -		40,000.00
A. G. Holmes -		200,000.00
Lamont, -		75,000.00
W. G. Mitchell & Co., -		250,000.00
A. J. Patterson -		200,000.00
H. J. Daly -		75,000.00
J. S. O'Connor -		30,000.00
Staff loans -		50,000.00
Foreign Department -		100,000.00
Call loans -		50,000.00
Security losses -		150,000.00
Branch loans -		750,000.00
Fixtures and Furniture -		150,000.00
Pellatt Companies -		300,000.00
		$6,345,000.00
Goodwill -	$1,000,000.00	

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EXHIBIT "D.

C 41905

RE DOMINION BANK-

DATE	DUE PROVINCIAL GOVERNMENTS	DUE DOMINION GOVERNMENT	DUE DOMINION GOVERNMENT UNDER FINANCE ACT	
Aug. 31-1923	348,136.	348,136.	--------	348,000
Sept. 30-1923	539,646.	364,559.	--------	
October 31-1923	1,896,001.	6,016,853.	2,800,000.	8.800.000

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RE UNION BANK OF CANADA

April 30-1923	5,329,958.	553,300.	--------	553.300 +
July 31-1923	2,957,304.	2,734,505.	---------	
Aug. 31-1923	2,961,733.	6,670,947.	---------	
Oct. 31-1923	3,723,858.	1,588,435.	12,500,000.	14,000.000

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RE STANDARD BANK OF CANADA

April 31-1923	770,899.	2,359,737.	---------	2,300.000
July 31-1923	475,766.	2,080,446.	---------	
August 31-1923	564,669.	3,861,456.	---------	
Oct. 31-1923	1,033,814.	8,636,032.	3,000,000.	4600.00

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EXHIBIT "E"

C 41906

PRIME MINISTER'S OFFICE

Exhibit "E"

Subject.....

Date Oct. 13, 1924 *Publication* Toronto Globe

HOME BANK EX-OFFICIALS REVEAL HEAD-OFFICE ACTS THAT LED UP TO COLLAPSE

Former Assistant to President Declares He Protested in 1914 to M. J. Haney, Then President, Against Interest Being Added to Frost Account to Swell Bank's Apparent Profits—Was Told It Must Be Done "in Order to Make a Showing"—"Dividends for Years 1916 and 1917 Based on Addition of Interest to Doubtful Accounts"

WESTERN DIRECTORS SCENT TROUBLE AND ADVISE FINANCE MINISTER WHITE

Former Assistant Manager of Toronto Branch Refused to Sign Profit and Loss Account for That Branch in December, 1915, and Was Suspended—Sir Thomas White Ordered Three Accounts Adjusted and "Secured," Receiving Assurances in 1918 That This Had Been Done and Bank Was "Steadily Growing Stronger"

Information which reached The Globe a few days ago, and which subsequently was made the subject of careful inquiries in Toronto, Ottawa, Stratford and Kitchener, is believed by those in touch with the situation to have an important bearing on the affairs of the defunct Home Bank.

It is now known that as far back as 1914 some of the trusted officials of the bank expressed alarm regarding the institution's future, and asked for an inspection and inquiry by the Board of Directors. At that time news of so startling a nature was conveyed to the bank's three Western directors by Mr. W. N. Machaffie, then Manager of the bank's Western business, that investigations were at once commenced. Mr. Machaffie, according to his own statement, obtained information regarding some transactions from one of the bank's officials in Toronto.

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C 41907

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Subject.....

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Urged to Inform Minister.

Mr. Machaffie in September, 1915 actually asked the Western directors to take legal advice as to whether the Minister of Finance, Sir Thomas White, ought not to be informed.

These Western directors—Messrs. T. A. Crerar, John Kennedy and John Persse—did act, and James Fisher, K.C., of Winnipeg, laid before the Minister the statements as reported by Mr. Machaffie. Sir Thomas White asked that Z. A. Lash, K.C., look into these accounts and advise him. In addition, Sir Thomas called for special returns, and insisted that interest in the A. B. Frost account should not be taken into profits.

Seemed to Be Satisfactory.

In a statement made to The Globe last night Sir Thomas said that he was satisfied at the time that matters had been arranged in a businesslike manner, including payment of interest on the Pellatt account and the receipt of additional securities to guarantee it.

In 1916 Mr. Machaffie came to Toronto, at first in an advisory capacity. Desiring an inspection of Head Office, an inspection was instituted, which, he claims, showed a discrepancy, but the man who discovered it, Mr. Machaffie claims, was soon afterward ordered to a far-away branch, and he subsequently resigned.

Mr. Machaffie, who is now a resident of Stratford, told The Globe that in 1916 he had discussed the famous Frost account with President M. J. Haney, telling him how wrong it was to add unpaid interest to such an account. According to Mr. Machaffie, he was told that the interest must be added "in order to make a showing." Mr. Machaffie had discussed taking over the General Managership with the Board of Directors, but his nearest approach to this office was when he became Assistant to the President. Again he urged Head Office inspection, but nothing came of it, and, according to his own description of events, he was virtually frozen out of his position.

Says Dividends Came From Deposits

In 1918, shortly after his retirement, he wrote quite a lengthy letter to Sir Thomas White outlining what he conceived to be the critical position of the pank. This letter, from a man who had been Assistant to the President, bluntly and baldly claims that the bank's dividends for the years ending May, 1916, and May, 1917, were "based on the addition of interest to doubtful accounts." He further alleged that in each year some 30 per cent. more than the amount of dividend was added to the Frost account alone. He charged to the Minister of Finance that it was evident that the actual cash disbursed in dividends came out of the increase in deposits.

It was a serious and almost unprecedented action to take—this writing the Minister direct in those critical days, when everything in the world seemed to hang in the balance. Sir Thomas promptly replied, saying that he would take the matter up immediately. Again, Mr. Lash was summoned and apprised of the allegations made.

Sir Thomas Receives Assurances.

Sir Thomas was soon in receipt of a report from the bank's Board of Directors, which made what may be characterized as a sweeping denial of the statements in the Machaffie complaint. This report, "unanimously adopted by the board," said the Pellatt account, for instance, had been reduced by nearly $300,000, and that the balance had been fully secured by additional collateral. The report claimed that there was ample security in the timber lands and limits for the claims of the bank in the Frost account, and confidence was expressed that no loss would be entailed. The report further stated the board's opinion that no loss would result in connection with the New Orleans bond account. No dividends had been paid out of capital, said the directors. It was claimed that the annual earnings were considerably more than twice the amount of the dividend. Denial was made that false statements had been sent out. According to Sir Thomas White, he was given "assurance that the position of the bank was steadily growing stronger, and that the management was efficient and satisfactory, and that the business of the bank was progressing in a very satisfactory manner."

Further Assured by Mr. Lash.

Sir Thomas said last night that he had received subsequent confirmation from Mr. Lash that the interest on the Frost account had not been taken into profits, and that negotiations were pending for the sale of some timber at prices in excess of the bank's valuation. Other information of a like encouraging nature was brought by Mr. Lash. Sir Thomas stated that he had exceeded his powers as Minister of Finance in insisting that interest should not be taken into profits for distribution to shareholders, and that accounts should be additionally secured and placed in process of liquidation. Only three accounts were brought to his attention.

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While Sir Thomas admitted having received the letter from Mr. Machaffie, The Globe was informed at Ottawa that it was not now on the files of the Finance Department. Sir Thomas says when he left office in 1919 he left this and other correspondence with his secretary, "so as to be available should further questions arise affecting the bank."

Refused to Sign Report.

The Globe also had an interview with Mr. J. H. Kennedy, now a manufacturer, of Kitchener, a former official of the Home Bank, in which he related how he was suspended for three months because he refused to sign a statement for the year ending December, 1915, which he believed to be false.

Mr. M. J. Haney, former President of the Home Bank, whose name is frequently mentioned in the reopened controversy, could not be seen by The Globe yesterday, though inquiries were made at both his business offices and his home at Port Credit.

Documents He Wrote.

Mr. Machaffie, when seen in Stratford, admitted that he was one of those who had made complaint as to the banking methods adopted by the Home Bank. He said he had to rely on his memory for most of the information though he had one or two important documents with which to back up his statements.

"Now that liquidation has been decided upon, I am quite willing to give the public any facts or information which I have relating to this serious matter," he added. "The documents to which I refer were written by myself."

He stated that in September, 1914, a senior officer of the bank at the head office in Toronto had written him a personal letter describing the position of several accounts at the Toronto office. At that time Mr. Machaffie was Manager of the Home Bank in Winnipeg, and in charge of its Western business. This letter described the Frost account, the Pellatt account, the New Orleans Railway business, the King Shoe Co. account and some smaller matters.

Various Investigations Start.

"The letter was of a most alarming nature," he said. "At that time three directors of the bank were resident in Winnipeg—Messrs. T. A. Crerar, John Kennedy and John Persse. I at once gave them the information I had received and they arranged to visit Toronto at an early date. During the next 12 months these three directors made several visits to Toronto, and various investigations were under way.

"On September 28, 1915, I addressed a letter to the Winnipeg directors which contained some very strong statements regarding men who are not now alive, and for that reason I would rather not now make it public, but you may quote one paragraph:

"'With the President and General Manager and also the Assistant General Manager absolutely discredited, I, while not an executive officer, feel that in the opinion of the banking world some responsibility may be thought to descend to me as Senior Branch Manager. I, therefore, ask the Western directors to take legal advice, particularly as to whether matters ought not to be placed before the Minister of Finance and by whom.'

Saw Minister of Finance.

"A little later in the year—I think in December—I was summonded to a meeting of the Western directors with their solicitor, Mr. James Fisher, K.C., of Winnipeg. There was an inspection report of the Toronto branch on the table, which I did not peruse, but answered various questions on banking matters which were put to me.

"In February, 1916, I learned that Mr. Fisher came East, saw the Minister of Finance (then Sir Thomas White), and handed him a letter based on what was found in that inspection report. In March, 1916, I received a telegram to come to Toronto, and met Mr. M. J. Haney, who had recently been elected Vice-President and Chief Executive Officer of the bank. Mr. Haney told me that, while retaining my rank as Winnipeg Manager, I would be required to spend some time in Toronto with him in an advisory capacity. On looking over the minute book I found record of a resolution recently passed that the capital of the bank was intact.

Wanted an Inspection.

"I was anxious to have the whole bank inspected by a competent officer, and, to make a beginning, suggested that the Head Office department (this is distinct from the Toronto branch) should be inspected at once. It had not been inspected since the organization of the bank in 1906. Mr. Haney agreed to this. A discrepancy was found in the bank premises account as a result, and reported to Mr. Haney. The following week the officer who made the inspection was ordered by Mr. Haney to take charge of a branch in another Province, and his resignation, much to my regret, came in a week later. I then resolved to let the question of inspection stand over for the present. In May I returned to Winnipeg for a time, but

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when saying good-bye to Mr. Haney he asked me if I would take the General Management. I asked him to allow that to remain in abeyance until my return to Toronto in June.

"In August there was a full meeting of the board, the Western men being present. I was asked whether, and on what terms, I would take the General Management. We agreed on terms, but I think, because of my remarks on the position of the bank, Mr. Haney suggested that the appointment be deferred for a week or two, as he desired to consult with Mr. Z. A. Lash, who had recently been appointed General Counsel for the bank. In the meantime I was to be appointed Assistant to the President (Mr. Haney), which was done. In January, 1917, I asked Mr. Haney to send me back permanently to Winnipeg. He became angry and would not do so. I then kept to my rooms in the bank and ceased to attend any board meetings."

Told Them It Was Wrong.

"Why did you take this stand?" Mr. Machaffie was asked.

"There were a number of reasons. For instance, I had discussed the Frost account with Mr. Haney on several occasions, and told him how absolutely wrong it was to add interest to such an account."

"What do you mean by adding interest?"

"That means swelling the bank's apparent profits by increasing a debt of that nature with the accruing, but unpaid, interest."

Continuing, Mr. Machaffie said: "Mr. Haney's reply to my protest was that another year's interest must be added 'in order to make a showing.' There were also transactions in which Mr. Haney or some of his friends were personally interested. Applications for such loans did not come through a branch Manager in the ordinary course, but were brought directly before the board by Mr. Haney himself."

Mr. Gough Unfamiliar With It.

Mr. Machaffie refused to be drawn into a discussion of any other details in this connection, saying that they were matters of more or less personal concern, but other questions switched the conversation to a new phase.

"In June, 1917," he said, "I had a conversation with Mr. Gough, Vice-President, on a train between Toronto and Oakville, and told him how wrong it was to add interest to the Frost account. Mr. Gough agreed with me in principle, but said he was not sufficiently familiar with that account to form an opinion.

"In August I was summoned to a conference with Messrs. Haney, Gough and Daly, the latter having recently been elected a director. I was told that my former position in Winnipeg had been filled and was asked in what capacity I thought I could best serve the bank. I replied that the bank badly needed a proper inspection department and that I was quite willing to undertake its formation. Nothing came of this. A few days later Mr. Haney sent for me again. He was alone at the time and said to me that if he and I 'could adjust our mentalities' our old relations might be resumed. Nothing came of that either.

Nothing Left to Do.

"On November 1, owing to personal and family reasons, I left on three months' leave of absence. Upon my return in February, 1918, I found that the Head Office premises had been rearranged and that there was no room or even a desk available for my use. After some scrapping for a month or two terms were agreed upon, and my resignation went forward in May.

Letter to Sir Thomas.

"After leaving the service I felt very uneasy as to the outcome and decided to write to the Minister of Finance as follows:

" 'Oakville, Ont., Aug. 29, 1918.
" 'Hon. Sir Thomas White,
" 'Minister of Finance,
" 'Ottawa.

" 'Dear Sir Thomas: Referring to the report of James Fisher, K.C., to you in February, 1916, and to a conversation with the writer in December of that year; at that time there seemed some hope of selling a substantial portion of the British Columbia timber held in the A. C. Frost account to a pulp company. This sale, however, did not materialize; the situation, therefore, is that the dividends for the years ending May, 1916, and May, 1917, were based on addition of interest to doubtful accounts—in each year some 30 per cent. more than amount of dividend being added to the Frost account alone.

(A paragraph of the letter at this juncture Mr. Machaffie refused to make public, stating that it contained figures and facts which he could not check up in his memory, but he was certain an examination of the books would show that he was justified in writing it. It had to do with the bank's British Columbia venture.)

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C 41910

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Subject.....

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"'In view of the foregoing it seems evident that the actual cash disbursed in dividends during the years under review was furnished by the increase in deposits, and that the aggregate risk of the public is much greater today than when Mr. Fisher approached you.

"'The total amount written up in the Frost account over the purchase price of the timber, if added to the amount of capital stock carried by the bank, would account for the entire capital.

"' Section 153 of the Bank Act is, of course, violated. Head Office officials unwilling to share the guilt are obliged to get out; since matters were reported to you the following gentlemen have had to resign:

(Following this the letter gave four names, one of which was the writer's, but he refused to give out the other three. Their bank rank was stated to be Toronto Manager and two Supervisors.)

"'The shareholders' auditor, who was the late Col. Mason's selection (obviously Brig.-Gen. Mason, father of the late General Manager), is not a chartered accountant, nor a trained banker; the position of important matters is concealed from the board, and consequently the public are denied that measure of protection contemplated by Parliament in section 58 of the Bank Act.

"'Transactions in which Mr. Haney and his friends have a personal interest were becoming rather frequent, and in some cases the outcome was disastrous to the bank.

"'This lack of disinterestedness on the part of Mr. Haney, coupled with the fact that much important information is withheld from Mr. Lash, seems to justify the conclusion that the arrangement made by you with these two gentlemen does not afford the public an adequate measure of protection.

"'All of which is respectfully submitted. I am,

"'Yours faithfully,

"'W. N. Machaffie,

"'Late Assistant to the President.'"

The Bank Act Explained.

"What is the significance of the paragraph in the letter in which you refer to section 58 of the act?" Mr. Machaffie was asked.

"It is this: that, where dividends are paid at a time when the bank's capital is impaired, the directors become personally liable for the amount of those dividends, unless they can prove their ignorance of the true position of affairs."

The text of section 58 of the Bank Act of 1913 reads:

"No dividend or bonus shall be declared so as to impair the paid-up capital of the bank.

"The directors who knowingly and wilfully concur in a declaration or making payable of any dividend or bonus whereby the paid-up capital of the bank is impaired shall be jointly and severally liable for the amount of such dividends or bonus, as a debt due by them to the bank."

Records show that the directors in 1918 were: James Mason, Honorary President; M. J. Haney, President; R. P. Gough, C. A. Barnard, Hon. A. Claude Macdonell, J. Ambrose O'Brien, H. J. Daly, S. Casey Wood and John Kennedy, the latter being from Swan River, Manitoba.

One Result of the Letter.

Concluding, Mr. Machaffie said: "I may say that in a conversation with Mr. Daly in the autumn of 1920, after he became President of the bank, he told me that as a result of my letter to the Minister all the directors had been required to sign a document admitting full knowledge of the bank's affairs."

There is no doubt that Sir Thomas White, while Minister of Finance, received the foregoing letter, because on September 4, 1918, he replied to Mr. Machaffie as follows:

"Upon my return to the office I find your letter of the 29th ultimo, which will at once have my attention. Thanking you for bringing the matter before me."

Why Officials Resigned.

In Mr. Machaffie's letter to Sir Thomas reference is made to section 153 of the Bank Act, which he claimed caused the resignations of several bank officials, among them himself. This section reads:

"(a) The making of any wilfully false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank, or,

"(b) the using of any false or deceptive statement in any account, statement, return, report or other document respecting the affairs of the bank, with intent to deceive or mislead any person . . . is an indictable offense punishable . . . for a term not exceeding five years."

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C 41911

PRIME MINISTER'S OFFICE

Subject.....

Date.....*Publication*.....

Mr. Kennedy Justified.

One of the men who resigned from the bank mentioned in Mr. Machaffie's letter, The Globe learned, is Mr. J. H. Kennedy, now a manufacturer, of Kitchener, Ont., who readily admitted his identity. He was formerly with the Banque Internationale, and when that institution was taken over by the Home Bank he was appointed Assistant Manager of the Toronto branch, under the late Col. J. Cooper Mason. That was in May, 1915.

"Does the letter of Mr. Machaffie properly explain the reason why you left the bank?" he was asked by The Globe.

"It justifies the position I took at the time," answered Mr. Kennedy. "I refused to sign the statement showing the return of the profit and loss account for the fiscal year ending December 31, 1915. This was the statement from the Toronto branch alone."

"What reasons did you give for such a refusal?"

"The interest may have been earned and not paid. I claimed that attesting to the statement was fraud and made me liable to imprisonment."

Suspended for Three Months.

"What happened then?"

"I was suspended for three months by Brig.-Gen. Mason."

Mr. Kennedy also said he had demanded an inspection of the branch, and, while things had never gone right since he joined the Home Bank, the climax came when he was asked to sign the profit and loss statement.

Pressed to stipulate what was not all right, Mr. Kennedy replied: "Several things were not right. For instance, as I remember it, we could not make head or tail of the Frost loan."

The directors would not confirm the suspension of Mr. Kennedy, and he was then made Manager of the Church street branch, but he resigned in March, 1916.

Sir Thomas Remembered the Letter.

Sir Thomas White last night thanked The Globe for the opportunity of making a statement in connection with the publication of the letter to him from Mr. Machaffie, which he remembered having received about five years ago. Three accounts in which the Home Bank was interested had been drawn to his attention in 1916 by Mr. James Fisher, K.C., acting on behalf of certain directors of the bank. These accounts were:

(1) The Pellatt account.
(2) The Frost account.
(3) An account with a trust company in the Province of Quebec.

Sir Thomas stated that he at once took up these matters with the President of the bank, General Mason, and requested that Mr. Z. A. Lash, K.C., should look carefully into the position of these accounts and advise him as to the security held therefor.

Asked for Special Returns.

Sir Thomas continued: "I also called for special returns as to these accounts. Mr. Lash at once brought these matters to the attention of the Board of Directors of the bank, and later I was advised by Mr. Lash and Mr. Haney that the President, General Mason, had been relieved of his duties as General Manager and certain changes were made in the personnel of the board.

"I insisted that the Pellatt account should be additionally secured, that arrears of interest should be paid, and the principal gradually liquidated.

"As to the Frost account, I insisted that interest upon it should be no longer taken into profits.

"I took a similar course regarding the transaction with the trust company, which was connected with a loan of three or four hundred thousand dollars upon the bonds of a New Orleans railway company.

Pellatt Interest Paid Up.

"I was advised later that these matters had been taken up by the board; that the interest upon the Pellatt account had been paid up, additional security taken and the principal debt substantially reduced. I was advised that the members of the board who had brought these matters to my attention were in harmony with the rest of the board and satisfied with the outcome of my action.

"I was advised by Mr. Haney that the board had discussed all doubtful accounts, and that appropriations had been set aside for losses made, together with a considerable additional sum transferred from rest account. I was assured by Mr. Lash that interest upon the Frost account and the New Orleans bond transaction account would not be taken into profits distributed to shareholders by way of dividends.

"In August, 1918, I received Mr. Machaffie's letter, which I immediately brought to the attention of Mr. Lash to be taken up at once with the board. Later I received a report from the President of the board, Mr. Haney, which, he said, had been unanimously adopted by the board, expressly denying the allegations made in the letter, and pointing out, among other things, the following:

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Report From the Board.

"(1) That the board had gone carefully into the affairs of the bank, and that committees had visited the places where the interests of the bank were greatest, and made themselves familiar with the position.

"(2) That the Pellatt account had been reduced by nearly $300,000, and that, in the opinion of the directors, the balance was fully secured through the taking of additional collateral.

"(3) That, in the board's judgment, there was ample security in the timber lands and limits for the claims of the bank in the Frost account, and that the value of the security had increased. The report expressed confidence that no loss would be sustained by the bank in this connection.

"(4) The report expressed confidence that no loss would result in connection with the New Orleans bond account.

No Dividends Paid Out of Capital.

"(5) The report affirmed that no dividends had been paid out of capital, and that the actual earnings of the bank were amply sufficient to warrant the payment of the dividends which had been declared. It was pointed out that the annual earnings of the bank were considerably more than twice the amount of the dividend.

"(6) With respect to Mr. Machaffie's statement as to the British Columbia shipbuilding enterprise, the report stated that the indebtedness was liquidated in full prior to December 31, 1917, and that the transaction was a profitable one for the bank.

"(7) The report denied that section 153 of the Bank Act had been violated.

"(8) The report stated that changes in the staff had been brought about without any improper motive.

"(9) The report stated that the auditor was a man of the highest reputation and ability; that he was Bursar of Trinity College, and auditor for other institutions, and that he was duly appointed by the shareholders of the bank. It was stated also that he had been most careful, and even exacting, in obtaining information for the purposes of his audit.

Claimed Nothing Was Concealed.

"(10) Denial was given to the statement that important matters were concealed from the board. It was stated that all advances of $5,000 and over had been reported and discussed by the board.

"(11) Denial was given to the statement that transactions in which Mr. Haney and his friends had a personal interest were becoming frequent or that any losses in connection therewith had occurred. It was stated further that all important matters had been discussed by Mr. Haney with Mr. Lash and nothing done contrary to Mr. Lash's advice or opinion.

"(12) Assurance was given that the position of the bank was steadily growing stronger, and that the management was efficient and satisfactory, and that the business of the bank was progressing in a very satisfactory manner. Figures were quoted to substantiate these statements.

Chance to Sell Timber.

"Later, upon request, I received confirmation from Mr. Lash that interest upon the Frost account had not been taken into profits, and that, upon report of the most competent cruisers the board could find, the board valued the limits at nearly three million dollars, and regarded the valuation as conservative. He stated further that negotiations were pending for the sale of some of the timber at prices in excess of the values fixed by the bank. Mr. Lash was instructed to say that, in the opinion of the board, the whole amount of the bank's claim, including interest not taken into profits, was fully secured. As to the New Orleans account, Mr. Lash advised that the board was convinced that, outside of the liability of the trust company (which denied any liability), the securities held would realize for the bank the full amount of its claim, leaving the liability of the trust company to the good. Mr. Lash stated that he had been consulted continuously with reference to the accounts in question and had given the bank his considered judgment and advice."

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C 41913

PRIME MINISTER'S OFFICE

Subject.....

Date.....*Publication*.....

Had Exceeded His Power.

In answer to questions of The Globe Sir Thomas said that only the three accounts mentioned had been brought to his attention. The bank at that time had a good business and good earnings, and it was his view at the time that the three accounts in question, which he had been assured were adequately secured, would work out, or that any marginal loss would be provided for out of earnings. He had gone farther than any power conferred upon the Minister under the Bank Act in insisting that interest should not be taken into profits for distribution to shareholders, and that accounts should be additionally secured and placed in process of liquidation.

Asked as to the file of correspondence, he stated that upon leaving Ottawa in August, 1919, he had left it with his secretary for the information of his successor, so as to be available should any further questions arise affecting the bank.

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C 41914

Delegation representing Depositors of

Home Bank of Canada which waited

on the Government, Wednesday,

January the 23rd, at 11.00 o'clock.

Personnel of Committee
comprising delegation:

J. C. Brady, Toronto.
A. G. Browning, K.C., Deputy Attorney General of Alberta.
U. A. Buchner, London, Ont.
A. B. Campbell, Toronto, Ont.
E. A. Cleary, Windsor, Ont.
W. A. Dover, Toronto, Ont.
J. F. Edgar, Toronto, Ont.
Arthur English, Winnipeg, Man.
G. G. Henderson, Mayor - Fernie, B.C.
H. H. Higginbotham, Sec. U.F.A., Calgary, Alta.
R. A. Jeffery, Mayor - Arnprior, Ont.
W. T. Kernahan, Toronto, Ont.
W. T. J. Leek, Toronto, Ont.
R. J. McLaughlin, K.C., Toronto, Ont.
J. H. Mitchell, Alliston, Ont.
John O'Reilly, Reeve, - Lindsay, Ont.
Dr. Paul Poisson, Mayor, -Tecumseh, Ont.
W. G. Ross, Moose Jaw, Sask.
Edgar C. Aanders, St. Thomas, Ont.
V. A. Sinclair, K.C., Tillsonburg, Ont.
Rev. Dr. Treacy, West Toronto, Ont.
H. Weinfield, Montreal, Que.
I. E. Weldon, Toronto, Ont.

Members of Government present:

The Right Honourable the Prime Minister,
The Honourable J. A. Robb,
The Honourable Dr. J. H. King,
The Honourable E. J. McMurray,
The Honourable James Murdock,
The Honourable W. R. Motherwell,
The Honourable Dr. H. S. Beland,
The Honourable Jacques Bureau,
The Honourable Charles Stewart,
The Honourable George P. Graham.

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Mr. W. T. J. LEE, Chairman of the Committee, introduced the delegation and read a petition to His Excellency in Council (Exhibit "A") In answer to a question put by the Prime Minister, Mr. Lee stated that the total loss as nearly as could be estimated at present had been between $7,000,000 and $8,000,000.

Mr. R. J. McLAUGHLIN, K.C., of Toronto: explained that the Committee represented 60,000 depositors who had suffered by the Home Bank suspension. He referred to the service that this Committee had rendered in suppressing a tendency towards turbulence in a number of depositors' meetings already held. The Committee considered that the proper procedure was to appeal to the Crown, in doing which a service was rendered not only to the Depositors, but to the banking interests and the general credit of the country.

The first ground of appeal for relief was that of moral justice. The Bank Act conferred on Ministers of the Crown "trusts" in favour of the public. The law permitted an injured party to institute proceedings against a defaulting private trustee, but no such action was possible against a public trustee.

The Bank Act of 1913, in Section 56-a, authorizes Minister of Finance to appoint an Auditor to investigate the affairs of any bank with which he has reason to believe that all was not well. The liquidators' report showed that the affairs of the Home Bank

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were far from sound in 1916. Mr. McLaughlin mentioned three accounts, by way of illustrations: (a) the Frost account and its subsidiary accounts which was $1,500,000 "to the bad" in 1916 and over $4,000,000 at the time of suspension; (b) the Pellatt account, $1,800,000 in 1923 (very little security); (c) the New Orleans Street Railway account, $1,100,000 in 1923.

If there ever had been justification for exercising the power conferred by section 56-a that occasion arose in 1916. The Minister of Finance of the day, however, had merely referred the matter to the late Z. A. Lash, K.C., who was then Counsel for the Home Bank and such investigation as the latter made "merely smoothed things over". The three accounts mentioned above were not banking accounts at that time. They were purely speculative, and not investments which a bank should make. The Lash so-called investigation was not adequate. These rotten accounts became more rotten as time went on. (Mr. McLaughlin read extracts from Sir Thomas White published statement of January the 7th last, of which a copy is attached marked "Exhibit B").

The dilemna of 1916 has presented two horns: (a) if the facts were not then brought out (and they were not) there had

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been negligence on the part of the Government of the day; (b) if the facts were then realized and steps to clear up the situation were not taken on account of the country being at war, there was still ~~greater~~ stronger reason to appeal to the Government now for relief on grounds of public policy.

If the powers conferred by Section 56-a had been carried out in 1916, the depositors would not have lost their money although the shareholders would probably have lost. The situation had now become a national obligation to relieve, which would simply mean assessing the people of Canada .75¢ a head.

MR. ROBB: What would the losses have been had the Bank suspended in 1916?

MR. McLAUGHLIN: "I can't say. Conditions got continually worse from that time up to the failure. But irresponsible, foolish and dishonest speculators should not have been allowed to continue their depredations after 1916".

Reverting to the public policy argument, Mr. McLaughlin expressed the opinion that the hard times of to-day were largely the result of lack of public confidence which had been so strikingly shaken by banking conditions in Canada, First there had been the Merchants, then the Home, then the Bank of Hamilton amalgamation and the run on the Dominion Bank.

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This lack of confidence would spread unless the Dominion Government showed the public that it was ready to stand by them and by the credit of the country. The people of Canada have on deposit in the chartered banks nearly $1,500,000,000 at 3%, - a fund which supports the agricultural, commercial and industrial interests of the country. It is of the utmost importance that faith should be kept with these humble depositors who have no means of knowing of the comparative solvency of the different banks. The Depositors' Committee had restrained an agitation which would have done the country vastly more harm and would have cost the country vastly more money than it would now cost to make good the loss suffered by the Home Bank depositors. A solution of the present problem was suggested by the recent action of the Government of Quebec in loaning $15,000,000 to permit of the amalgamation of La Banque Nationale and the Bank of Hochelaga.

The Government, said Mr. McLaughlin, had made bank currency safe and reliable, but the practical currency of to-day was the cheque and the draft, and it was just as important that savings deposits should be made safe so that the cheque and draft could be relied upon.

Lastly Mr. McLaughlin asked the Government to regard the matter from the point of view of compassion and mercy.

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The depositors were mostly poor people. In many cases their life savings had been wiped out. The miners of the Crow's Nest Pass had lost nearly $1,000,000 of savings. Toronto depositors had been largely labouring men. Many depositors were returned soldiers.

For seven long years a condition had gone on which should have been investigated and stopped, and the depositors now look to the Dominion Government to relieve them on grounds of infallible justice, public policy and mercy, - to make good what had been lost by the Crown not taking proceedings authorized by the Bank Act.

The PRIMEMINISTER: pointed out that the Speaker had claimed that the Crown had not done its duty through one of its representatives (in 1916). Was it possible for the Crown "for reasons of public policy" not to do its duty?

Mr. MCLAUGHLIN: "I will leave that to the Crown to decide".

The PRIME MINISTER: "Have you, as depositors, made up your minds whether your appeal is justified on grounds of public policy or on grounds of negligence?"

Mr. McLAUGHLIN: "Iaam accepting Sir Thomas White's statement".

Hon. CHAS. STEWART: Did he know the Bank was unsafe in 1916?

Mr. McLAUGHLIN: "No."

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Hon. CHAS. STEWART: He assumed the Bank was solvent?

Mr. McLAUGHLIN: Yes, but no adequate investigation was made by Sir Thomas White.

The PRIME MINISTER: "You, as a deputation, present a petition to the Crown to act on one or two incompatible grounds":

(1) the Crown had a public duty to make the public at large make good losses suffered by a section of the public;

(2) the Crown had neglected its duty; therefore an obligation rested on a subsequent Ministry to make good the ensuing loss. On which of these two grounds are we being asked to indemnify the depositors?

Mr. McLAUGHLIN: In legal proceedings we plead alternatives.

The PRIME MINISTER: Have you any view as to which is the right ground?

Mr. McLAUGHLIN: The representations made in 1916 justified an investigation under the Bank Act. That investigation was not made. Sir Thomas White said the reason it was not made was that the country was at war. In other words, he assigned the higher duty of preserving the credit of the whole country as a reason for failing to perform the minor duty.

The whole question resolved itself to a basis of the two alternatives suggested above, viz (a) a Minister of the Crown had neglected a duty which should have been performed or (b) on grounds of public policy he had been forced to sacrifice a minor to a higher duty.

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Mr. J. F. EDGAR, of Toronto: stated that the Committee held no brief for the shareholders but represented the depositors alone. He did not reflect on any adviser of the Crown nor on the provisions of the Bank Act or any other Act of Parliament. This was a case in which the questionoof negligence or tort did not arise. In matters of Royal Prerogatives the only right of the subject was under contract or statute or to get his relief as a matter of grace.

The PRIME MINISTER: "Are not the advisors of the Crown liable to impeachment if they give wrong advice?"

Mr. EDGAR: Yes, but impeachment in such cases has been unheard of for a long time. Amendments to the Bank Act might be made at thecnext session of Parliament, but could not help these depositors whose only remedy was to ask for relief as a "war claim".

Sir Thomas White's statement of January the 7th was doubtless correct in claiming that a real investigation of the Bank Act in 1916 would have resulted in the destruction of the credit of the Bank, whether it was solvent or insolvent.

The PRIME MINISTER: "Was not Mr. Lash retained to investigate?"

Mr. EDGAR: "He was retained to make an inquiry as a lawyer. Section 56-a provides for a different kind of investigation by an Auditor."

The speaker admitted that, in his opinion, Sir Thomas

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White should have known enough of the facts in 1916 to have been justified in authorizing a real investigation under Section 56-a.

Mr. BUREAU: pointed out that although Mr. Lash had reported that all was well in 1916, there must have been some reason for changing the personnel of the bank heads.

Mr. EDGAR: read a statement prepared by the Liquidator showing the estimated spread in losses of twenty-one accounts between 1916 and the time of suspension, 1923 (Exhibit "C").

In 1916 the Home Bank, if investigated, would have been found to have lost in one distinct account (New Orleans and Belle Isle Railway Co) $500,000, which was covered up by being tacked on by a subsequent New Orleans loan. This one item wiped up the reserve of the Bank and seriously impaired its capital.

Mr. GRAHAM: If it is sound policy for the Government to save the credit of Canadian banking, would it not have been wise to do so in 1916 (by way of investigation)?

Mr. EDGAR: "I think so. For one thing there was then a good-will of perhaps $1,000,000, which no longer exists, but I will say that I consider that Sir Thomas White was guilty of nothing more than a mistake in judgment. I don't think he was careless."

From 1916 to 1923 the Bank opened many new offices and the deposits almost doubled and meanwhile the continual losses

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were covered by deposits. If the Bank had been sold in 1916 or wound up, the reserve, and to a large extent the capital would have gone, but I think the depositors would have been taken care of.

In reply to a question by Mr. McMurray, Mr. Edgar said that the spread in losses sustained on the twenty-one accounts mentioned above between 1916 and 1923 was estimated by the Liquidator at $6,345,000.

There had been no bank amalgamations during the war. In fact, Sir Thomas White had objected to the proposed amalgamation of the Royal Bank and Bank of Commerce.

In conclusion Mr. Edgar appealed to the Government to grant relief to the depositors on moral and compassionate grounds.

Mr. I. E. WELDON, Secretary of Committee, Toronto: reminded the Government that there was plenty of precedent for granting departmental relief to banks which had got into difficulties, viz, (a) Dominion Bank run, 1923; (Dominion Government raised deposits from $348,000 to $8,800,000); (b) Union Bank,1923, $553,300 to $14,000,000; (c) Standard Bank, 1923, -$2,300,000 to $11,600,000 (Exhibit "D").

Relief of this nature to the Home Bank would have avoided the crash.

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Hon. CHAS. STEWART: pointed out that in all the cases cited above the banks assisted had turned over to the Government ample securities. The Home Bank, however, did not possess the necessary securities.

Mr. WELDON: urged that it was not in the public interest that public credit should suffer, as it was doing, in the Home Bank, and referred to the instances already mentioned of the Quebec bank amalgamation.

The PRIME MINISTER: Do you want us to loan or give?

Mr. WELDON: No matter which. We want you to pay us and it is possible to do so along the lines taken by the Quebec Government.

Mr. KERNAHAN: (Treasurer of the Committee): reminded the Government that prior to this failure the public had believed that depositors could not suffer by the collapse of a Canadian chartered bank. Canadian banks, with the Canadian Bankers Association behind them, were regarded as perfectly safe, but public confidence had now been shaken in a way that could not be exaggerated. The Bankers Association had known long ago that the Home Bank was in a rotten condition. Sir Thomas White had also known, but had considered that he did not dare to expose its rottenness during the war. The Lash report was not available and had probably been verbal. The departmental records had been regarded as personal and had been taken away (Mr. Fielding had said as much) - Exhibit "E".

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The Committee was pleading for those unfortunates who had relied on the confidence given by the Canadian Bankers Association, and the Government should feel this responsibility and should introduce legislation to compensate the depositors and to restore confidence in Canadian banks.

REV. DR. TREACY: said he wished to correct the impression which obtained in many quarters that the Home Bank was a Catholic institution. 82% of the Ontario depositors were, as a matter of fact, Protestants. Every section of Canada had been affected by this national disaster. Of the 60,000 depositors most were married men, so that probably 400,000 people were directly affected.

Sir Thomas White, Sir Henry Drayton and even Mr. Fielding had known of the condition of the bank....

The PRIME MINISTER: objected to the latter statement in Mr. Fielding's absence and stated that Mr. Fielding has assured him to the contrary.

REV. DR. TREACY: At any rate, the Bankers Association knew the conditions and nothing was done. Our plea is for justice and mercy.

Mr. V. A. SINCLAIR, K.C.: spoke on behalf of American depositors, and mentioned one concern who had had $600,000 on deposit in anticipation of building a $2,000,000 plant in Canada. On grounds of public urgency and policy the Government of Canada must restore the shattered confidence of foreigners.

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Mr. : spoke on behalf of the Returned Soldier depositors.

Mr. H. WEINFIELD: drew attention to the fact that trustees were required by law to deposit certain trust funds in Canadian chartered banks, and in the execution of this legal duty many such funds had been lost. e.g. labour unions, Montreal. Yet the sufferers were estopped from suing the Government.

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Delegations

C 41927

January 23, 1924

Delegates: W. T. J. Lee, Chairman and seven members of Home Bank Depositors' Relief Committee
J. C. Brady, Toronto,
A. G. Browning
R. J. McLaughlin, K.C., Toronto
J. F. Edgar ; W.T. kernahan;
I. E. Weldon; Rev. Dr. Treacy

Received by: The Prime Minister; Hon. Mr. Robb, Dr. J.H.King, E.J.McMurray, James Murdock, W.R.Motherwell, Dr. H.S.Beland, Jacques Bureau, Charles Stewart, Geo. P. Graham.

Subject: Petition for full indemnity of the depositors of the Home Bank against any loss suffered by reason of the failure of the said Bank.

Disposition:

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C 41928 X-1306-14

EXCHANGE OF CORRESPONDENCE BETWEEN

THE

SOLICITOR GENERAL AND THE PRIME MINISTER

CONCERNING THE FORMER'S RELATIONSWITH

THE HOME BANK.

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C 41929

SOLICITOR GENERAL

Canada

Ottawa, February 23, 1924

Dear Premier King,-

Newspaper reports connecting me with the amount owing the defunct Home Bank of Canada by my old firm in Winnipeg prompts me to advise you of the facts therein.

My firm in the years prior to the war, did business with the bank and the said bank made loans on collateral, which was the usual banking security deposited with them. The advances were only a fraction of the value of the said securities at that time. The senior member of the firm, at the outbreak of war, enlisted and went overseas and a couple of years after that date I made a tentative arrangement with the Manager of the Winnipeg Branch to release certain securities and to liquidate our indebtedness out of the balance. This arrangement in regard to releasing certain of the said securities was not carried out as they had a change of management and the new manager assumed the position that all securities should be held. This they have continued to do and have assumed full

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charge of administration of the same. Since that date, namely, about 1916, I have had no statement from them nor any demand for any adjustment on any balance that may have been due them, if such existed. My intention was, at the proper time, to have a complete accounting of the matter. It is evident that it is not the practice of bankers, in the matter of loans, to release their creditors or to relieve them from their covenants should the collateral not realize sufficient to liquidate the obligation. The fact that no such demand has been made on me indicates that they were satisfied with their position. I have now asked for a statement of their administration of these assets, and, subject to their proper accounting of trusteeship of the same, the matter will be adjusted and accounts balanced. It is unnecessary for me to point out that there was nothing irregular about these dealings. Mr. Clarkson, the Curator, has made his statement therein.

The indebtedness of some $40,000. referred to by the Press as of Wilton Brothers, has no connection with me as I was not a member of that firm and had absolutely nothing to do, either directly or indirectly, with their banking arrangements. While western securities have depreciated

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greatly as a result of the war, yet, I believe there are sufficient assets, if properly administered, to pay the entire indebtedness.

Yours faithfully,

(Sgd.) E. J. McMurray

Right Honourable W. L. Mackenzie King, C.M.G.,
Prime Minister of Canada,
O t t a w a.

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C 41932

PRIME MINISTER'S OFFICE

Canada

Ottawa, February 25, 1924

Honourable E. J. McMurray, M.P.,
Solicitor General,
O t t a w a.

Dear Mr. McMurray:

I am pleased you have thought well to advise me of the facts concerning the relations between the firm of which you were a member, and the Home Bank, and that you have indicated your intention to see that accounts with which your name may be connected will be met in full, should the securities now held by the Curator not prove ample to meet any outstanding liability.

You will understand, I am sure, that without reflecting in any way upon the character of the transactions of your firm with the Bank or upon your own integrity, in view of the very serious situation which has arisen in consequence of the Bank's failure, a relationship which was capable of raising any doubt in the public mind as to your complete disinterestedness with respect to all matters

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concerning the Bank's affairs which might come before the Government for consideration, would not be compatible with your remaining a member of it.

The assurance you have given will, I trust, be regarded as sufficient to remove any question on this score.

Yours sincerely,

(Sgd.) W. L. Mackenzie King.

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Banks - Home Bank Failure ✓

COPY.

C 41934

DEPARTMENT OF FINANCE, CANADA

Ottawa, Ontario
March 28th, 1924.

MEMORANDUM RE HOME BANK CORRESPONDENCE.

In October last, question arose as to correspondence between Mr. W. N. Machaffie, formerly an official of the Home Bank, and Rt. Hon. Sir Thomas White in 1918 in relation to Home Bank affairs. It was announced that there was no record of the letter on the files of the Department of Finance.

Sir Thomas White is reported in the Toronto Star of October 13th, 1923, as follows:

> "With reference to the file of correspondence, "Sir Thomas said that the original communication to him "had been confidential and that most of the letters "referred to in his statement to the Globe were personal. "He had felt justified in using them because of the "publication of Mr. Machaffie's letter. The file had "been left with his private secretary at Ottawa for the "information of his successor. It was necessary for "Ministers to safeguard letters which may be their "protection against attack, long after the events to "which they relate. Sir Thomas said that recently he "had obtained the greater part of the correspondence "and from it he had been enabled to make his statement, "which otherwise he could not have done from memory."

I confirm what is said therein as to Sir Thomas White's personal letters, which as private secretary were entrusted to me, and which were returned to him personally by me. They never formed any part of the official record, nor was use made of them except as specifically authorized by Sir Thomas White, whose personal property they were.

(Signed) B. J. Roberts.

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C 41935

INTERIM REPORT

To His Excellency General the Right Honourable Lord Byng of Vimy, G.C.B., G.C.M.G., M.V.O., Governor-General and Commander-in-Chief of the Dominion of Canada.

In compliance with the Commission of Your Excellency dated the 27th day of February, 1924, by which I was appointed a Commissioner to make investigation into all material and relevant facts in relation to the Orders-in-Council attached to the above-mentioned Commission, I have the honour to submit the following interim report.

This report does not contemplate a consideration of all the matters referred to, but has to do with such of them as have a bearing upon the facts alleged in a petition presented to Your Excellency by an executive committee of the depositors of the Home Bank of Canada, dated the 23rd day of February, 1924, praying that those who suffered loss as such depositors because of the facts set out in the said petition, should be indemnified against such loss on grounds set forth.

The hearing in the matter was commenced before me at the city of Ottawa on the 16th day of April last, and evidence was taken under oath both at Ottawa and at Toronto on divers days between that date and the 20th day of May, 1924, inclusive; Mr. E. Lafleur,K.C., and Mr. H.J.Symington,K.C., appearing throughout as counsel for the Government of the Dominion of Canada; Mr. R.J. McLaughlin,K.C., Mr.A.G.Browning,K.C., and Mr.W.T.J.Lee appearing for the depositors during the continuance of the hearing; and in addition to the above named counsel, Sir Thomas White,K.C., Mr.McGregor Young,K.C., and Mr.R.A.Reid

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appeared for different interests from time to time.

In view of the questions raised and argued before me during the investigation, it is well, I think, to clearly define the proper range of the present enquiry, as limited by the Orders-in-Council under which I am directed to act. No ambiguity attaches to them, and it is my duty to confine myself circumspectly to the letter of the instructions received.

I am the more desirous of doing so, inasmuch as the courts of the province, on their civil and criminal sides, are concerned with the conduct of many of those whose names have been mentioned in the testimony adduced before me, and actions both civil and criminal have been commenced against some of them. Regard for the obvious proprieties of the situation, demands complete reticence on my part concerning the issues which have been thus judicially raised and as to which the proper tribunals are now making enquiry. While some reference to their acts as such directors was unavoidable during the taking of the evidence, such reference was made for the most part wholly ancillary to the depositors' claim, and in explanation of the grounds upon which this claim is based.

I am further particularly concerned to confine myself strictly to what I am now directed to do, since it is said that the Parliament of Canada may be asked to take certain action in respect of the petition filed by the depositors, and I appreciate how jealously the frontiers of parliamentary responsibility and action are guarded. I do not consider that the commission requires me to set foot over that line. I am asked to answer these questions, and whether the findings of fact involved in such answers be accepted or not, or whether

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any action may be taken upon them, is not for me to say. While I realise that I have permission to express an opinion on the result of the investigation and the evidence taken, I recognise that the responsibility for any action thereon really lies elsewhere, and those who carry that burden should, I think, approach their task unaffected by the expression of any opinion on my part. My duty, as I see it, is simply to put them in possession of definite answers to the questions submitted, as best I may. I have been urged by certain of the counsel to say that in my opinion compassionate allowance should be made to the depositors who have suffered loss, and also to pronounce what would amount to a finding of negligence on the part of some responsible for the administration of the Department of Finance in its oversight of the bank. While my right to discuss the discretionary acts of a minister of the Crown, where no dishonesty is alleged, has been sharply challenged by other counsel, on the ground that the jurisdiction therein abides with parliament itself, nevertheless I have been further invited to express an opinion upon the diligence and honesty of administrative acts. But in strictly confining myself to answering the questions set out in the Orders-in-Council, I am constrained to lay aside any enquiry into matters suggested immediately above and to refrain from comment upon facts, concerning which various counsel have asked that pronouncement may be made, especially regarding the conduct of ministers of the Crown responsible for the administration of the department immediately involved.

While it would, I think, be impossible for one to

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follow the evidence and discussion without forming an opinion, and perhaps a strong opinion, upon the questions so raised, yet the expression of such opinion, to my mind, would serve no useful purpose, but rather cloud the direct issues to which I am commanded to give attention. It may be that other matters related to the Home Bank will be explored later, as coming within Order-in-Council number 412, directing the commissioner to investigate :-

> "the affairs of the said bank during the whole interval between the issue of the bank's charter and the failure of the said bank" etc.,

but in this interim report I am confining myself solely to the task of finding answers to the questions set out in the Order-in-Council number 306, which questions are as follows :-

> "1. Whether, in the years 1915, 1916 and 1918, representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada, and, if so, what representations were so made.
>
> 2. Whether, if such representations were made, a state of affairs was revealed concerning the condition of the said bank such as would have justified an investigation under the powers conferred upon the Minister of Finance by section 56A of the Bank Act.
>
> 3. What action if any was taken by the then Minister of Finance upon such representations as may have been made.
>
> 4. What effect would an audit under section 56A of the Bank Act if made in 1915, 1916 and 1918 have had upon the conduct of the affairs of the said bank and upon the position of the present depositors.
>
> 5. What was the financial condition of the said Home Bank of Canada in the years 1915, 1916 and 1918, respectively, and what steps, if any, could have been taken by the Government to save the situation."

Adhering to the course indicated above and in compliance with what I consider to be the directions

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of the commission in this regard, I desire to state specifically my answers to the questions above set out.

Question 1 is as follows :-

" 1. Whether, in the years 1915, 1916 and 1918, representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada, and, if so, what representations were so made."

It will be observed that this question contains two component enquiries :-

First, whether during the years mentioned any representations were made, and,

Second, if such representations were made, of what nature were they ?

I think it was established by the evidence that in the year 1915 no representations were made to the Department of Finance respecting the condition of the bank.

With equal clearness it is apparent that during the year 1916 such representations were actually made to the Department of Finance. They are evidenced by exhibits submitted and filed numbered from "2" to "42" inclusive. These exhibits show that such representations originated from Messrs. T.A.Crerar, John Kennedy and John Persse, who thenwere directors of the Home Bank, residing in Winnipeg. In these communications, as well as in many others, Messrs. Crerar, Kennedy and Persse are termed "the western directors", and it is clear that originally they assumed such position with a view especially of scrutinizing the operations of the bank in Manitoba and the western provinces of Canada. Such representations took the form of three separate communications to the

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then Minister of Finance, each bearing date the 22nd day of January, 1916, the first of which in order of filing is headed :-

(ex. 2. p.12)
"Re Home Bank of Canada.
Re Prudential Trust Loan.
Confidential memorandum to the Minister of Finance."

It is signed thus :-

"James Fisher,
For Western Directors."

The second communication is headed :-

(ex. 3. p.15)
"Re Home Bank
Confidential memorandum re Barnard loan."

and is also signed :-

"James Fisher,
For the Western Directors."

The third communication is headed :-

(ex. 5. p.17)
"Re Home Bank of Canada.
Confidential memorandum to the Honourable, the Minister of Finance, from Messrs. Crerar, Kennedy and Persse, Directors of the Home Bank residing in Winnipeg."

and is signed :-

"James Fisher,
On behalf of and by instructions of the three Western Managers."

There are contained in the communications themselves, as well as in the accompanying statements attached, particulars concerning various loans and complaints about the way the bank's business was being transacted and other matters which will be detailed as far as necessary in answer to the second part of this question. There were also submitted to the Minister of Finance at that time, accompanying such communications, many letters written by and on behalf of the western directors, and

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replies thereto, covering the period extending from the 17th day of February, 1915, to the 18th day of January, 1916.

From all this correspondence it is apparent that in the year 1915 the affairs of the bank were under criticism on the part of the western directors, and that they were making complaints to the eastern directors concerning certain loans and the general lack of oversight and proper care that existed, and this is especially evidenced by the communication of February 17th, 1915, by Messrs. Crerar, Kennedy and Persse to A.C.Macdonell, M.P. (ex.10. p.24)

The letters which passed between the western and eastern directors, of the year 1915, are attached to the file brought to the attention of the department in the year 1916, and admittedly came under the attention of the Minister of Finance at that time.

It is therefore abundantly clear that as far as the year 1916 is concerned, it must be reported that representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada.

The same answer must be made as regards the year 1918, for all the communications and documents above referred to were again brought to the attention of the Minister of Finance in the year last mentioned and he received further representations concerning the condition of the bank by way of a communication from Mr. W. A. Machaffie, for many years an official of the Home Bank. The contents of these communications will be referred to in answer to the second part of this question.

In addition to the above, there were also interviews

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during the years mentioned between the then Minister of Finance and the president and other directors of the bank as well as with Mr. Z. A. Lash, counsel for the Home Bank.

Summing up what is above written as regards the first part of question number 1, I repeat that no representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank during the year 1915; but that such representations were made to the Department of Finance during the year 1916, and during the year 1918.

Turning now to the second part of this question, which asks what representations were made :- It is to be noted that they take the form of three special memoranda, each bearing date the 22nd of January, 1916, and signed by James Fisher for or on behalf of the western directors. (ex.2, p.12; 3. p.15; and 5. p.17) Of these, one is more general in its character and will be referred to first in order. (ex.5). It drew to the attention of the Minister the fact that out of a paid up capital of not quite two millions of dollars, about $500,000 was held in the west; that a few years then previous, three western stockholders were placed on the board of directors to deal with the western business; that they met weekly and reported regularly their action to the head office. No eastern director met with them, and none of the three attended the head office meeting in Toronto unless specially requested. Also that in the fall of 1914 the western members became apprehensive that the business of the Toronto branch was not in good condition whereupon they went to Toronto about the middle of November of that year, for the purpose of acquainting themselves with the condition of affairs at the home

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branch, as well as to make complaint of the lack of money for loans in their part of the country; that upon their request meetings of the directorate of the bank were at once called, lasting for four days, during which they for the first time learned that there was no regular inspection of the Toronto office, the reason alleged being that the business there transacted was under weekly supervision by the eastern members of the board. The complainants set out that they were not satisfied with the information furnished at these meetings, especially as to certain accounts, one of which on the first day of meeting was reported at the figure $1,100,000, but on the second day an error was admitted to have been made, and the amount was raised to $1,500,000, and on the third day it was placed at $1,780,000; and concerning which loan it appears that even the largest figure given was too small, for at the meeting on the 30th of the following month, it was disclosed that the amount involved was nearly two millions of dollars. They also learned that the general manager was indebted to the bank in a sum first reported as $35,000, and which was afterwards disclosed to be $76,000, and the like situation existed regarding other customers. (ex.10.p.24). It was further represented to the minister that although they had urged an immediate inspection of the Toronto office, and that the report be ready for the next annual general meeting, it was not ready at that time, and the annual report of the bank had been sent to Ottawa without the western directors knowing of its contents. Also that they refused to acknowledge the validity of the election

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of Messrs. Barnard and Haney to the board of directors, in the place of Messrs. Gooderham and McNaught, who had resigned, and the western directors notified the manager that they held themselves free to contest the validity of these elections. (ex.9.p.23). Another matter of complaint was that at the December meeting a resolution had been submitted and approved to the effect that a committee be appointed consisting of the assistant general manager and two others to carry on the affairs of the bank, and to specially pass upon all credits and make every possible effort to collect all overdue loans, and submit the earliest possible statement showing the present condition of the bank, with recommendations, which resolution was not pressed to its passage as the general manager was at that time out of the country in ill-health, but it had been agreed that this course would be taken, but the agreement was ignored and nothing done pursuant to these plain directions. (ex.10. p.25). This communication was of a general nature, and in that sense supplementary to the particulars set out in the other two accompanying memoranda referred to below, but all the matters above noted were contained therein, and in accompanying exhibits, and thereby brought to the attention of the Minister of Finance.

The memorandum filed as exhibit number 2 is of the same date and has reference to the loan made by the bank to the Prudential Trust Company. The facts laid before the minister in this document showed that the bank had parted with $500,000 in a transaction involving the Prudential Trust Company and the New Orleans Southern

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and Grand Isle Railway Company, which was explained by the general manager in a communication to Mr.Crerar, under date of December 24th, 1915, (ex.31.p.53) part of which reads :-

James Mason to T. A. Crerar

> "Messrs. Warren, Bristol and Morden were the promoters of the reorganized New Orleans Southern and Grand Isle Railway Company, and as such made application to the Prudential Trust Company, Limited, for a loan of $500,000, which the trust company agreed to make, provided the bank would advance to the trust company the necessary funds. It was afterwards discovered by the solicitor for the trust company that under its charter it could not make the advance, but could accept the funds from the bank for investment by way of loan to the railway company and that the trust company could guarantee repayment to the bank -- there was no connection between Warren, Bristol and Morden and the bank -- their dealings being direct with the trust company."

There is a feature of this loan upon which I desire to make no comment, but feel it necessary to state, and that is, that apparently, preliminary to the loan being made by the bank, a like sum of $500,000, being trust funds of one of the provinces, then in the hands of the Prudential Trust Company, was deposited in the Home Bank. It was considered by certain of the directors that in some way these funds would be security for the loan to the trust company, but obviously such could not be the case, and on reference to the bank's solicitor, advice to that effect was obtained. The security taken for this loan was a note signed by the Prudential Trust Company in favour of the Home Bank of Canada, and $750,000 of bonds of the railway company as collateral security. Now this loan represented a very large proportion of the bank's capital, and the western directors whose amounts for western accommodation were being curtailed, were unsparing in their criticism of

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the transaction. The exhibits show a great deal of activity concerning this loan; the trust company made no effort to repay it, and the same may be said of the railway company.

Their third communication to the minister,(ex.3. p.15) deals with a loan to C.A.Barnard, who had become a director of the bank, and concerning whose election the western directors protested, as above referred to. It sets out that from the report of the inspector of the Toronto office made in June 1915, it appears that C.A. Barnard was indebted to the bank in the sum of $394,000, and that 2622 shares of Home Bank stock were held in the name of Barnard and Pellatt in trust. The inspector pointed out that there was no trust deed held concerning these shares, and that they would have to realize about 125 per cent to enable the bank to avoid a loss. It will be shown a little later that in addition to these three large amounts other individuals and companies were shown to be indebted to the bank in sums wholly disproportionate to the bank's assets, but in their first communications the western directors called the attention of the minister to these three large accounts then representing more than the whole paid up capital of the institution. They complained as to the Barnard loan that they never could get any satisfactory explanation of the transaction; that it had been explained by Col. Mason at the November meeting in 1915 that it was connected with the taking over of the Banque Internationale, but how it came to be made or what its object was, complainants say they could not ascertain; neither could they understand, nor were they informed,

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as to the relationship of the bank shares to the loan in question; and by the submission of these three accounts and others mentioned in the exhibits, they brought the attention of the department to the condition of the bank. I do not conceive it to be my duty to enter into detailed history or explanation concerning these loans; I am answering the question as to what the representations were, and it is apparent that the existence of three accounts, viz: the Prudential Trust Company, C.A.Barnard, and the A.C.Frost Company, involving at that time the withdrawal from circulation of over two and a half millions of dollars of the bank's funds, (ex.4.p.16. and 35 p.59) upon which no interest was being paid, and to some of which addition was being made from time to time, was relied on by the western directors in their complaint against the bank management. They further showed that by a statement placed before the board of directors at the meeting in September 1915, (ex.4. p.17), the Barnard account and the Prudential Trust Company account, and other accounts mentioned below, had been increased from December 31st, 1914 and August 31st 1915, in the amount of $192,849.30. Increases involved in the A.C.Frost Company account and the Pellatt & Pellatt account were responsible for the greater part of this sum and except incidentally in the statement of increases mentioned above, the indebtedness of the last named firm was not placed before the minister in the year 1916. This branch of question number 1 is two-fold:-

First, as to what representations were made in 1916; and,

Second, what representations were made in 1918.

Coming now to the representations made in the year

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1918, it will be observed that everything that was placed before the department in 1916 was still available, as well as an additional representation contained in the letter of Mr. W.A.Machaffie, who signed himself "Late assistant to the president"; and under date of August 29th, 1918 (ex.88.p.178) communicated certain very important facts concerning the condition of the bank to the then Minister of Finance, by registered mail. He drew the reports of Mr. Fisher, made in February 1916, to the ministers attention, and also referred to the A.C.Frost account -- which will be mentioned below -- as well as to certain shipbuilding transactions in which he alleged that the bank, as well as the president and one of the directors, were interested with a Mr. Stewart whom he described as a personal friend of Mr. Haney, the vice president; he made the serious charge that the dividends which had been declared during the years 1916 and 1917 had been based on the addition of interest to doubtful accounts; that section 153 of the Bank Act had been violated; and that Home Bank officials, unwilling to share in what he termed the "guilt" of making false returns, were obliged to resign; that the auditor who had the affairs of the bank under examination, was incapable of filling that position; that information was withheld by the officials of the bank from their counsel, Mr. Lash. Taken as a whole, the nature of this communication was such as to cause the liveliest apprehension concerning the financial standing of the bank, and concerning the safety of the funds entrusted to it, if even only a portion of such representations were true. And from the particulars furnished to the minister by officials of the bank in

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response to his demand for information bearing upon the accounts referred to in the communications sent to him, it appeared that the indebtedness of the Prudential Trust Company to the bank on the 15th of November 1918, had risen to the sum of $933,747.74. (ex.107.p.194). This large increase was due, for the most part, to a further expenditure, the object of which was to protect the original investment, but which in 1918 gave little promise of assisting to work the account out. The account of A.C.Frost & Co., sometimes referred to as the British Columbia timber account, was reported on 30th November, 1918, as an indebtedness of $2,425,288.58. (ex.108.p.200). The Pellatt & Pellatt accounts showed that $1,900,960.69 of the bank's funds were locked up therein. (ex.109.p.201). A proportion of these capital sums represents interest on the original investment, and the bank's statement to the minister also revealed the disquieting fact that unpaid interest amounting to $688,962.42 on the Frost account and $234,955.11 on the Prudential Trust Co. account, had been added to the principal and taken into profits. (ex.107.p.195).

It was therefore abundantly clear that the management of the bank had resulted in an amount over twice its paid up capital and reserve being locked up in accounts not realizable, and for the most part not bearing interest, from which it followed that whatever funds were available from day to day were those of the depositors, and notwithstanding the declaration of dividends, a proper accounting would have shown that no profit at all had been made for years. The bearing of these facts upon the condition of the bank is

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specifically enquired of in the next question and will, I think, be more properly considered thereunder.

Answer to question number 1 :-

A. In the year 1915 no representations were made to the Department of Finance of the Dominion of Canada respecting the condition of the Home Bank of Canada. Such representations were made in the year 1916, as well as in the year 1918.

B. The following important representations were made to the Department of Finance concerning the condition of the Home Bank during the years 1916 and 1918, viz :-

(1) That an amount more than double the total paid up capital and reserve of the bank was locked up in four accounts, the securities for which could not be realized upon.

(2) That loans wholly disproportionate to the assets of the bank had been made on inadequate security, from which large loss was likely to occur.

(3) That amounts representing unpaid interest on at least three large accounts were carried into profit year by year and dividends declared on the basis of such fictitious earnings.

(4) That arrangements agreed upon at a meeting of the board of directors with a view of passing upon all credits and making an early statement showing the bank's position, with recommendations, were not carried out.

(5) That false returns were made by the directors of the bank to the Department of Finance.

(6) That specific instructions given by the

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Minister of Finance in 1916 forbidding the capitalising of unpaid interest, were disobeyed.

(7) That the president and some of the directors were indebted to the bank in large sums upon personal account and through companies in which they had an interest.

(8) That the auditor employed by the bank from year to year was incompetent and important matters were concealed from the board of directors and from Mr. Lash the bank's counsel.

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Question number 2 reads as follows :-

"Whether, if such representations were made, a state of affairs was revealed concerning the condition of the said bank such as would have justified an investigation under the powers conferred upon the Minister of Finance by section 56A of the Bank Act."

Argument was presented in support of the proposition that the minister is responsible to parliament alone, and that unless he were charged with dishonesty or bad faith in the performance of his duties, the exercise of his discretion could not be challenged by this commission. I am not disposed to dispute this contention, seeing that the only duty imposed upon me under this question is to say whether the representations made to him were such as to justify him in calling for an audit under section 56A of the Bank Act.

I am not called upon to question the manner in which he made use of the powers therein given to him, nor whether he exercised his discretion correctly or otherwise. It is easy to conceive that certain representations might be made to a minister which would be of such a nature as not to call for the exercise of the rights given to him by this section of the statute, while on the other hand it is equally obvious that other representations might be made of a character which would not only justify the exercise of his discretion, but would make it a matter of careless administration if he should not do so. How such discretion should be exercised is a matter by itself, and must be for the determination of the head of the department. If any fault is to be found with the minister as to how his discretion was exercised, the complaint must be tried before parliament itself, always assuming honesty

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and integrity of purpose on his part, and no question whatever was, or could be, raised in that regard. But it is open to me I conceive, to say whether such a state of affairs was revealed as would call for the exercise of the discretionary powers vested in the minister. In answer to the preceding enquiry, I have detailed the representations which were made, and, taking them as a basis for my answer to this question, I do not think that any doubt can be entertained that what had been so represented was of sufficient importance to call for an audit under section 56A of the Bank Act. I am in harmony with the view of Sir Thomas White, as shown in his evidence at page 345 of the record :-

> "Q--As a result of the memorandum and other documents filed with you by Mr.Fisher, you proceeded under section 113 of the Bank Act to ask for a report ? A--I did.
> Q--You also decided that it would justify an investigation under section 56A ? A--I asked the auditor to make a report to me.
> Q--That is under that section ? A--Yes, 56A, without doubt I proceeded under the Bank Act.
> Q--Well, you might answer my question, you felt yourself justified in asking for a report under section 56A of the Bank Act ? A--Yes, undoubtedly, and calling on the board and on the auditor.
> Q--Did you call on the auditor for a report under section 56A of the Act ? A--Right."

It will be remembered that in his argument Sir Thomas White contended, with reference to the evidence above quoted, that in answering these questions as he did, he was not committing himself to the view that an outside auditor should have been called in, but that he was confining his testimony to an assent on his part that the auditor appointed by the shareholders should make report, and he said that if the questions had been put to him plainly as to his being justified in calling in an outside auditor, he would have answered them in the negative, for the reason that, in his opinion, the

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conditions prevailing in the bank at that time would have meant that calling in an outside auditor would have necessitated closing its doors.

The powers given under section 56A of the Bank Act, as it stood in 1916, were not confined to the employment of an outside auditor, or to the employment of the regular bank auditor either. The provision was to the effect that the minister could direct any auditor "to examine and enquire specially into any of the affairs or business of the bank", and the argument was, that an auditor wholly detached from the bank should have been selected, whereas the minister, in the exercise of his discretion, for the reasons indicated, thought best to appoint Mr. Jones, the regular auditor of the bank. There is no necessity for the expression of any opinion upon my part as to whether the minister should have engaged an inside or an outside auditor for this work; either one could be appointed by the minister under that section according to his discretion and the evidence above quoted shows that the minister exercised his discretion under the section in question by the appointment of Mr. Jones. It must therefore follow that to his mind the conditions prevailing justified the investigation under the authority of section 56A of the Bank Act, altogether apart from the question whether it should be made by one class of auditor or the other. The enquiry up to this point, has, I think, brought us to the conclusion that the reason that an outside auditor was not appointed was that the minister feared such action would result in the collapse of the bank. It is not said by anyone that the exercise of the powers given by section 56A were not or should not, have been called

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into action. The argument put forward by counsel for the shareholders was, that such discretion as the minister saw fit to exercise was really useless. The statement that an outside auditor would have closed the bank, throws some light upon that contention.

The letters which passed between Sir Thomas White and the president of the bank and Mr. Lash and others, show that it was with considerable reluctance that the minister relinquished his first idea of calling the attention of the Bankers' Association to the condition of the bank, but that he was moved thereto by representations of a betterment of condition by change of management, and by statements made by Mr. Lash, in whom, it is unnecessary to say, he reposed a very great deal of confidence; but inasmuch as it is admitted that these representations resulted in calling upon the auditor of the bank under section 56A, it is hardly necessary for me to amplify reasons which have led me to the conclusion that the state of affairs revealed by the representations made, justified an investigation under the powers conferred upon the minister by section 56A of the Bank Act, for what the minister did shows it. That he considered the situation to be a serious one, is evidenced by his letter to General Mason, then the president of the bank, written under date of January 24th, 1916, (ex.43.p.75), immediately after receiving the complaint of the western directors through Mr.Fisher. It will be remembered that these representations and complaints were not made by outside people, or by individuals to whom some personal grievance or antagonism towards the bank could be attributed; they emanated from persons bearing the responsibility of the

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institution, being directors, entrusted by their shareholders with seeing that an honest management prevailed. In this letter the minister said that he considered it his duty to ask for full particulars, both from the board and from the auditor, as to the accounts of the Prudential Trust Company, Pellatt & Pellatt, and A.C. Frost & Co., with a detailed statement of securities held. In answer to a letter received from the president, asking the minister if he would have the thirty days referred to in section 115 of the Bank Act to make such return, the minister advised him that the matter was of so serious a character that he thought it advisable that the reply should be completed and forwarded at as early a date as possible.

In writing to Mr. Fisher upon the subject, (ex.54. p.86) Sir Thomas further said :

> "You make certain definite explicit charges, which I conceive it to be my duty to investigate."

This latter sentence describes the effect produced upon the minister by the communications.

The evidence discloses that after the receipt by Sir Thomas White of the communications from the western directors, attempts were made to change the management of the bank so as to meet with the approval of all the directors, and such attempts were well known to the Minister of Finance, being conducted mainly through the late Mr. Z. A. Lash, K.C., who had personal interviews and carried on correspondence with the Minister concerning the matter. But notwithstanding the desirability of having the whole directorate in accord, Sir Thomas White did not consider that to be a solution of the difficulty, and defined his position in a letter

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of February 17th, 1916, written to Mr. Lash in these words :- (ex.71.p.162)

Sir Thomas White to Z. A. Lash.

"Dear Mr. Lash : Re Home Bank of Canada :
I have your private letter of the 14th instant and think I must ask you for the statements to which you refer. In themselves they may disclose a situation which apart altogether from the question of other accounts would cause me to bring the affairs of the bank to the attention of the Bankers' Association through its president here. The position is that I have been made aware by the Winnipeg directors of a certain condition which is most disturbing. It does not appear to me that I would be justified in staying enquiry because the Winnipeg directors may ask me to suspend action. The real question is whether the bank, having regard to the condition which will be disclosed by the statements should be allowed to continue business with the public. I shall be glad, therefore, if you will send me these statements. It would not appear to me necessary that you should specially come down about the matter but I leave this to your discretion. I shall desire, of course, to give the reorganized board and management every opportunity to restore the bank's position, but this statement must be taken subject to the overriding consideration of the public interest."

This was the view taken of the matter by the minister both in 1916, and two years later, when his attention was again drawn to it by Mr.Machaffie's letter. The serious character of the representations made therein was appreciated by the minister, as shown by his letter to Mr.Lash under date of September 4th 1918. He enclosed a copy of the Machaffie letter and asked Mr. Lash to take the matter up with the board of directors, and expressed himself as follows :- (ex.90.p.179)

Sir Thomas White to Mr. Lash.

"I regard the matter as of the utmost public importance, and it is my intention to have a thorough investigation made through the Bankers' Association or otherwise. Before taking this step, however, I wish to have a reply from Mr.Haney and his board."

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All I am at present directing my attention to is, whether or not the representations made would have justified an investigation under section 56A of the Bank Act. From the testimony above quoted, and from the letters, extracts from which are set out above, it is very apparent to me that the representations made were regarded, on all sides, as of a character which would justify such investigation, and, I thoroughly agree with that view.

Answer to question 2 :-

The condition of the bank, as revealed by the representations made, was such as to justify an investigation under the powers conferred upon the Minister of Finance by section 56A of the Bank Act.

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Question number 3 reads as follows:-

"What action, if any, was taken by the then Minister of Finance, upon such representations as may have been made."

It is apparent that the answer to this must be shown by the communications which passed between the minister and the bank and parties in interest. They disclose in the first place, a lively apprehension on the part of the minister concerning the position of the bank, and a desire to keep it upon its feet.

Confining myself first to the year 1916, it is evident that the minister acted promptly on the receipt of the three memoranda from the western directors, for on the 24th of January, 1916, he addressed a letter to the president of the bank, detailing the information submitted to him by Mr. Fisher and the complaints made. After referring to the accounts of the Prudential Trust Co., Pellatt & Pellatt, and the A.C.Frost Co., the safety and security of which were challenged, the minister concludes his communication to the president of the bank as follows:- (ex.43.p.76)

Sir Thomas White to James Mason.

"I shall be obliged if you will write me officially, setting out concisely the history of these loans and indicating the amounts of unpaid interest (if any) in such accounts. I also request a detailed statement as to the securities held as collateral and the valuation placed upon them by your bank. Apart altogether from the question of security, the loans appear to me to be exceedingly large, having regard to the capital of your bank and I can only express the hope that the concern which is undoubtedly felt by the directors mentioned may prove to be unfounded. In directing to you this letter with reference to the memorandum which, as I have stated, has come before me officially, I am following the practice which we have hitherto adopted in similar cases and am acting under the provisions of section 113 of the Bank Act."

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On the same day the minister addressed a letter to the auditor of the bank, Sydney H. Jones, enclosing a copy of the letter which he had sent to the president, as follows:- (ex.46.p.78).

Sir Thomas White to Sydney H. Jones.

" The Home Bank of Canada.
For your information I enclose herewith copy of a letter I have today addressed to Hon.James Mason, president of the above bank, referring to a memorandum which has been officially filed with me respecting certain accounts of the bank and requesting detailed information.
Under the provisions of section 56A of the Bank Act, I now direct and require you as auditor to enquire into the accounts mentioned and report to me in all proper detail respecting them.
Your prompt attention will greatly oblige."

Mr. Jones acknowledged the receipt of this letter on the 26th of January 1916, but, further than that, he seems to have paid no attention to the directions sent him by the minister, who again addressed him on the 24th of the following month as follows:- (ex.59.p.89)

Sir Thomas White to Sydney H. Jones

" Re Home Bank of Canada.
Referring to my previous letter requesting an investigation by you of certain accounts of the above bank, I shall be glad if you will send me as soon as possible a detailed statement showing advances, repayments, and interest charges on the A.C.Frost Company account. The western members of the board have thought it desirable that I should obtain this information.
Your prompt attention will oblige."

This communication was acknowledged by Mr. Jones on the 26th of February 1916, and on the first day of March following he forwarded a statement showing details of advances, repayments and interest in the A.C.Frost Company account, which he said that he had duly verified by the books of the bank. (ex.61.p.90).

This is all that was done by the minister or the auditor under the provisions of section 56A of the Bank Act.

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It is apparent that the minister relied with confidence upon the opinions expressed by Mr. Lash, counsel for the bank, and accepted his conclusions. The result was, that in consequence of the representations made by Mr. Lash and the directors, acting then in harmony, Sir Thomas consented to allow them to work the situation out, but in assenting to this it is plain that the mind of the minister was hardly at rest and his opinion concerning the condition of affairs can easily be gathered from his letter to Mr. Lash as follows:- (ex.84.p.175)

Sir Thomas White to Z.A.Lash.

"I have yours of the 23rd inst., in which you set forth substantially what occurred at our interview on Wednesday. You clearly understand that I reserve to myself the fullest liberty to consult with the president of the Canadian Bankers' Association, or take any other steps which I may deem to be in the public interest without further communication with Mr. Haney or yourself on the subject. In the meantime it appears to me from the statement of yourself and Mr. Haney and from Mr. Crerar's letter that the position of the bank is being improved. I should like to havefrom you an assurance that interest upon the Frost account will not be taken into profits distributed to shareholders in the way of dividends. It would appear to me also that until the New Orleans situation is cleared, it would be advisable to pursue a similar course respecting that account."

Within a week from the receipt of the letters from Mr. Fisher, the minister had interviews with Mr. Haney, vice president of the bank, and Mr. Barnard, then a director (ex.51.p.80), whose dealings with the bank were criticized, and impressed upon them the necessity of bringing pressure to bear on the doubtful accounts, and the danger of showing unpaid interest as profit. This was followed by communications to the minister from Mr. Fisher, K.C., and Mr. Lash, K.C., and a communication from J. Cooper Mason, acting general manager of the bank, to the minister,

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enclosing papers and documents showing in full the statements of the accounts which were challenged.(ex.63. p.93). All these communications were written and information supplied within four weeks from the time of the receipt by the minister of the complaint from the western directors, which shows that no time was lost on his part in an effort to secure the necessary information. The correspondence shows that the minister was not convinced that, because the eastern and western directors had settled their difference, he should stay his hand from a thorough and complete investigation of the bank's affairs. (ex.71.p.162). But further correspondence carried on by Mr. Lash and Mr. Crerar, and personal interviews with the two latter as well as with Mr. Haney, and information furnished concerning the accounts -- much of it misleading and false -- and promises of a thorough investigation of the bank's affairs under the direction of Mr. Haney and Mr. Machaffie, and information supplied by both these gentlemen (ex.83.p.172) and the minister's desire to prevent the collapse of any bank in view of war conditions, resulted in his acquiescing in the unanimous request of the whole board that no investigation should be made. No other report from the auditor was asked for or received. It was represented to the minister, in a letter signed by Mr. Crerar (ex. 81.p.171) that a change in management had taken place by which he expressed himself certain that the knowledge and information concerning the position of affairs desired by the western directors, and the changes they wished when they sent their request to him, could now be made without calling in outside assistance; that the situation had materially improved within the past month, and that it was better to have the enquiry proceed from within rather than from without.

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If the information thus furnished to the minister concerning these accounts had been accurate, I think it is reasonably clear that the course adopted was in the interest of everybody, including the depositors; but it is difficult to conclude that they had made a full disclosure to the minister concerning the situation, which Mr. Lash described by letter written on the 29th of February, 1916, to Mr. Fisher, in these words :-

(ex.132.p.292)

Z.A.Lash to James Fisher.

"The more I consider the bank's position, even assuming that every account will ultimately be collected in full, the more doubtful I feel as to the possibility of its continuing in business. The amount locked up indefinitely in four large accounts, is probably three times the paid up capital, and more than half the total deposits; and if anything should take place which would cause a comparatively small percentage of the depositors to ask for their money, I do not see how the bank would, without assistance from outside, continue with open doors.

I told Sir Thomas that my main object, since I learned in outline what the bank's position was, has been to bring about a position, which, if the worst happened, would result in liquidation with open doors. This can only be brought about by the assistance of other banks, and I want definite instructions from the board as to how far I may go in this direction in consultation with Sir Thomas White, for he is now an essential element in the situation, which cannot be disregarded. He told me, and I could not dispute the correctness of his position, that, after you, on behalf of the Winnipeg directors, had submitted to him information which, to say the least, was very disturbing, the responsibility was thrown upon him, which he could not avoid, and which would not be discharged because those who had invited his intervention might desire him to withhold further action."

Attention may be drawn here to the fact that this communication was not addressed to Sir Thomas, nor is there any evidence that he was in possession of Mr. Lash's views as above expressed. Following the representations above referred to, the hand of the minister was stayed, no inspection was ordered, and the audit, if it can be

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called such, was useless.

Attention was drawn by Mr. Lafleur, of counsel for the Government, to the unwisdom of seeking information from the parties whose good faith was challenged, and he strongly urged that the only proper course to have pursued would have been to have sought information from an outside source. I am not asked to comment on the course taken by the minister, but simply to say what he did. It is open to all concerned to draw whatever inferences the circumstances would seem to justify in that regard.

Upon receipt of the complaint, in 1916, the first action taken by the minister was to direct an enquiry into the accounts complained of, and a report thereon by Mr. Jones, the bank's auditor, under section 56A of the Bank Act. (ex.46.p.78). And at the same time he called upon the president of the bank for special returns under the provisions of section 113 of the Bank Act. (ex.43.p.75)

Turning to the consideration of what was done by the minister in 1918, when further complaint was made, it is clear that upon the receipt of the letter from Mr. Machaffie, dated the 29th of August 1918 (ex.88.p.178), the minister lost no time in communicating its contents to Mr. Lash, as appears by his letter dated September 4th 1918, in which he enclosed a copy of Mr. Machaffie's letter to him, and asked that it be taken up with the board of directors and a report be made. The letter reads as follows:- (ex.90.p.179)

Sir Thomas White to Z.A.Lash.

"Dear Mr. Lash; Re Home Bank.
I enclose herewith a copy of a letter which I have received from Mr. Machaffie, late assistant to the president of the above bank. I shall be glad if you will take the matter up with the board of directors and have a report prepared dealing with the several charges made. I regard the matter as of the utmost public importance, and it is my intention

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"to have a thorough investigation made through the Bankers' Association or otherwise. Before taking this step, however, I wish to have a reply from Mr. Haney and his board."

Absence of Mr. Lash and illness of Mr. Haney seemed to be the cause of a delay in forwarding the board's reply to the charges made by Mr. Machaffie, but it was eventually sent to the minister under date of October 29th, 1918. (ex.96.p.182). The report is a voluminous one, touching upon all of the doubtful accounts, denying the charges contained in Mr. Machaffie's letter, and picturing a condition of affairs with reference to the bank, which, if true, would have disproved the necessity of action being taken. It is in the form of a resolution of the board of directors, dealing with all the matters complained of by Mr. Machaffie, and signed by the president. The regrettable thing about it is that in very many respects it was not true. But its receipt seems to have satisfied the minister that the proper course to be taken under the circumstances was to allow the bank officials to work out the situation. Having said so much about Mr. Machaffie's letter, it is right, I think, for me to say, that its force in anybody's mind would very naturally be broken by the fact that on the 25th of February 1918, Mr. Machaffie had drafted a letter to the Minister of Finance (ex.135.p.390) in which he made representations concerning the Pellatt account, the New Orleans account, and the Frost account, commenting adversely upon them, and saying that there were numerous other accounts in a precarious condition, and sharply criticizing the policy of the president, Mr. Haney. This letter was not sent to the Minister of Finance, but a copy of it was forwarded to the Home Bank. (ex.146.p.402). Mr. Machaffie

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subsequently retracted all these statements in a letter to the bank, admitting that his information was inaccurate and incomplete, and that his first letter would have conveyed a wrong impression as to the condition of the bank and the conduct of its affairs. Now the minister was acquainted with the fact of this withdrawal, and that the reason Mr. Machaffie had retracted these statements was, that he might procure a settlement of his claim against the bank. If the accuracy of the information concerning the bank's affairs had depended upon Mr. Machaffie's representations, while perhaps it would be too strong to say that no attention whatever should have been paid to him, yet the fact remains that he had retracted them under circumstances that would very materially weaken them, and would also present their author in a very unfavourable light. If it were a question between Mr. Machaffie and the officials of the bank, backed in their statement by Mr. Lash, no one would expect otherwise than that Mr. Machaffie's statements would be ignored. In response to the minister's call for a report upon the matters, there was submitted to him under date of 29th October, 1918, a lengthy statement signed by the president of the bank, in the form of a report unanimously adopted by the board, instructing the president to for ward a copy to Mr. Lash, and with a direction to have the same forwarded to the minister. (ex.96.p.182). The report made reference to what was done in 1916, and the changes made since that time in the management of the bank, discussed the accounts which had given so much trouble, and reported favourably on the British Columbia account, and the New Orleans account; it denied that any dividends had been paid out of capital, and asserted that the profits of the bank

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actually earned had been sufficient to warrant the payment of the dividends; it set out the net profits for the years 1917 and 1918, and controverted Mr. Machaffie's statements about the shipbuilding enterprise, on which he had commented unfavourably; it assured the minister that the position of the bank had been steadily growing stronger, giving figures of its growth comprising the years 1917 and 1918, and at great length purported to set out the improved position of the institution. It was a report of such a character as to set at rest the mind of anyone who believed it, and apparently was written with that end in view. Upon its receipt the minister apparently was convinced that there was no necessity for ordering any further investigation. It was so drawn as to raise an issue between Mr. Machaffie and the president and directors of the bank, thereby clouding the real question.

Answer to question 3:-

The action taken by the Minister of Finance upon the representations made to him consisted in:-

(a) Calling for special returns from the bank under section 113 of the Bank Act.

(b) Calling for a report from the bank's auditor under section 56A.

(c) Seeking and obtaining information from Mr. Lash, the bank's counsel, and from its president and other directors, including therein detailed statements of accounts regarding the dealings of the bank with the following individuals and firms, viz: A.C.Frost & Co; Pellatt & Pellatt; the Prudential Trust, New Orleans account.

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(d) Forbidding further capitalization of interest on doubtful accounts.

(e) Securing a promise from Mr. Lash and the president that a thorough investigation would be made of the affairs of the bank under the direction of Mr. Haney and Mr. Machaffie.

I think it is right to say also that the minister's intervention in 1916 resulted in a change of management of the bank, Mr. Haney becoming vice president, with the understanding that he should discharge the duties of president, and have full powers with respect to the organization of the staff; this change appears to have met with the approval of all concerned, although no improvement seems to have actually resulted from it.

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Question number 4 reads as follows:-

"What effect would an audit under section 56A of the Bank Act, if made in 1915, 1916 and 1918, have had upon the conduct of the affairs of the said bank and upon the position of the present depositors."

Confining myself to the years 1916 and 1918, as no evidence whatever has been directed towards the year 1915, it is clear that an effective audit would have revealed a condition of affairs demanding the application of immediate and drastic remedies. It will be noticed that both in his evidence and in his argument Sir Thomas White directs attention to the fact that he called for an audit of certain accounts under the above mentioned section of the Act, and the criticism of the other counsel was, as outlined in the answer to question 2, that he directed the auditor of the Home Bank to do the work, instead of selecting an outside auditor or one named by the Bankers' Association, as he had first in mind. It is apparent that he received no such audit, and at page 346 of the evidence he thus describes it, in answer to questions put by Mr. McLaughlin:-

"Q--So while you directed the audit under section 56A you never received one? A--I received an audit of the Frost account.
Q--Just the statement from the ledger? A--Well, that is what appears in these exhibits. It is not in my mind that I received anything else, but I may have. But I do not say I did.
Q--There is nothing else in the exhibits. That of course was not the kind of independent audit that these directors wanted? A--Not up to a certain stage, up to a certain stage they wanted an independent audit.
Q--And this was the auditor who had certified to the various reports of the bank from year to year?
A--Yes.
Q--So to ask him for a further statement would be to merely ask him to send in his previous report or else show he was wrong? A--I do not think so, the previous report dealt with general accounts. I asked him for a report in all fitting detail.
Q--Anyway, the report was never received, except this? A--Apparently not."

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The evidence of the minister is to the effect that had he known the true condition of affairs in 1916 or 1918 he would have taken steps to meet the situation. The steps indicated by him were, that by calling in the aid of the Bankers' Association, arrangements could have been made to have the bank taken over by another institution. Even if, for reasons that might be imagined, this could not have been consummated, I think a revelation to the stockholders of the existing condition of affairs could have had no other result than a complete change of management. Anyone whose funds were at stake must instantly have realized the necessity of forcing the liquidation of the largr accounts, whose inactivity was gradully drying up the resources of the bank. It is impossible to state with certainty what would have occurred in any line of business, had certain events intervened, and what renders an estimate in that regard most questionable, is the fact that one's mind and opinions are liable to be influenced and shaped, even unconsciously, by events subsequent to the period which is under consideration; consequently the value of an answer to a question of this nature must for that reason be impaired; but notwithstanding all this, one can always rely in judgment upon the continued operation of natural impulses for safety which prevail in financial dealing. It is a fact that disclosure of the true financial condition of the bank in 1916 and still more in 1918, would have shown that, under the management of the then board of directors, the bank had been placed in most extreme jeopardy; that they, and others associated closely with them in its affairs, had access to the resources of the institution to a degree wholly incompatible with the bank's financial standing; that the capital had been most

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seriously impaired, if not altogether lost, and fictitious earnings were being put into profit and loss account as a justification for declaring dividends which had not been earned, and in view of these facts I think it can safely be said that the effect of an audit of the bank's affairs in 1916 or in the year 1918, would have been to bring to the attention of the shareholders a condition of affairs which would have moved them instantly to insist upon a change of management, and to have wholly reversed the policy theretofore pursued. It is inconceivable, I think, that the permission of the Department of Finance, or of the shareholders of the bank, could have been procured to countenance the continuation of the then conduct of the bank's affairs, as must have been disclosed by a thorough and effective audit. It might have come to pass that the minister, after such audit, would have been able to secure the amalgamation of the Home Bank with another bank. If that desirable course could not have been effected, the bank would have come under honest management, and in my view, been compelled to liquidate its affairs; for after disclosure of its true condition, as must have followed an effective audit, there would inevitably have been an instant demand by the depositors for their money, and a withdrawal of public support generally, which, in view of the condition of the large accounts, and the impossibility of converting them into liquid assets, must, I think, have resulted in liquidation.

I now turn to the second branch of this question, which asks:-

> "What effect such audit would have had upon the position of the present depositors."

In answer to this I may say I am taking it for granted

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that such audit would have been thorough and effective, and as observed above, I think the result would have been either to close the bank altogether, or put it upon a firm foundation as an integral part of another banking institution, since, for the reasons above noted, I do not think it could have had further independent existence. In the light of this supposition, it is obvious that as far as the year 1916 is concerned, such audit would have saved the situation for the then depositors, for although the capital and reserve had largely, if not wholly, disappeared, yet despite the loss thus made, there was still left a fairly balanced account, according to the testimony given by Mr. Edwards.

There is no evidence as to what number of those who are referred to in the question as "present depositors", occupied that position in 1916 and 1918; but I think it is clear, as regards those who were depositors in the first named year, that if either of the aforegoing remedies had been applied, their accounts would have been met in full from the then resources of the bank, backed by the double liability of the shareholders, and it is this last asset which might havesaved the situation for the depositors in the year 1918.

It is my duty to specifically enquire into the financial condition of the bank during the years 1916 and 1918 under the next succeeding question, and the result of that enquiry is closely bound up in the answer to the present one; but my finding on this branch of question 4 is that an effective audit in 1916 would have resulted in action which would have saved the depositors from loss. While, because of lack of evidence on which to base a conclusion, it is impossible to speak with as much certainty as regards the year 1918, the

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probability is that the same result would have followed had the audit been made and action taken in that year.

Answer to question 4:-

For the reasons above set out, I think an effective audit under section 56A of the Bank Act made in 1916 or 1918, would have resulted, as far as concerns the conduct of the bank's affairs, in either:-

(a) Liquidation immediately following such audit, or,

(b) Amalgamation with another bank.

And the effect of such audit upon the position of the present depositors:-

If made in 1916 the present depositors would have suffered no loss.

If made in 1918, I do not think any loss would have fallen upon them.

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Question number 5 reads as follows:-

"What was the financial condition of the said Home Bank of Canada in the years 1915, 1916 and 1918 respectively, and what steps, if any, could have been taken by the Government to save the situation."

The returns to the Government for 1916 show (ex.170. p.495), that the paid up capital of the bank was $1,946,639; the reserve $300,000; the deposits $10,028,224; the total liabilities were $18,722,963; and the total assets $21,030,353. Upon this showing a dividend of five per cent was declared and paid. The foregoing figures indicate an excess of assets over liabilities of $2,307,390 which represents what the officials of the bank reported to the Government in that year as to the financial condition of the Home Bank of Canada. The expert accountants, Mr. Clarkson and Mr. Edwards, who testified before the commission, were undoubtedly best equipped to find the answer to this question. Whatever lack of unanimity there is in the opinions expressed by these two gentlemen, arises from a difference as to what would have been their respective opinions if confronted by the physical assets of the bank in 1916 and asked at that time to pronounce upon their value. If the answer to the question -- what was the financial condition of the Home Bank in 1916 -- depended wholly upon ascertaining what value should be placed upon the bank's assets in the year indicated, I think that is a most difficult thing to determine. Confining attention for a moment to the large accounts which were challenged, it seems to me that the one concerning which an auditor at that time would have spoken with most certainty, was the Prudential Trust account, spoken of as the New Orleans account. The bonds, which were security for the loan, had become worthless by the

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underlying property having been disposed of under a prior claim, and it looked as if a total loss would be made in that particular, and yet, to illustrate the difficulty of relying upon opinions thus formed, it is only necessary to say that at present, Mr. Clarkson holds out strong hope of this account being paid in full, that result having followed from further expenditure for the purpose of protecting the claim. An estimate of the value of the security underlying the loan to A.C.Frost & Co. in 1916 must have been influenced by the reports on these timber limits, then on file in the offices of the bank, as well as from reports of two of the directors who had personally visited the locality and pronounced favourably upon it. A like remark may be made as to the Pellatt & Pellatt loan, and while both of these latter have turned out much more disastrously than could have been anticipated, they nevertheless, in the year 1916, could not have given to an auditor anything like the concern which now prevails regarding them. Again, the wisdom of adding interest to an existing loan and carrying such interest into profits year by year, as far as the safety of the investment is concerned, must depend upon the value of the underlying security, and that remark I think has a bearing upon what conclusion an auditor in the year 1916 would have drawn as to the financial condition of the bank from the standpoint of its physical assets represented so largely by the existing securities for these large loans. I can draw only lame conclusions in view of the reports which would be laid before the auditor in 1916. Clearly an auditor could not have taken it upon himself to have personally valued the timber lands, nor indeed to have gone over all the properties and securities represented by the Pellatt

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loans or the New Orleans Railway loan, but looking at such information as was available for him in the year 1916 with reference to the securities underlying these large loans, and speaking from the standpoint of that year, it is difficult to say what value should have been placed upon these assets in 1916, and consequently what its financial condition was viewed from that standpoint. If estimated in the light of knowledge since acquired, the answer is easy. But I think there were easier tests to apply, which were open to his observation, and would have challenged the attention of any competent auditor. One of these lies in the power of the bank to earn and pay dividends from year to year. While from the standpoint of abstract security as manifested by the reports available, I think it could hardly be said at that time, that the capitalization of interest on these accounts would necessarily be productive of danger, yet considering that such course resulted in depriving the bank of its liquid assets available for dividends as well as for daily use, I think these accounts were calculated to cause the liveliest apprehension. It is just as necessary that a bank be in a position to marshal its assets for the purpose of a dividend as that its solvency be manifest from a comparison of its general liabilities and assets, and having regard to the capital and resources of this bank, the capitalization of interest on these large accounts from year to year must have been looked upon as a most dangerous and alarming procedure. And I think it would be equally correct to say that the existence of these accounts themselves, which rendered it necessary to capitalize the interest, was a most disturbing circumstance apart from the question of securities held

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for them. The effect of a bank passing a dividend is too well known to require comment. Conditions may be imagined in which directors would wisely determine it to be better to pay the ordinary dividend, even though the profits were unliquid, as in the case of this bank; but, before another year should elapse, unquestionably steps should be taken to force the liquidation of accounts rendering that course necessary, otherwise the result would be as in the present instance.

Also, there is always an existing danger that for some reason or other a run upon a bank's funds may take place for which a volume of ready money is necessary to tide over the situation. Whether any cause exists justifying such action is beside the point. It does occur from time to time that depositors become alarmed, frequently for no valid reason, and in consequence of such alarm demand their money. No bank should lose sight of the possibility of such an incident taking place, and be prepared to meet it. From that point of view it is unnecessary to argue that these accounts then carried by the Home Bank were altogether incompatible with safety, and I think that any competent auditor would have felt compelled to so report. Here again it will be perceived that this has no direct bearing upon the sufficiency of the security for the principal and interest of the loan, but the existence of these large loans was, in my opinion, wholly contrary to sound banking principles, for the two reasons briefly outlined above, and therefore that they created a very dangerous condition for the bank. Now for these reasons, rather than from the comparison of assets and liabilities, I think a competent auditor, viewing the situation in 1916, would have felt compelled

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to report an extremely dangerous situation in connection with the bank, for it was apparent that dividends were being paid out of interest which had been capitalised; in other words, from earnings which were not available, and he would have been confronted by the ominous fact that the amount of interest so capitalised and taken into profits then amounted to much more than the whole capital and reserve of the bank. He would have seen that during the year 1915, although a profit of $163,900 was shown, the actual state of affairs was that there had been taken into profits uncollected interest on four accounts to an amount exceeding $275,000; (p.270) that in the year 1916, in which a profit of $133,406 was shown, uncollected interest to the amount of $210,000 (p.271) had been put to profit account. Now the necessity of taking these uncollected annual amounts into profit and loss in order to declare a dividend, would have given to an auditor most serious concern, apart altogether from the question whether the security available for each individual account could have stood the strain of the additional interest as well as the principal which it professed to guarantee. No doubt an auditor would have been very much embarrassed by finding these large accounts in the condition in which they were, and must have reported them with such comments as in his judgment were necessary bearing upon the question of security, but apart from their safety from that standpoint, the fact that by capitalizing the interest on these accounts they were absorbing more money than the bank was making year by year, would convince him that a very grave situation existed. I have illustrated the situation with reference to 1916 by a reference to the accounts above named, but other accounts were in a similar condition, and the combined effect of all these matters were danger

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signals of the most alarming nature.

For the reasons suggested above, I cannot satisfactorily work out an answer to this question from a comparison of assets and liabilities. I think it must have been as a result of looking at the matter in this light, on the part of the late Mr. Z.A.Lash, K.C., that as early as February 1916, he wrote to Mr. Fisher, K.C., of Winnipeg (ex.132.p.292) the letter previously set out, in part, in my answer to question three, wherein he expressed doubt as to the possibility of the bank continuing in business, because, as he therein said:-

> " Z.A.Lash to James Fisher.
> The amount locked up indefinitely in four large accounts, is probably three times the paid up capital and more than half the total deposits."

And he also alluded to the danger of even a slight run upon the bank.

Having regard to the condition of the bank in the years in question, from a comparison of the assets and liabilities, Mr. Edwards has testified as a result of his investigations that the assets of the bank in the year 1916 should have been reduced by the sum of three millions of dollars thereby leaving the liabilities and assets about even, thus assuring the depositors of the safety of their money, and that the entire capital and rest had disappeared. (p.515) In arriving at these figures Mr. Edwards put a valuation upon the assets, as it would be necessary for him to do, and while that is easily done at present, yet from the standpoint of the information available in 1916, I cannot say that it would have appeared so clearly to me at that time.

Mr. Clarkson, one of the liquidators, spoke very guardedly as to the exact position of the bank in 1916,

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but remarked:- (p.283)

> "He must have felt that the bank was not earning profits sufficient to continue payment of dividends without capitalizing interest on accounts which were in jeopardy or at least in deep water; and that being the case, the situation must have appealed to him as a serious situation."

And further says:- (p.287)

> "There were a great many danger signs and the revenue situation was one of them."

Down to May 1916, the interest capitalized on the A.C. Frost & Co. account was estimated by Mr. Edwards at $535.000, (p.540) and it may not be out of place to say that until the date of failure interest had been capitalized to the extent of over two millions of dollars.

The financial condition of the bank in the year 1918 when the attention of the minister was drawn to it a second time, had become more serious, although the returns to the Government for that year gave no cause for apprehension. The returns showed (ex.170-p.495) paid up capital to have slightly increased, it then being $1,947,635. Reserve stood at the sane figure, viz., $300,000. The deposits showed almost five million dollars increase, being $14,988,422. The total liabilities were $25,842,635, and the assets $28,270,766. From all of which it appeared, that if the assets were realizable, the bank was, from that standpoint, on safe footing. But an examination of the books would have shown- according to Mr. Edwards' testimony -- that the accumulated and unpaid interest for the years 1916, 1917 and 1918 amounted to $676,000, (p.509) which illustrates in a startling way how dangerous these frozen accounts were. Such examination would also have shown that in 1917 a profit of $142,900 was shown in the bank's statement, but that in that year interest to the extent of $205,000

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was capitalised and never collected; (p.271) that the earnings of the bank for 1918 were $167,157 which was the most satisfactory showing for a long while, but as a matter of fact the annual statement represented the bank to have made $228,963 in that year. (p.271)

After the receipt of Mr. Machaffie's letter the minister reverted to his determination to refer the matter to the Canadian Bankers' Association, but for the reasons which have been fully detailed in answer to question 3, he was persuaded not to do so.

As to what further loss in capital had taken place between 1916 and 1918, it is difficult to form a conclusion. That some such impairment had taken place within that period is certain, although no details of amount are furnished in the evidence. Two yearly dividends amounting to over $190,000 had in the meantime been paid.

The concluding part of this question asks:-

"What steps, if any, could have been taken by the Government to save the situation."

In considering what the Government might have been able to do to that end in the years above mentioned, attention is directed to the probability of assistance from other financial institutions. By its continual supervision of banking matters and from the fact that there must be a renewal of the charter of each bank every ten years, it is obvious that the Department of Finance is in a position to exercise much influence with the Bankers' Association. While the Government has no power to compel one bank to take over another, and the Bankers' Association has no funds with which to assist a weak bank, nevertheless, the stability of banking institutions being the supreme law in financial circles, one can see the force of the

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opinion expressed by Sir Thomas White, that intervention on his part would have resulted in the Home Bank being taken over by another bank or by other banks. Speaking strictly, such action could not be forced upon the Bankers' Association, or upon any bank, and therefore, if one is to consider what the Government could have done to save the Home Bank, apart from cooperation by the Bankers' Association or by other banks, the answer to such restricted enquiry is, I think, that the Government, after ascertaining the facts, could have closed the bank and forced liquidation at a time when, in my opinion, no loss would have fallen upon the depositors. But there still remained, however, the good services of other financial institutions responding to the express desire of the department of finance, especially when considering the imperative necessity for financial stability at that time. Whether, in view of the situation which would have been then disclosed by a proper audit and inspection, any other financial institution would have burdened itself with the Home Bank's liabilities or not, is a matter to which I cannot give absolute and definite answer. The evidence of Sir Thomas White is clear and distinct that he would not have allowed the Home Bank to fail at that time, but he would have had it taken over by some other institution, clearly explaining, however, that such action could not be made imperative upon any other bank. He was referring to the condition of affairs from a national standpoint, and to the overwhelming necessity at that time for keeping up a strong financial front in face of the world's demands, and relying upon the unquestioned patriotism of those who directed the issues of financial matters within Canada. Sir Henry Drayton expressed the

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same opinion. Keeping in mind these two spheres of operation open to the Government, it is clear I think, that all that it could have done to save the situation for the depositors would have been either to have closed the bank, forcing a liquidation of its assets to meet its liabilities as far as then possible, or have brought such influence to bear upon the Bankers' Association, or some other bank, as might have resulted in its amalgamation with another financial institution.

Answer to question 5:-

I. - The financial condition of the Home Bank was:-

In 1916:

(a) More than double its total paid up capital and reserve was locked up in four accounts, the securities for which were not realizable.

(b) No interest was being paid on three of these large accounts.

(c) No money was available for dividends except money belonging to the depositors, and the dividends paid from year to year were paid out of the depositors' money.

(d) A demand by the depositors for even a small percentage of their money could not have been met.

(e) The total paid up capital and reserve of the bank had been lost.

(f) A loss of assets calculated by Mr. George Edwards at over $3,000,000, had been sustained, leaving the assets and liabilities about even.

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In 1918

(a) There had been no reduction in the amounts due to the bank from their heaviest debtors, but on the contrary further capitalisation of interest had taken place.

(b) All the weaknesses which existed in 1916 were accentuated.

(c) The dividends paid in the meantime, amounting to over $190,000, had been paid out of money belonging to depositors.

(d) A further loss of assets had been sustained but the auditors were unable to state with any certainty as to the amount of such loss.

II.- The only steps that the Government could have taken to save the situation would have been to make thorough investigation into the bank's affairs, which would have resulted:

(1) In forcing the liquidation of the bank, or,

(2) Bringing about its amalgamation with another bank.

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It will be noticed that by Order-in-Council number 412, dated 17th March, 1924, the Committee of the Privy Council advised that the powers of the Commissioner under Order-in-Council number 306:

> "Be not limited to the specific years 1915, 1916 and 1918 referred to in the petition of the depositors, but should extend to an investigation of the affairs of the said bank during the whole interval between the issue of the bank's charter and the failure of the said bank, including any representations made to the Government of the day, as to its condition, any action taken by way of the Ministers of Finance upon such representations as may have been made, and the effect on the position of the depositors of any audit under section 56A of the Bank Act if made at any time in consequence of such representations."

I beg to report that there is no evidence that representations of any kind were made to the Government concerning the Home Bank of Canada subsequent to the year 1918.

After his retirement from office, correspondence took place between Sir Thomas White and his successor, Sir Henry Drayton, bearing upon the condition of the Home Bank, as set out in the evidence given before me by Sir Henry Drayton, but nothing requiring consideration here arises therefrom, as in any way bearing upon the substance of the depositors' petition.

An incidental reference to the Home Bank was made by Sir Henry Drayton to his successor in office, the Right Honourable W.S.Fielding, when the latter succeeded to the position of Finance Minister, but nothing was said as to the existence of the memoranda or letters above referred to.

No representations of any kind appear to have been made to either Sir Henry Drayton or to the Rt. Honourable

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W. S. Fielding concerning the condition of the Home Bank, and although the present Minister of Finance expressed himself as ready to give evidence before the commission, if required, it did not seem to me that anything had taken place which made such a step necessary. There was nothing to indicate that his attention had ever been drawn to the existence of the various memoranda or to the correspondence above dealt with.

Having reference therefore to the scope of the enquiry, as enlarged by Order-in-Council number 412, I beg to report that there were no representations of any kind made to the Government of the day as to the financial condition of the Home Bank of Canada after the year 1918, and consequently no action in that respect was taken by any of the Ministers of Finance.

All of which is respectfully submitted.

Ottawa, the 10th day of June, 1924.

Harrison A. McKeown

Commissioner.

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C 41987

Strictly Confidential

Re: Mr. McMurray and Home Bank.

This afternoon in my Office in the House of Commons I showed Mr. McMurray the memorandum and letter given me by Mr. Gordon and explained that these communications had come into Mr. Gordon's possession through Mr. Clarkson's desire to avoid embarrassment for Mr. McMurray and the Government, and that Mr. Clarkson's consent had been obtained to their being shown to me and to him. Later I asked Mr. Gordon to come to my room and repeated in his presence what I had said to Mr. McMurray. I drew Mr. McMurray's attention to the obviously serious character of the situation developing politically in view of the action already entered against him by the Trust Company for $25,000. and the circumstance that we would soon be discussing anew the Home Bank question. He stated that he was contesting the suit brought against him and did not admit some of the statements contained in the memorandum. He said, however, that he would go to Toronto to-night and see Mr. Clarkson as to whether a satisfactory adjustment of matters might be suggested. He said

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C 41988

further that in the event of being unsuccessful in this, he would see that I was not embarrassed. He added that when the matter came up some months ago he was in a more difficult and trying position than at present. He thought that possibly he should not have gone into politics but should have stayed to look after his own affairs.
I said that my desire was to protect him, not less than the Government, that life was not lived in a day and that it would be better to consider before a situation developed which might seriously embarrassed both ~~my~~ himself and the Government what course should be taken to avoid a consequence of the kind.

Mr. McMurray thought that Mr. Clarkson had been very fair and said that he, himself, would see to it that above all else I was not ambarrassed.

April 17,1925.

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C 41989

Strictly Confidential

Ottawa, May 15, 1925

Re Honourable E. J. McMurray and the Home Bank

At the conclusion of the Cabinet meeting today I asked Mr. McMurray to remain with Mr. Graham, Mr. Macdonald, Mr. Lapointe and myself.

I said to Mr. McMurray, in the presence of the others, that I was still concerned about his relations with the Home Bank and the way in which matters stood at present, and asked him if he would explain the position to us.

He had before him a telegram from Mr. Culvert which he said was a request to go to Toronto to close matters up; that he had thought they had settled everything satisfactorily; that he had no doubt he could win in an action against the Home Bank, but did not wish to go to litigation in the matter; that he had agreed to pay the Bank $10,000 and to do this within two years' time.

I asked him if he had had any conversation with Mr. Meighen; he said that he had. I asked him how recently; first he said last year, then again this year as recently as two or three weeks ago, or probably ten days ago. When I expressed surprise that he had not spoken to me before speaking to Mr. Meighen he said it was his solicitor who had talk with Mr. Meighen. I then mentioned that Mr. Meighen was evidently in the possession of information which he had just given us, and that I doubted if, in the circumstances, it would be other than disclosed by Meighen or some of his Party at a moment that might embarrass the Government. He said Mr. Meighen had told him that the settlement he had made was perfectly satisfactory.

I then asked him if in making his settlement he had said anything about being bankrupt; that I had been informed from reliable sources that he was bankrupt to the extent of over $100,000, and that the action for the settlement which

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was being made was being taken as the only means of the Bank getting anything out of him in settlement. He said he had not made such a declaration, but that it was the suggestion of the liquidator that he should make a declaration of the kind and that it should be kept in a sealed envelope.

(Just how the Liquidator could have made a suggestion of the kind unless an intimation of bankruptcy had first been given to him is a question that suggests itself and which Mr. McMurray did not venture to explain.)

I then said to McMurray that apart altogether from the question of bankruptcy or any other features, from what he had told us himself it would be apparent that as a member of the Government he would be owing the Home Bank money at the time that the Cabinet would be considering what should be done in settlement of the claims of the depositors; that under the circumstances I failed to see how he could continue as a member of the Government while we were discussing these matters; that there was his own personal future to consider, also the position of the Government and of his colleagues and myself in the Cabinet; that in a matter of this kind where the honour of the Crown was at stake I was necessarily obliged to acquaint His Excellency the Governor-General with the situation with respect to any of his advisers of which he should have knowledge; that, in the circumstances, I hoped he would consider with us all what course, in his own interests and the interests of the Government, it would be best for him now to take.

He said that in view of what had been said he realized that he should not remain as a member of the Government; he had, he thought, made a mistake in going into politics and should have stayed at home to manage his own affairs. He did not think the Bank had any claim against him, but he was not in a position to fight the Bank while a member of the Government, and realized that his relations to the Bank in the present situation would be embarrassing to the Government were he to remain.

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He said he would go up to Toronto tonight and see the Liauidator and would see me on Monday.

I stressed particularly the desire of the other members of the Government and myself to help him in this difficult situation; that we felt were he to take the course that was being suggested, it would raise him high in the estimation of the public as one who, holding the position of Solicitor General, wished to be above reproach in a matter of the kind, as it would enable us, on some future occasion, should the Government be returned, to help to further his interests and possibly to secure recognition for him as opportunity afforded.

To this he replied that he was not looking for any help from the Government but would get along himself.

I pointed out the alternative were he to seek to remain in the Government and have these matters brought to light in political controversy; that he would neither be able to defend his position nor would the Government be able to defend his remaining as a member of it with the knowledge we now have; that it would result in his losing altogether his standing in the public estimation.

After the other Ministers had withdrawn I had a further word with McMurray, explaining to him that this was a painful matter to me and that I was only anxious to further as far as I could his own interests; that I had not spoken to the other members of the Cabinet, feeling it desirable only to have the more experienced Ministers advised and to be governed by their advice in Council; that they were all of my opinion in this matter.

McMurray said that he realized for some time that an estrangement had been developing and that he really should not be in politics. I replied to this that far from an estrangement, I had felt an increasing sympathy for him situated as he was; I said I would counsel him to take no

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action without conferring with me. He said he thought he should resign his seat in Parliament; I told him this would be a mistake, and would be looked upon as a confession of weakness. He said he would probably consult his constituents; I told him I would advise him to proceed slowly and cautiously; I thought everything would depend on the nature of the letter he sent me on his return from Toronto. He said he had his own name to defend and those who bore it, and would govern himself in that light; I said this was precisely the consideration that I thought should govern him, and I shook hands with him and said I would see him again on Monday.

W.L.M.K.

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PRIME MINISTER'S OFFICE

MEMORANDUM **C 41993**

7.1681-H.

1.00 pm.
Thursday,
May 28,1925

MR. KING:

Mr. G. T. Clarkson has phoned from Toronto to say that the Home Bank Committee unanimously approved the Government's proposal and that the delegation will arrive in Ottawa tomorrow (Friday) morning. Mr. Clarkson is wiring you in the same connection,

LCM.

L.C. MOYER

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C 41994 Sunday, Jan. 11

X-1354-D

Senator Dandurand's phone message this morning related to Sir Herbert Holt's speech at the Annual Meeting of the Royal Bank, a report of which is attached hereto. He thought you should read it before going to Toronto. Senator Dandurand expressed himself as in favour of some radical measures in the direction of curtailment of expenditures along the lines suggested by

C 41995

Sir Herbert. I presume you have seen the editorial in Friday's Montreal "Star", a part of which was quoted in yesterday afternoon's Journal. I attach the editorial.

Senator Dandurand also added that he thought it most important that steps should be taken to settle the question of our representation-at-Washington, before Parliament opens. We should not wish, he says, going to

C 41996

Parliament without some decision being reached as to whether Senator Belcourt is going on not.

Yours.

P.S. I shall let Simpson know that we will want him as extra messenger for the session, unless I have some word from you to the contrary.

F. A. McGregor

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Early in November, 1920, while reading an article by Moses Barron in Surgery, Gynaecology and Obstetrics, on the Islets of Langerhans, in relation to diabetes, the idea presented itself to me that, since the acinous but not the insular tissue degenerates after the pancreatic ducts are tied, by this means an extract of the islet tissue might be obtained, without the destroying influence of the pancreatic juice. The idea above mentioned occurred to me about 2 a.m. The next morning I went to see Dr. Miller, Professor of Physiology, Western University, London, with whom I was then working. He said that the idea had not been worked out so far as he knew. Dr. Crane, Professor of Pharmacology, did not know of any work on the subject. I next looked up every available reference in the library of the medical school, but found no work pertaining to the subject. I went to Toronto and talked the matter over with Dr. Starr, then with Professor Macleod, on November 6th.

My interview with Professor Macleod lasted about an hour. I told him carefully what I had planned, and to my disappointment he did not seem at all interested, and put me off by saying that many men had worked for years in well-equipped laboratories and had not proved that there was even an internal secretion of the pancreas. I then repeated my ideas to him, and he sat back in his chair with closed eyes for some time. Then he began to talk. He thought that "this might be the means of getting rid of the external secretion." As far as he knew this had never been tried before. "It was worth trying," and "negative results would be of great physiological value." This latter phrase he repeated at least three times. This was not very encouraging, for I was not inclined to give up appointments in Surgery and Physiology in London to get "negative results of

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great Physiological importance." I told him that there were no facilities in London, and that I would come to his laboratory to work if he would allow it. This he consented to do. I wanted to sell out in London, but Dr. Starr would not hear of it. He said that he would talk with Prof. Macleod and let me know. I do not know the trend of the conversation, but Dr. Starr strongly advised me to keep to surgery till the school term was over, and then to try out my idea if I still desired to do it. I left London on conclusion of the term, May 14th.

When I arrived at the Physiological Department the work was discussed. Mr. C. H. Best was to assist me for three weeks and Mr. Noble for three weeks, thus giving me six weeks. Professor Macleod apologized to Best and Noble, telling them that "it would likely all go up in smoke but would be a good operative training and we must leave no sod unturned." He instructed me how to do the first operation (the Hedon method of Pancreatectomy); the only time I have ever seen him in the operating room. Best was to be my assistant for the first three weeks, having tossed with Noble for who would be first. We arranged to do blood sugar, total sugar excreted, total nitrogen, and record the diets, etc.

Early in June the Professor sailed for Scotland.

During June and July Best and myself (for Noble had decided that he would let Best do his share of the work), tied the pancreatic ducts on about six dogs, and had run a number of controls on the Hedon operation. Finally on July 31st, 1921, we had both a diabetic dog and a dog on which the ducts had been tied for seven weeks. The duct tied dog was killed with an overdose of chloroform and the pancreas removed, and mascerated in ice-cold Ringersol. The blood sugar dropped after the injection, and our positive results were commenced. Various things were tried with the extract, as shown in the articles on the work at this time. (In this history I do not wish to give a detail of the findings

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so much as I do as to how the findings came about)".

All went merrily till the latter part of September, when the professor returned. We had been waiting all summer to tell him of our results, and to get things that we needed for the laboratory. The place where we were operating was not fit to be called an operating room. Aseptic work had not been done in it for some years. The floor could not be scrubbed properly or the water would go through on the laboratories below. The walls could not be washed, for they were papered and then yellow washed. There were dirty windows above the unsterilizable wooden operating table. The operating linen consisted of towels with holes in them. It was made more difficult to get things because I had been given six weeks to get results, and overtime was not in any person's line, and, worst of all, no one took me seriously, since the professor had said that "it would likely go up in smoke."

We had a number of dogs die of infection despite our utmost care, and finally we were compelled to operate in the research operating room of the Pathology Building.

Shortly after Professor Macleod's return (the last week in September) I asked him for four things:

1. A salary, because I was already deeply in debt and could not borrow more money;

2. A room to work in, for we had been working in a room which was not private;

3. A boy to look after the dogs, for we frequently had to clean the cages and operating room ourselves;

4. The floor of the operating room repaired.

Professor Macleod was not inclined to give us these demands and said that if he gave us these things some other research would suffer. I told him that if the University of Toronto did not think that the results obtained were of sufficient importance to warrant the provision of the aforementioned requirements,

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I would have to go some place where they would. His reply was "As far as you are concerned, I am the University of Toronto." He told me that this research was "no more important than any other research in the department." I told him that I had given up everything I had in the world to do the research, and that I was going to do it, and that if he did not provide what I asked I would go some place where they would. He said that I "had better go." I rose to go, but the professor softened a little and finally decided that he could get a boy and a room, and that the operating room might be made waterppoof by tarring the floor.

I would have left the University of Toronto at this time had not Professor Henderson secured for me an appointment in Pharmacology, and had I not promised Professor Fitzgerald that I would not leave Toronto without consulting him. (I told the results of experiments from time to time during the summer to Professors Henderson and Fitzgerald). It might be pointed out here that I have never at any time held an appointment in the Department of Physiology of the University of Toronto.

During the summer the work, for the most part, was done in the Department of Physiology, but total nitrogen estimations were done in the Department of Biochemistry. Some operations were done in the surgical research operating room; histological sections were made for us in the Department of Pathology, and the Connaught Laboratory gave us the facilities of the operating room at the farm, and three calves for exhaustive gland experiments.

At the Physiological Journal Club Meeting of November 14th, it was arranged that Best show the charts and that I give a resume of the work of other investigators, and the development of our research. Professor Macleod in his remarks gave everything that I was going to say, and used the pronoun "we"

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throughout. The following day students were talking about the remarkable work of Professor Macleod.

Very little progress was made between October 1st and the middle of November. At this time a new era was introduced by the discovery that the pancreas removed from foetal calves contained the anit-diabetic principal, and that the substance could be extracted with saline. The idea came to me in the following manner: Laguesse found that the Islets were more plentiful in foetus and newborn, hence there should be more internal secretion in the newborn. I thought first of using pancreas of newborn, then I thought of producing abortion in dogs and using the pancreases thus obtained. Then it occurred to me that there might be a time in development when the internal but not the external secretion would be present. This idea finally presented itself about 2 a.m. November 16, 1921. The next day Best and I went to the Davies Abattoir and secured a number of pancreases of foetal calves, made an extract, injected it into a diabetic dog, and the blood sugar fell. I later found that Ibraham had shown that the foetal pancreas of under four months' development did not contain proteolytic enzymes.

On December 6, 1921, some mascerated foetal pancreases were placed in alcohol and allowed to stand. The alcohol was filtered till clear and then evaporated to dryness in a warm air current. The residue was dissolved in saline and injected into a diabetic dog, #23. The blood sugar fell from .26 to .11 in five hours. This was the first positive result of extract made by alcoholic extraction.

On December 8th I placed the pancreas removed from dog #35 in alcohol. On December 8th it was mascerated, filtered to dryness, redissolved in saline, and injected into dog #35. Blood sugar fell from .46 to .18 in four hours. This was the

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first alcoholic extract made from whole pancreatic gland.

On December 12th the whole pancreas of a cow was chopped in .3% hydrochloric acid in 95% alcohol, macerated, filtered, evaporated, emulsified in saline, and given intravenously to dog #35. Blood sugar fell from .28 to .11 in four hours. This was the first whole gland extract of beef pancreas.

Dr. Collip had from time to time asked me if there was anything he could do. I was very anxious that the work advance more rapidly. I asked Professor macleod three or four times if Dr. Collip could do portions of work, but he advised against it. I was very anxious to find out if glycogen could be stored in the liver of a depancreatized dog, if extract were administered. I formulated an experiment and Best and I depancreatized two dogs in the surgical research, gave them extract and glucose and Dr. Collip did glycogen estimations. He told Professor Macleod the results. This occurred about one week before Christmas holidays. Collip began working on the biochemistry of the extract about this time. Before he commenced Best and I were using alcohol extracts of the whole beef pancreas and had found that the active principal was insoluble in 95% alcohol. but that it was soluble in 80% alcohol, and that on the addition of 95% alcohol to an 80% alcoholic solution of the active principal the solution became opalescent.

At the sixth annual meeting of the American Association of Biological Sciences, held at New Haven, December, 1921, Professor Macleod had his name first on the program, and although I gave the paper, he discussed it, using the term "we" throughout the discussion. I was the only one who gave a paper to the Physiological Section who was not asked to respond to his paper. Professor Macleod was chairman at this meeting. It must be remembered that at time time Professor Macleod had not done one single experiment, nor had he contributed one idea

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of value except estimation of haemoglobin before and after extract.

After the work had been reported at New Haven it was evident that interest was stimulated in other centres. I was anxious that Toronto University should take up the problem and should lead in its development. I had at various times asked Professor Macleod for more workers. He refused me. I discussed the matter with Professor Henderson, and he said that he would ask Professor Macleod. Professor Henderson discussed the matter with Professor Macleod, and told me later that Professor Macleod had said words to the effect that the scientific world would think he was silly if he gave up his work on Anexemia for the investigation of this extract, since its success had not yet been proved.

On December 24, 1921, alcoholic extract was administered to Dr. Jos. Gilchrist by mouth, and the daily output of sugar in the urine recorded, the diet being kept constant. There was no reduction in the daily amount of sugar excreted.

On January 10, 1922, Birkfeldted sterile extract, made by Mr. Best and myself, was given to Drs. Campbell and Fletcher of the Department of Medicine, to be tested on a boy in the Toronto General Hospital.

I had applied for a temporary appointment in the Department of Medicine under the direction of a senior physician for the purpose of testing pancreatic extracts on the human. This application was not granted. I was not allowed to even so much as examine the urine or blood obtained from the above case. At this time no agreement was made concerning reporting results of the clinical tests. A 33% fall in blood sugar followed the administration of the first dose of the extract to a human being. Unfortunately, this extract contained too high a percentage of protein and other solids, and an aseptic abscess followed its

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administration.

Shortly before January 25, 1922, Dr. Collip, who had been working in the laboratory of Dr. Harding, in the Pathological Building, announced that he had developed a process by which he could obtain an extract which contained no protein and no lipase. On being asked his methods of preparation he refused to tell them. This was a breach of a gentlemen's agreement amongst Dr. Collip, Mr. Best and myself, as we had agreed amongst ourselves to tell all results to each other. Dr. Collip discussed this new preparation with Professor Macleod and secured the consent of Professor Macleod to keep the process a secret. I believe that Dr. Collip at this time endeavoured to patent this process, and was only prevented from doing so by Professors Macleod, Hunter and Henderson.

Dr. Collip refined extract which was made by Mr. Best, sending the refined extract to the wards for clinical tests.

About this time the Connaught Laboratories took up the problem of small scale production for further clinical investigation. With Dr. Collip in charge of production they secured a room in the basement of the south wing of the medical building and installed what we thoughtthen to be advisable equipment. They supplied us with materials for the extraction. The physiological investigation was taken up by Professor Macleod and problems allotted to various pairs of workers.

From the 1st of February to date Professor Macleod has been in charge of the physiological investigation of Insulin. He has carried out this investigation in a most admirable manner. I cannot conceive of more work being accomplished in a shorter length of time than was accomplished in the Department of Physiology between February 1st and July 1st, and this is the result of teamwork under the direction of Professor J.J.R. Macleod. All results of the investigation carried on during this time are published in the

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"Transactions of the Canadian Royal Society", under the names of those engaged in the research in alphabetical order. A copy is attached.

Dr. Collip, although placed in charge of the production of Insulin in the Connaught Laboratory, did not work in the Connaught Laboratory but dabbled in physiological properties of the extract. He reported results to Professor Macleod as his own, which were not his own.

In writing the joint paper that appeared in the March number of the Canadian Medical Association Journal, Dr. Collip claimed that he was the first to make extracts from the whole gland by the use of alcohol. He also claimed to have made the first extract that was administered to a human diabetic. Professor Fitzgerald pointed out that these statements were not correct, and forced Dr. Collip to correct them.

Clinical investigation was carried on by Drs. Campbell and Fletcher on public ward patients of the Toronto General Hospital.

On February 19th Dr. Collip found that he was unable to refine extract by his method, and was unable to keep up his supply to the wards. During the following six weeks, or longer, no extract was available for clinical tests. I believe the reason for this to be that Collip, wishing to keep his process a secret, had not kept careful records. The whole investigation was thus held up, and after securing the consent of Professor Macleod, Mr. Best and myself commenced where we had left off in January to work on the refining of the extract. During the next two months most valuable work was done by Mr. Best. He worked intensively, and about the middle of May he succeeded in again obtaining an extract sufficiently refined for administration to the human. Shortly after this, at a meeting of the Connaught Laboratory, it was decided that Collip be no longer in charge of production and that this position should be filled by Mr. Best.

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should be filled by Mr. Best.

The Soldiers' Civil Re-establishment gave me an appointment at Christie Street Hospital in charge of the diabetic clinic, and from May 16th 1922, until Spetember 21st, the clinical investigation was carried on in Christie Street Hospital for the most part.

In writing the first two papers no allowance for credit was given to the Department of Pharmacology. I think this is unfair to Professor Henderson, because in the first place I would not have stayed in Toronto had it not been for Professor Henderson; and in the second place, Professor Henderson made more personal sacrifice in order that this work might be done in Toronto than did Professor Macleod. Professor Henderson did not ask that I correct prescriptions or mark laboratory records of the students. He did this work himself in order that my time might be free for the carrying on of this research. Professor Henderson did this purely unselfishly, and has never asked for credit for doing this. Furthermore, my appointment was in Pharmacology.

Professor Macleod carried on research on Anexemia until about the 1st of February, 1922. At this time he moved our all the apparatus and began work on carbohydrate metabolism.

Until about August 1922 the idea was prevalent throughout the United States and England that Professor Macleod was the originator of this research. I base this statement upon the following evidence.

1. On May 3rd Professor Macleod reported the work before the Association of American Physicians. Here again Professor Macleod's name preceded all others on the program. It has been reported to me the Professor Macleod gave a fair account of the work. It would appear, however, from Dr. Joslin's letter of May 4th to the Boston Medical and Surgical Journal, copy of which is attached, that the consensus of opinion in the United States was to the effect that this work originated with Professor Macleod. As far as I know

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Professor Macleod has not publicly corrected this impression in the Boston Medical and Surgical Journal.

2. On September 6th an article was published in the Star, copied from the London Times, in which Professor Bayliss, of the University of London, England, states that Professor Macleod is the originator, and that to him all the credit should be given. This statement was presented to Professor Macleod by Mr. Best on the following morning. Professor Macleod refused to refute it on the grounds that he did not wish to enter into newspaper controversy. Mr. Best asked Professor Macleod if he thought it was fair to Dr. Banting. Professor Macleod's reply was "Banting will have to get used to it". Subsequently Professor Macleod was interviewed by Mr. Greenaway of the Star, and he again refused to refute the statement of Professor Bayliss. I asked Mr. Greenaway to leave the room, and explained to Professor Macleod that if he did not refute it himself there were several who, knowing it to be false, would correct it. Professor Macleod then wrote a statement for the Star refuting the statement of Professor Bayliss.

3. Letters from patients to Professor Macleod, and patients sent by various physicians, namely, Dr. Geyelin, of New York City; Dr. Howland, of Baltimore; and Dr. Woodyatt of Chicago. These patients were sent by these doctors to Professor Macleod, as the originator, in order that he might treat them. Copies of letters are attached.

4. An article in the British Association Journal, September 9th, 1922, copy of which is self-explanatory.

--A P P E N D I X--

There are various other incidences which indicate a lack of trust and co-operation on the part of Professor Macleod; for example:

1. A few days before leaving for his summer holidays

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he appointed Dr. Eadie as official tester of the extract, and instructed on his own initiative, the Eli Lilly Company to send all extract to Dr. Eadie.

2. Previous to Professor Macleod's leaving for his summer vacation I asked him for the privilege of working in the laboratory during the summer; he was agreeable to this. After his departure I went to the Laboratory and found that Mr. Page was using the metabolism cages and the room that was previously occupied by Best and myself, and that it would be six weeks or longer before facilities would be available.

3. In the June number of the Canadian Medical Association Journal, Professor Macleod wrote an editorial in which the work done during 1921 was summarized into one paragraph. He also stated that the large scale preparation of extract was being done in the Department of Physiology by the aid of funds granted by the Connaught Laboratory of the University of Toronto. This was not the case, as the preparation of extract was done in the Connaught Laboratory.

4. Professor Macleod gave sufficient information in advance to Dr. Woodyatt of Chicago and Dr. Sansun of Santa Barbara to enable them to prepare extract and treat cases.

5. That Professor Macleod has depreciated my efforts in my work is evidenced by the fact that he lead Dr. Arnold of Ottawa to believe that I was "lucky enough to have the idea" but that it was really he himself who had been the means of bringing the investigation to a successful issue.

6. Before Professor Macleod left for his summer vacation he refused to give me $5,000. which was promised to me for clinical investigation. I have learned that Professor Collip has been sent a cheque for $500. which was half of his share. On September 5th I again asked Professor Macleod for $5,000. and he informed me that it would ne necessary to make requisition for the

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for the apparatus required and bring it to him for his signature before payment. This seems to me to indicate Professor Macleod's lack of trust in me.

All these points of difference might have been reasonably and easily explained to me had Professor Macleod wished to do so.

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C 42010

18

Ottawa, April 6, 1923

Memorandum to Sir Joseph Pope:

Re Dr. Banting, discoverer of the Insulin Treatment of Diabetes

Mr. King has suggested that you might be so good as to draft a resolution for introduction in Parliament somewhat along these lines:-

(1) That it is desirable that Parliament should give some expression of the nation's gratitude to one who has rendered such distinguished service to science and humanity.

(2) For the encouragement of Scientific Research and as an incentive to others, it is desirable that this recognition should take the form of an annuity voted by Parliament, of an amount sufficient to permit Dr. Banting to devote his lefe to medical research.

(3) Mention might be made of the national and international significance of Dr. Banting's discovery, and the unselfish manner in which he has placed it at the disposal of the public. This young Canadian has already been referred to by men of weight in the scientific world as likely to take his place in history as one of the greatest medical benefactors of the human race.

Attached hereto are a couple of private letters containing phraseology which may be useful in drafting the

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proposed resolution, and which you might kindly return to me when they have served your purpose.

L.C. MOYER

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C 42012 H-1000-B

P.C. 79/1452.

Certified Extract from the Minutes of a Meeting of the Treasury Board, held on the 26th July, 1923.

approved by His Excellency the Governor General in Council, on the 4TH AUGUST 1923

PRIVY COUNCIL
CANADA

PRIVY COUNCIL -

The Board recommend that authority be granted for the payment of an annuity of $7500 to Dr. F.G.Banting,- such annuity to be paid monthly with effect from the 1st April, 1923 - provision therefor having been made by Parliament, Item 468 Supplementary Estimates, 1923-24.

G. H. Lezar

Assistant Clerk of the Privy Council.

The Rt. Honourable

The President of the Privy Council.

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C 42013 H-1010-B
Vol. 3

Letters Patent

INCORPORATING

THE

BANTING RESEARCH

FOUNDATION.

Province of Ontario

By the Honourable

WILLIAM HERBERT PRICE,

ACTING Provincial Secretary

Recorded 9th
day of Sept.
A.D. 19 25
as No. 45

F. Costello
Deputy Provincial Registrar

To all to whom these Presents shall Come

Greeting

Whereas The Ontario Companies Act provides that with the exceptions therein mentioned the Lieutenant-Governor may by Letters Patent create and constitute bodies corporate and politic for any of the purposes to which the authority of the Legislature of Ontario extends:

And Whereas by the said Act it is further provided that the Provincial Secretary may under the Seal of his office have, use, exercise, and enjoy any power, right, or authority conferred by the said Act on the Lieutenant-Governor:

And Whereas by their Petition in that behalf the persons herein mentioned have prayed for Letters Patent constituting them a body corporate and politic for the due carrying out of the undertaking hereinafter set forth:

And Whereas it has been made to appear that the said persons have complied with the conditions precedent to the grant of the desired Letters Patent and that the said undertaking is within the scope of the said Act.

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C 42014

Now Therefore Know Ye that I,

William Herbert Price,
Acting Provincial Secretary,

under the authority of the hereinbefore in part recited Act

Do by these Letters Patent hereby constitute _____

the Persons hereinafter named that is to say _____

Charles Strange Macdonald, Company General Manager; William Edward Gallie, Surgeon; John Gerald FitzGerald, Professor of Hygiene and Preventive Medicine; Velyien Ewart Henderson, Professor of Pharmacology; and John William Rogers, Esquire; all of the City of Toronto, in the County of York and Province of Ontario; and any others who have become subscribers to the Memorandum of Agreement of the Corporation, and persons who hereafter become members thereof, a corporation without share capital under the name of

THE BANTING RESEARCH FOUNDATION

for the following purposes and objects, that is to say:

(a) In such manner and to such extent as the Board of Trustees of the Corporation may from time to time consider desirable to supplement the funds from time to time available in the University of Toronto for the carrying on of research in connection with the Banting and Best Chair of Medical Research;

(b) In such manner and to such extent as the Board of Trustees from time to time may deem desirable to provide for the financial support or aid of scientific workers in the University of Toronto or elsewhere who in the judgment of the Board of Trustees of the Corporation have proposed definite problems of medical research in connection with which the

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Board of Trustees of the corporation shall in its discretion from time to time have resolved to grant financial assistance; (c) To buy or otherwise acquire, hold, sell or otherwise dispose of real and personal property of every kind and description or any interest therein; (d) To invest and deal with the moneys of the Corporation not immediately required for the purposes of the Corporation in such manner as from time to time may be determined; (e) To cause or allow any property, moneys and other assets of the Corporation to remain or to be vested or held by or in the name of the Board of Governors of the University of Toronto, either upon trust for or as agents or nominees of the Corporation or upon any other terms or conditions which the directors of the Corporation may deem to be for the benefit of the Corporation; (f) To draw, make, accept, endorse, execute and issue cheques, bills of exchange and other negotiable instruments; (g) Subject to the limitations prescribed herein to make and adopt by-laws, rules and regulations for the election and appointment of its Board of Trustees and other officers and for an Advisory Committee or Committees and for the definition of the duties and powers of such Board of Trustees, other officers and Advisory Committee or Committees and for the fixing of the quorum of such Board of Trustees and Advisory Committee or Committees and for the safekeeping and protection of the property and funds of the Corporation and in general, from time to time, to regulate, manage and preserve the property and interests of the Corporation and from time to time to alter, repeal, rescind or vary such by-laws, rules and regulations or any of them; and (h) To do all such other things as are incidental or conducive to the attainment of the above objects or any of them;

The Head Office of the Corporation to be situate at the said City of Toronto; and

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The First Directors of the Corporation to be Charles Strange Macdonald, William Edward Gallie, John Gerald FitzGerald, Valyien Ewart Henderson and John William Rogers, hereinbefore mentioned;

AND IT IS HEREBY ORDAINED AND DECLARED THAT (1) The subscribers to the Memorandum of Agreement of the Corporation shall be the first members and the Corporation shall consist of the subscribers and of those who shall hereafter be duly elected as members of the Corporation in accordance with the by-laws and regulations from time to time in force; (2) The interest of a member in the Corporation shall not be transferable, and shall lapse and cease to exist when such member shall cease to be a member of the Corporation, by death, by resignation or otherwise in accordance with the by-laws and regulations from time to time in force; (3) The directors of the Corporation shall constitute the Committee of Management of the Corporation; and (4) The by-laws and regulations for (a) the election of members, trustees, directors and officers, (b) the holding of meetings of members, trustees and directors, (c) the establishment of branches, (d) the payment of directors, trustees, officers and employees, and (e) the control and management of the affairs of the Corporation shall be made and established, subject to amendment or repeal (subject as hereinafter provided) as therein or hereafter by by-law or regulation provided, at a general meeting to be held not more than six months after incorporation at such time and place as the directors may determine, and such by-laws, regulations and amendments shall replace, exclude or modify those set out in Form 4 in the Schedule to The Ontario Companies Act, save that in any matters covered by such Form 4 and not provided for in the Corporation's by-laws, regulations or amendments and subject also as hereinafter provided the provisions of said Form 4 shall apply and be in force, but all such matters which after the passing of the Corporation's first by-laws and regulations may be

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left to be governed by such Form 4 may (subject always as hereinafter provided) be varied, amended, excluded or modified by any by-laws or regulations;

PROVIDED ALWAYS that the regulation, governing the appointment, qualification, tenure of office of and the filling of vacancies in the Board of Trustees of the Corporation, hereinafter set out, shall not be altered, repealed, rescinded or varied without the consent of the Board of Governors of the University of Toronto and of the Alumni Federation of the University of Toronto; the regulation above referred to is as follows: There shall be a Board of Trustees, eight in number, and the following provisions shall apply: (I) Three Trustees shall from time to time be appointed by the Board of Governors of the University of Toronto from that body for a term of three years; (2) Two Trustees shall from time to time be appointed by the Board of Directors of the Alumni Federation of the University of Toronto for a term of three years; (3) The Trustees for the time being in office appointed under provisions (I) and (2) of this regulation shall appoint two Trustees from members of any one or more of the following Medical Departments of the University of Toronto, namely, Pathology, Pathological Chemistry, Hygiene, Pharmacology, Medicine, Surgery, Obstetrics and Gynaecology, Medical Research, Anatomy, Physiology, Bio-chemistry, who in the judgment of the appointing Trustees are actively engaged in promoting or conducting research; (4) The eighth member of the Board of Trustees shall be John William Rogers who shall, subject to provision (5) of this regulation, hold office for the term of three years from the date of incorporation of the Corporation; from and after the expiration of the first term of office of the said John William Rogers the eighth member of the Board of Trustees shall be appointed for a term of three years by the other members of the Board of Trustees for the time being in office; (5) All members of the Board of Trustees shall continue in office until their successors are appointed,

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and shall be eligible for re-appointment; in the event of the death or resignation of any member of the Board the vacancy so created may be filled for the unexpired portion of his term of office by appointment made by the body or the members of the Board of Trustees as the case may be who would for the time being be entitled to appoint a new trustee if such trustee so dying or resigning had completed his term of office;

AND IT IS HEREBY FURTHER ORDAINED AND DECLARED that the said Corporation shall be carried on without the purpose of gain for its members, and that any profits of other accretions to the Corporation shall be used in promoting its objects.

Given under my hand and Seal of office at the City of Toronto in the said Province of Ontario this twenty second day of July in the year of Our Lord one thousand nine hundred and twenty-five

L.S.

William H. Price

Acting Provincial Secretary.

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C 42019

Dated July 22 A.D. 19 25

Letters Patent

Under The Ontario Companies Act

INCORPORATING

THE

BANTING RESEARCH

FOUNDATION

Department of the Secretary and Registrar of Ontario.

Provincial Registrar's Office,

Toronto, Sept. 9 1925

I hereby certify the within to be a true and faithful copy of the Record of the Original Letters Patent as entered in Liber 2II as Number 45

F. Costello

Deputy Registrar of the Province of Ontario.

C 42020 E-9075-h

Dec. 24, 1927.

Re: STATEMENT BY L. MEDINA BARRON, MEXICAN CONSUL IN TORONTO

The question has been raised whether the statement issued by Senor Barron on Dec. 16 in reply to Bishop Fallon warrants a request for his recall or the immediate withdrawal of his exequatur.

Consuls are more in the position of private foreigners residing in this country than in that of diplomats accredited to the government of the country in which they reside. As Lord Birkenhead states in his International Law, "A consul is not as such an international agent. He is an official of the country for which he acts, entrusted with duties of a multifarious kind in a foreign country, and permitted by that country to discharge them within its borders." He may therefore be assumed to have somewhat more latitude than a diplomat, in that his public statements will not so directly involve his government. There are, however, numerous instances of protests by governments against the conduct of consuls to whom exequatur has been granted.[1] Sometimes action is taken in the form of a notice to the government or the legation representing the government that if the consul persists in his course, action for the withdrawal of the exequatur will be taken; or a request to the government to recall the consul, which it is not likely to do unless satisfied with the grounds put forward; or a summary withdrawal of the exequatur.[2]

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1 See particularly Hall, 8th edition, p. 311; Moore's International Law Digest, Vol. 5, pp. 19-32; Fauchille, Traite de Droit International Public, p. 124.

2 Fauchille: "The withdrawal of the exequatur is a more serious step than its refusal. The withdrawal should not be effected except for extremely serious grounds. In practice the foreign state is frequently requested to withdraw its representative. This procedure is more urbane."

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No instance has been found, however, even in the annals of the United States, which are prolific in the withdrawals and dismissals of ministers and consuls, where withdrawal was requested or compelled except on grounds of direct hostility to the state or the government concerned. The grounds for dismissal of ministers or consuls have been such as plotting against the government, violating its neutrality laws by encouraging the formation of armed expeditions, recruiting of soldiers for foreign wars, intercourse with a rebel government, advice to ex-citizens how to vote in a current presidential election, abuse of the government, or conduct making it impossible for the government to co-operate with him, (the latter only in the case of diplomats).

No instance has been noted where withdrawal was demanded or made on account of statements obnoxious to any group or section of the citizens of the country in question. The United States Government has laid down a very sensible rule that its consuls are to abstain from any discussion of public questions in the country in which they are stationed.

While Senor Barron has undoubtedly been indiscreet and has made statements which will be considered insulting by the whole Catholic population of Canada, some of the statements he has made are probably as near the truth as the version given by his critics; but all are controversial and some are offensive.

If it is considered to be desirable to take action to call Senor Barron to account, it would presumably be on the ground that the duties of a consul do not include participation in domestic controversies nor representations on behalf of his own government with reference to political questions

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in his own country, and on the further ground that in thus taking part in the controversy he had deeply offended a large section of the Canadian people by remarks of a general nature going beyond the discussion of the situation in his own country.

In such case three courses would be open:

(1) To write to the Consul direct or through the British Foreign Office and the British Ambassador in Mexico to the Government of Mexico, calling attention to the indiscretion and requesting that it should not be repeated; or

(2) Asking for his recall; or

(3) Withdrawing the exequatur forthwith.

The demand made in a good many quarters in Canada for severing diplomatic (or consular) relations with Mexico, or for issuing statements denouncing Mexican policy, is wholly without warrant. Every important Catholic country in the world, including France, Spain, Italy, and the Latin-American states, maintains permanent, intimate diplomatic relations with Mexico, sending and receiving ministers, and none of them has seen fit to make any statement or protest on the highly controversial subject of Mexico's policy towards the Catholic Church. To suggest that under these circumstances Canada should take such action is preposterous. The intervention in the dispute ~~of~~ by the Mexican Consul, however, is more open to criticism. As indicated above, no precedent seems to exist for protest even in this case, but if on general grounds of public policy the Canadian Government desires to make a

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protest or request recall, it is within its rights. In the present temper of the Mexican Government, it ~~would~~ might doubtless mean withdrawal of all Mexican Consuls from Canada.

O.D. Skelton
(9.C).

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C 42024

1 confidential memorandum dictated by Dan. King

CONFIDENTIAL MEMORANDUM

Re: Mexican Consul

January 12, 1928

Telephoned Sir Henry Thornton. Outlined controversy and asked if he thought he could have President Calles advised that retention of Barron in Canada would embarrass Government here and arrange for his withdrawal without exchange of official communications, - to explain Government most anxious to maintain friendly relations with Mexico, but that embarrassing situation had arisen and would continue as long as present Mexican Consul was here. Sir Henry said he could communicate with New York and from there have message sent which would reach Calles immediately.

January 14, 1928

Had interview this morning with Barron, Consul General of Mexico, and his Secretary Miguel Calderon, Vice-Consul. I told Barron that apart altogether from merits of controversy I thought his usefulness as Consul of Mexico had been impaired by his communications to the press; that if annoyed at Bishop Fallon he should have communicated

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with the Government instead of addressing open communications to the public; that as Consul General he should not enter into discussion of Canada's domestic problems, or could not hope to do so and maintain his usefulness to his country. That I had delayed asking him to come to Ottawa until I was quite sure that the matter would not blow over. I was persuaded now that if he remained in Canada it would only lead to serious controversy including discussion in parliament. Notice of resolution by Marcil would make it necessary for Members of Government and Members of Parliament to express their views. That personally I thought he had been offensive in his language towards the Roman Catholic Church, and that I myself would, if called upon, have to say so in parliament, and would also support a motion to the effect that his usefulness was gone; that I did not wish to do this if it could be avoided, and that I hoped he would find it possible to advise his Government of our conversation of this morning, and my view that his usefulness was impaired and arrange for his withdrawal from Canada. He contended that he had had no intention of saying anything about the Catholic Church as such; that his references were entirely to conditions in Mexico; that his second letter was intended to make that clear.

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I pointed out that he could not have written the letter himself, and that whoever wrote the English had made statements which an English-speaking person would regard as directed against the Roman Catholics as such. That as a Protestant I wanted to see fair play with all denominations and would not support an attack upon the Catholic Church by anyone in a diplomatic or quasi diplomatic position.

The Consul, on the whole, received my representations in a kindly spirit and said that he would communicate at once with his Government and advise them of what I had said. The Mexican Government would not wish to have unfriendly relations grow up between Mexico and Canada, and if his own words, though not so intended, were likely to have this effect, he felt his Government would take that into consideration; they might wish to express their own views on attacks that were being made on the Government of Mexico by Bishop Fallon and others. I said that it was for the Government of Mexico to decide what was best in this regard.

I pointed out that as far as receiving his exequater from the British Government was concerned, this was not a factor

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in the situation; that since the last Imperial Conference all exequaters were now signed by myself as Secretary of State for External Affairs of Canada, and that the British Government would not think of continuing an exequater against the advice of Canada; that, in fact, since the Conference, the powers formerly belonging to the British Foreign Office now belonged to the Secretary of State for Canada as regards exequaters for Consuls.

I replied, in answer to a question, that our conversation was to be regarded as an official one, and on being asked as to whether there should not be something in writing, I replied that I did not want it to get into writing at this stage; that I preferred having the matter adjusted by a friendly discussion and simple presentation of views in an informal way, if that could be done. In other words, that I did not wish to make more of it than was necessary.

I pointed out that the Government would have to defend Sir Henry Thornton's visit to Mexico on the score of desiring to meet in a friendly way the request of Mexico; that I hoped Mexico would not allow Ottawa to be embarrassed by any controversy arising out of that visit. We would certainly be

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embarrassed if Mr. Barron continued to reside in Toronto. The gist of my suggestion was that he himself should volunteer a letter to me stating that in view of the representations of our interview he did not feel that he should continue longer as Consul.

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See p 4 and 6 C 42029

Text of speech delivered by Arthur Beauchesne, M.A., K.C., F.R.S.C., Clerk of the House of Commons, before the Canadian Club, at the Royal York Hotel, Toronto, on Monday, 17th November, 1930.

Mr. Chairman, Gentlemen:

I am very thankful to you, Sir, for your kind greeting. I feel honoured in having the privilege of speaking at this luncheon. The Canadian Club is doing splendid work in promoting better understanding between the various elements of the Dominion.

If I am here today to address you on French Canadians, it is not because I think public opinion is worried about us. There is no racial problem to solve. We are living in peace and harmony. There is no French Canadian question. But I think it is proper that we should sometimes meet and exchange ideas in a friendly manner.

One evening, in August 1928, I was walking on Dufferin Terrace, in the City of Quebec, with Mr. Owen Clough, then Clerk of the Senate of the Union of South Africa. The day had been hot and there were on that historic platform about two thousand people, mostly French Canadians. The band was playing the usual airs we hear on public squares. At 10 o'clock, when the program was finished, the musicians struck up the National Anthem: God Save the King. The whole crowd stopped with as much suddenness as if a command had been given. Young men took off their hats and their lady friends observed a respective silence. The moon shining in a blue Canadian sky, threw a silvery light on this lovely exhibition of French Canadian loyalty. Mr. Clough was astonished.--"That's enough for me", he said, "You could not get that in South Africa. This is oneof my most impressive experiences."

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That was the impression of an Englishman who had spent twenty-eight years in South Africa and was paying a visit to our country. He was moved by a scene which I had witnessed scores of times and taken as a matter of course, because it always seemed natural to me that in the City of Quebec we should have a sentimental reverence for the British Crown. If there are any people who take exception to this statement, let me please ask them kindly to look with me into the psychology of the French Canadian.

After the cession of Canada to England, in 1763, all communications between France and the 60,000 of its kith and kin living in this country were stopped. My forefathers were left to themselves and had to seek their own salvation as best they could. The beginnings were fraught with mistakes. Had the British authorities then realized that the Canadians found their modo of living improved by the change, many unnecessary difficulties would have been avoided. When the habitant discovered that his products could be sold for money and his services paid in cash, when he saw coin that he could possess, when for the first time he felt that he could become a landowner, he welcomed the new regime. But the soldiers burnt some of his poor little settlements. Such were then the customs of warfare. We do not now hold rancor in our hearts against Great Britain for it. Time has removed the sting from many facts that caused bitterness in the century before last.

The Canadians refused to listen to Lafayette and his lieutenants when they tried to enlist them in the American Army in 1777.

We are not the descendants of Revolutionary France. When the

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great upheaval started its work of destruction in our former Mother Country, in 1789, my ancestors were British subjects and had ceased to be Frenchmen for nearly thirty years. They were, as we are to-day, staunchly Roman Catholic. They were scandalized when the September massacres took place, and they could not forgive the demons who assassinated priests in the detention convents during the French Revolution. They shivered with indignation when they learned of the Terreur under Robespierre, the execution of Louis XVI and the activities of the guillotine. They looked upon the Jacobins, Bonaparte, Talleyrand and Fouché as the embodiment of crime, bandits who were persecuting honest people, bleeding France to death and keeping Europe in a continuous turmoil. The habitants thanked Providence that they were living safely in a British Country where they could practice their religion with freedom and teach it to their children in their own language.

Eight generations of French Canadians have been born in Canada since 1763. We are French from a racial standpoint but not from that of nationality, temperament and aspirations. We speak French, but we do not wish to impose that language on other people. English is taught in all our schools. We love France and admire her literature, but we have a greater love for our own country, and we also admire English literature and British culture. We are Britishers just as much as if we were born in the British Isles.

When the habitants became British subjects they soon understood that if they expected to survive they had better use their

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brains. I shall not repeat here historical facts that we all learned at school, but I am bound to say that we, French Canadians, taken as a separate element of the population, and not individually, have never committed a single act of disloyalty to the British Crown. The revolt of 1837 was not by any means a unanimous rebellion. Only a handful of habitants took part in it. Some of our leaders, notably Lafontaine, opposed it. It was not limited to our part of the country. There were then just as many rebels in Upper as in Lower Canada. The descendants of some of those traitors have since succeeded very well in parliamentary life. The Roman Catholic Clergy of Quebec was against the so-called Rebellion, as it had been against Yankee propaganda in 1776 and 1812.

And this brings me to a very timely question, viz: Do the Roman Catholic Clergy control the French Canadians? The answer is simple; it is in the negative. Our relations with our priests are the same as those of all Roman Catholics with their priests in other parts of Canada. We have the highest regard for clergymen of all denominations, not only as members of the clergy, but also as good men who are a credit to our population. We were grateful to Goldwin Smith, when he said in his book, "Irish History and the Irish Question": "The moral character of the Irish priesthood in the opinion of impartial judges is high, as is that of the priesthood of French Canada. The two are probably the best things that the Roman Catholic Church has to show."

But in social, political and industrial matters, the priest has no more influence in Quebec than the lay professional man. In some places he is not popular and nobody seeks his support. I once

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heard the late Mr. Monk say in the House of Commons that if every curé in his county canvassed for him he would lose his deposit. In election times, priests are far from being unanimous, some of them are Conservative, others are Liberal--and a good many are indifferent. We have had candidates like the late Dominique Monet elected for the House of Commons in Laprairie when almost every curé and vicaire in his county were against him. Moreover, the ordinary priest is not allowed by his bishop to meddle in politics. But if our rights were threatened we would not need to be stirred by our clergy to defend our cause. The priests would follow, they would not lead. We are a population of laymen and by laymen in politics we intend to be represented. This is also the opinion of many members of the clergy.

It is a mistake to believe that we are unable to see anything good outside our own Province. I admit that the people of Quebec, especially those living in the rural districts, do not take the interest they should in Dominion affairs. I know they are not greatly concerned with the wheat trade, the freight rates, the importation of coal, imperial affairs of the League of Nations, and they are no different in that respect from the majority of the ordinary farmers in other Eastern Provinces. They seem nevertheless to have understood the effect of the New Zealand treaty on the price of butter. Who will pretend that men working on the farm from dawn to evening in any part of Canada, are sufficiently informed to have a reasoned opinion on public questions? Our farmers are not worse in this respect than the provincial population of Great Britain, if one is to judge by newspaper comments on British elections.

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I do not deny that the French Canadians are slow in joining in with English-speaking Canada in many social movements. But you must remember that Canada is not a homogeneous country. Neither is the United Kingdom. The Dominion is a Confederation of Provinces. It was constituted as a compromise by a pact or convention between two elements. Each province was given autonomy in the most vital factor of its existence, viz, education. The Province of Quebec, with its little seminaires propagated a latin culture; the other Provinces cultivated the ideals of the United Kingdom. How could we expect unity with such a system? Yet, in spite of that great handicap, we have succeeded in settling many difficult questions and we can say that there is at present harmony in this country. We are gradually lessening the differences between Quebec and the other Provinces. Other schools than little seminaires have been opened. We now have in Quebec normal schools, industrial schools and a good system of public schools. Most of these are practically following the same programs as the English schools of the Dominion. The great advantage of knowing how to speak French seems to be appreciated in all the provinces. And there is an increase in the number of French Canadians who entertain friendly relations with the English-speaking Canadians.

This will continue. We are only at the beginning of a new era, and we must bend every effort to foster the new spirit if we want unity in Canada. Let us not be discouraged if progress is not achieved as speedily as we would like. The idiosyncracies of a race cannot be changed overnight. Treaties and statutes do not alter the

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soul of a people. Friendships are not made by contract. They are the result of mutual attraction coupled with mutual confidence.

If instead of being scattered along a narrow strip 3,000 miles long, our population of 10,000,000 was living in a territory about the size of Ontario, we would understand each other very much better. We do not meet often enough, and our intercourse is sometimes marred by an apparent lack of consideration. We are apt to forget that, according to an old saying, flies are not attracted by vinegar.

Mutual respect will make less headway by speeches, magazine articles and newspaper editorials than if it were taught in the home, the school and the pulpit. What is the use of a French Canadian preaching bonne entente in public if he tells his children at home that Henry VIII was a scoundrel, the English dispersed the Acadians and hanged French Canadians in 1837? What is the use of an English-speaking Canadian making public demonstration of his friendship for his fellow French Canadian, if when taking his dinner with his family, he tells his sons and daughters that the Pope is Antichrist and French Canadians are an inferior element in the Dominion. Mutual understanding between us will only be brought about if we sincerely desire it. We must accept it as a basic principle or a guiding star in our existence. Unless we do--and I am speaking of all of us--there will always be a certain element of distrust between us. Our friendship should be warm, sincere and brotherly.

The game of politics has not always been played with the tact and diplomacy necessitated in a bilingual country. Most of our

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past dissensions, nay all of them, have been political, and they owed their origin to the lack of judgment of some Ministers of the Crown or the ambitions of some opposition leaders.

But you will ask me: What is the attitude of the French Canadian towards his compatriot the English Canadian to-day? This is a pertinent question; but a distinction may be made. Let us first dispose of the case of the Irish Catholic. Do you know that, in spite of many misunderstandings, the Irish Catholic fares very well--and I am glad he does--in the Province of Quebec and in the French counties of Ontario. Although there is not a single county with an Irish majority in Quebec, Irishmen succeed in sending five or six members of their own race to the House of Commons.

Mr. Frank Cahill, who could not speak a word of French, represented Pontiac from 1917 to 1930, and he was a splendid Member of Parliament. Mr. Tobin, now a Senator, was the Member for the French County of Richmond-Wolfe from 1900 to 1930; Mr. Power, of Quebec South, and Mr. Sullivan, of St. Anne's, Montreal, are elected by French majorities. Russell County, in Ontario, which was represented from 1908 to 1925 by Hon. Charles Murphy, is a French Constituency. Sir Charles Fitzpatrick always sat in Parliament as Member for Quebec county, a decidedly French electoral division, and he became Lieutenant-Governor of Quebec. The late Charles and Emmanuel Devlin sat for the old county of Ottawa, in the Province of Quebec, which was a French district.

Our Irish friends have a good representation in the

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Legislature and always hold a seat in the provincial cabinet. They have their Judges in the Court of King's Bench and the Superior Court. One of their men is now our Lieutenant-Governor. His Honour Mr. Carroll has not a drop of French blood in his veins. A more genial man could not be found. He is the son of Michael Carroll and Margaret Campbell, both born in the British Isles. These facts which I do not recall here in a spirit of reproach, are sufficient to show that we get along very well with the Irish. Whether they put it over on us or we have a warm spot in our hearts for them is hard to say, but I think there is a little of both.

As to the English Protestant Canadians, let me say without hesitation that it is our earnest desire to maintain in all circumstances the most friendly relations with them. We like them, and though, in cities like Montreal, we each have our own educational and charitable institutions, our own clubs and social affairs, it does not necessarily follow that we avoid them. When we occasionally meet, we certainly enjoy ourselves. The rural French Canadian who happens to deal with the English Canadians becomes friendly towards them. We like your sense of fair play, and we admire your business ability. We know that you have established all the great industries in the Dominion. Those of you who have visited our Province know that you are always well received. I have myself heard many a French Canadian farmer speak in the highest terms of "les Anglais", the English people. Many of our French municipalities elect English Protestant mayors and councillors.

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French counties often elect English-speaking members for the House of Commons. At present Mr. Howard sits for Sherbrooke, which has become a prosperous French city. Sir George Perley represents Argenteuil in Parliament.

The Conservatives never could defeat the late Hon. James Robb in Chateauguay-Huntingdon county. In Beauharnois, George Loy, an English Protestant, was elected several times against a French Canadian. The electors would not allow the candidates' racial origin to be discussed in public meetings. If there had not been in those counties any French Canadian capable of sitting in Parliament, we might say that the elections of Mr. Robb and Mr. Loy did not prove our friendship for English people. But there were then, and there are now, many educated French Canadians in those two counties. The majority of the electors trusted these English candidates and that settled the cases.

A by-election was held two weeks ago in Huntingdon where the Liberal candidate, Mr. Scott, newly appointed Provincial Treasurer, asked to be elected in order to represent the Protestant element in the Cabinet. The majority of French Canadians, realizing that the Protestants should have a Minister in the Provincial Government, voted for him, but he was defeated because the Protestant electors voted against him. After his defeat Mr. Scott was kept in the cabinet as a Minister without portfolio and given a seat in the Legislative Council. A more striking example of our desire to hold a friendly intercourse with English-speaking people could not be found.

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The French Canadian's attitude towards the British Crown is more than loyalty, it is reverence. We are the offsprings of a royalist race. Respect for authority comes natural to us. We admired Queen Victoria. The Royal Family, in the minds of our habitants, is the embodiment of nobility almost too high to be approached by the ordinary being. There is a feeling in Quebec that, as long as there will be a King in Great Britain, our constitutional minority rights shall not be jeopardized. Our people think that His Majesty will always influence his own government, and therefore Parliament, if any measure were ever introduced against the terms of the Treaty under which we have become British subjects. I suppose you know that in all our churches we recite special prayers for the King of Great Britain. I sincerely believe that if the British Commonwealth of Nations were presided over by a president, instead of a King-Emperor, it would not have such a hold as it has now on the Province of Quebec.

The French Canadians were amongst the British subjects in America who refused to take up arms against England in the last part of the 18th century. My forefathers were steadfast in their belief that monarchy was the only legitimate form of government and they would not fight England for the benefit of the American rebels. We remained faithful to our allegiance and we have never regretted it. We like to think that the King of Great Britain feels his heart beating a little faster when he reads that part of Canadian

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