

CANADA

TREATY SERIES, 1942

No. 7

EXCHANGE OF NOTES

(March 30, April 6 and 8, 1942)

BETWEEN

CANADA AND THE UNITED STATES  
OF AMERICA

CONCERNING

MILITARY SERVICE

IN FORCE APRIL 8, 1942



OTTAWA

EDMOND CLOUTIER

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

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BETWEEN  
SUMMARY

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MILITARY SERVICE

IN FORCE APRIL 8, 1942



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EXCHANGE OF NOTES BETWEEN CANADA AND THE UNITED STATES OF AMERICA CONCERNING MILITARY SERVICE\*

Signed at Washington, March 30, April 6 and 8, 1942

I

*The Acting Secretary of State of the United States to the Canadian Minister at Washington*

DEPARTMENT OF STATE

WASHINGTON, March 30, 1942.

SIR:

I have the honor to refer to conversations which have taken place between officers of the Canadian Legation and of the Department with respect to the application of the United States Selective Training and Service Act of 1940, as amended, to Canadian nationals residing in the United States.

As you are aware the Act provides that with certain exceptions every male citizen of the United States and every other male person residing in the United States between the ages of 18 and 65 shall register. The Act further provides that, with certain exceptions, registrants within specified age limits are liable for active military service in the United States armed forces.

This Government recognizes that from the standpoint of morale of the individuals concerned and the over-all military effort of the countries at war with the Axis Powers, it would be desirable to permit certain classes of individuals who have registered or who may register under the Selective Training and Service Act of 1940, as amended, to enlist in the armed forces of a co-belligerent country, should they desire to do so. It will be recalled that during the World War this Government signed conventions with certain associated powers on this subject. The United States Government believes, however, that under existing circumstances the same ends may now be accomplished through administrative action, thus obviating the delays incident to the signing and ratification of conventions.

This Government is prepared, therefore, to initiate a procedure which will permit aliens who have registered under the Selective Training and Service Act of 1940, as amended, who are nationals of co-belligerent countries and who have not declared their intention of becoming American citizens to elect to serve in the forces of their respective countries, in lieu of service in the armed forces of the United States, at any time prior to their induction into the armed forces of this country. Individuals who so elect will be physically examined by the armed forces of the United States, and if found physically qualified, the results of such examinations will be forwarded to the proper authorities of the co-belligerent nation for determination of acceptability. Upon receipt of notification that an individual is acceptable and also receipt of the necessary travel and meal vouchers from the co-belligerent government involved, the appropriate State Director of the Selective Service System will direct the local Selective Service

\* Cf. *Canada Treaty Series* 1942, No. 5: Exchange of Notes between Canada and the United States recording an agreement for the exchange of personnel between the armed forces of the two countries, effected March 18 and 20, 1942.

Board having jurisdiction in the case to send the individual to a designated reception point for induction into active service in the armed forces of the co-belligerent country. If upon arrival it is found that the individual is not acceptable to the armed forces of the co-belligerent country, he shall be liable for immediate induction into the armed forces of the United States.

Before the above-mentioned procedure will be made effective with respect to a co-belligerent country, this Department wishes to receive from the diplomatic representative in Washington of that country a note stating that his government desires to avail itself of the procedure and in so doing agrees that:—

- (a) No threat or compulsion of any nature will be exercised by his government to induce any person in the United States to enlist in the forces of any foreign government.
- (b) Reciprocal treatment will be granted to American citizens by his government; that is, prior to induction in the armed forces of his government they will be granted the opportunity of electing to serve in the armed forces of the United States in substantially the same manner as outlined above.
- (c) No enlistments will be accepted in the United States by his government of American citizens subject to registration or of aliens of any nationality who have declared their intention of becoming American citizens and are subject to registration.

This Government is prepared to make the proposed regime effective immediately with respect to Canada upon the receipt from you of a note stating that your government desires to participate in it and agrees to the stipulations set forth in lettered paragraphs (a), (b) and (c) above.

Accept, Sir, the renewed assurances of my highest consideration.

SUMNER WELLES

*Acting Secretary of State.*

## II

*The Canadian Minister at Washington to the Acting Secretary of State of the United States*

CANADIAN LEGATION

No. 222

WASHINGTON, April 6, 1942.

SIR,

I have the honour to refer to your Note of March 30, 1942, concerning the application of the United States Selective Training and Service Act of 1940, as amended, to Canadian nationals residing in the United States.

2. In your Note you make certain proposals which, so far as they affect Canada, may be set forth as follows:—

- (1) The Government of the United States is prepared to initiate a procedure which will permit non-declarant Canadian nationals who register under the United States Selective Training and Service Act of 1940, as amended, to elect, at any time prior to their induction into the Armed Forces of the United States, to serve in the Naval, Military or Air Forces of Canada in lieu of service in the Armed Forces of the United States. Individuals who elect for service with the Canadian forces will

be physically examined by the Armed Forces of the United States; if they are found to be physically qualified, the results of the examinations will be forwarded to the proper authorities of Canada. On receipt from the Canadian Government of notification that an individual is acceptable and also receipt of the necessary travel and meal vouchers, the appropriate State Director of the Selective Service System will direct the local Selective Service board concerned to send the individual to a designated reception point for induction into the Naval, Military or Air Forces of Canada. If, on arrival at the reception point, the individual is found to be not acceptable to the Naval, Military or Air Forces of Canada, he shall be liable for immediate induction into the Armed Forces of the United States.

(2) The Government of the United States is prepared to make the proposed regime effective immediately with respect to Canada on receipt of a note stating that the Canadian Government desires to participate in the regime and agrees to the following stipulations:

- (a) The Canadian Government shall not exercise any threat or compulsion of any nature to induce any person in the United States to enlist in the Naval, Military or Air Forces of Canada or of any other foreign Government;
- (b) The Canadian Government shall grant reciprocal treatment to United States citizens, that is, United States citizens subject to compulsory military service in Canada shall, prior to induction into the Naval, Military or Air Forces of Canada, be granted the opportunity of electing to serve in the Armed Forces of the United States in substantially the same manner as that outlined above;
- (c) The Canadian Government shall not accept enlistments in the United States from United States citizens subject to registration or from aliens of any nationality who have declared their intention of becoming United States citizens and are subject to registration.

3. The policy of the Canadian Government and Canadian legislation have been based on the assumption that measures applying compulsory military service to aliens should be founded upon agreement with the interested Governments. The Canadian Government is of the opinion that difficulties might arise if there were general recognition of a right to conscript aliens, implying corresponding rights in other countries to conscript Canadian nationals. The Canadian Government, however, does not wish to raise a legal objection at the present time. In view of the close co-operation between Canada and the United States in the prosecution of the war, and in view of the time that will be saved and of the other undoubted, practical advantages to be derived from the acceptance of these United States proposals, the Canadian Government is prepared to co-operate with the Government of the United States by participating in the regime set forth above, full reciprocity on all points being assured by the United States Government.

4. The Canadian Government agrees to stipulation (a) on the understanding that the United States Government is willing, if requested, to make a reciprocal promise. It is understood, of course, that the engagement set out in stipulation (a) is limited to the present case and, furthermore, that it is not intended to prevent the Canadian Government from declaring the legal liability of Canadians everywhere, including the United States, to serve in the Canadian Forces, so long as nothing is said or done by the Canadian Government in the United States by way of threat or compulsion. The reason for this reservation is that

Canada may decide in the future to create a general legal liability of Canadians abroad to serve in the Canadian Forces similar to the existing provision in the United States Selective Training and Service Act imposing a liability on United States citizens everywhere. If Canada creates such a liability, the Canadian Government would not wish to exclude any part of the globe.

5. The Canadian Government agrees to stipulation (b) on the understanding: firstly, that the United States Government is agreeable to the Canadian Government imposing a liability to compulsory military service on United States citizens residing in Canada, and secondly, that declarant United States citizens in Canada, like declarant Canadian nationals in the United States, will not be granted an opportunity of electing to serve in the armed forces of the country of which they are nationals.

6. The Canadian Government agrees to stipulation (c) on a basis of reciprocity, that is, that the United States will not accept enlistments in Canada from Canadian nationals or from declarant aliens of any nationality who may be subject to liability to compulsory military service under Canadian law.

7. The Canadian Government assumes that the words "active service in the armed forces of the co-belligerent country" in paragraph four of your Note mean, so far as Canada is concerned, full time duty in the Naval, Military or Air Forces of Canada.

8. The Canadian Government understands that nothing in this exchange of notes will be construed as imposing any obligation on the Canadian Government to return to the United States Canadian nationals who may be deemed to be draft delinquents under United States law.

9. In order that non-declarant Canadian nationals in the United States may be informed of the conditions of service in the Naval, Military and Air Forces of Canada, National Defence Headquarters in Ottawa will give the Selective Service System of the United States copies of a pamphlet setting forth the conditions of service, on the understanding that the Selective Service System will make the pamphlets available to non-declarant Canadian nationals who are called up for induction into the Armed Forces of the United States.

10. The Canadian Government trusts that Canadian nationals who are permanent residents of the United States and who elect for service in the Naval, Military or Air Forces of Canada and accepted by one of those Forces will be permitted to return to the United States at any time within six months after the termination of their service with the Canadian Forces.

I have the honour to be, with the highest consideration, Sir, your most obedient humble servant.

H. H. WRONG,

*For the Minister.*

1942. No. 7

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*The Acting Secretary of State of the United States to the Canadian Minister  
at Washington*

RECU  
DEPARTMENT OF STATE

WASHINGTON, April 8, 1942.

SIR:

I have the honor to acknowledge the receipt of your note No. 222 of April 6, 1942, referring to my note of March 30 concerning the application of the United States Selective Training and Service Act of 1940, as amended, to Canadian nationals residing in the United States and stating that the Canadian Government is prepared to co-operate with the Government of the United States by participating in the regime outlined in my note of March 30, on the understanding that full reciprocity on all points contained therein will be accorded by the Government of the United States.

I am pleased to inform you that the Government of the United States hereby assures the Government of Canada full reciprocity with respect to the regime in question and likewise agrees to the understandings, limitations, and assumptions set forth in numbered paragraphs 4 through 9 inclusive of your note under acknowledgment.

With respect to numbered paragraph 10 of your note relating to the return to the United States of Canadian nationals who elect to serve in the Naval, Military or Air Forces of Canada and are accepted by one of those forces, you are informed that the Department of State is requesting the Department of Justice to recommend to the Congress of the United States the adoption of appropriate legislation with a view to simplifying to the fullest extent possible the re-entry to the United States of the individuals in question at any time within six months after the termination of their service with the Canadian forces.

Accept, Sir, the renewed assurances of my highest consideration.

SUMNER WELLES  
*Acting Secretary of State.*

