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Def. Doc. # 472

RUSSIA - JAPAN

SECRET CONVENTION OF JULY 17/30, 1907

The Government of His Majesty the Emperor of All the Russias and the Government of His Majesty the Emperor of Japan, desiring to obviate for the future all causes of friction or misunderstanding with respect to certain questions relating to Manchuria, Korea and Mongolia, have agreed upon the following provisions:

ARTICLE I

Having in view the natural gravitation of interests and of political and economic activity in Manchuria, and desiring to avoid all complications which might arise from competition, Japan undertakes not to seek to obtain on its own account, or for the benefit of Japanese or other subjects, any concession in the way of railways or telegraphs in Manchuria to the north of a line defined in the Additional Article of the present Convention, and not to obstruct, either directly or indirectly, any initiatives supported by the Russian Government with a view to concessions of that sort in those regions; and Russia, on its part, inspired by the same pacific motive, undertakes not to seek to obtain on its own account, or for the benefit of Russian or other subjects, any concession in the way of railways or telegraphs in Manchuria to the south of the above-mentioned line, and not to obstruct, either directly or indirectly, any initiatives supported by the Japanese Government with a view to concessions of

that sort in those regions.

It is fully understood that all the rights and privileges belonging to the Chinese Eastern Railway Company by virtue of the contracts for the construction of this railway, dated August 16/28, 1896, and June 13/25, 1898, will remain in force on the section of the railway lying to the south of the line of demarcation defined in the Additional Article.

ARTICLE II

Russia, recognizing the relations of political solidarity between Japan and Korea resulting from the conventions and arrangements at present in force between them, copies of which have been communicated to the Russian Government by the Japanese Government, undertakes not to interfere with nor to place any obstacle in the way of the further development of those relations; and Japan, on its part, undertakes to extend in all respects most-favored-nation treatment to the Russian Government, consular officers, subjects, commerce, industry and navigation in Korea, pending the conclusion of a definitive treaty.

ARTICLE III

The Imperial Government of Japan, recognizing the special interests of Russia in Outer Mongolia, undertakes to refrain from any interference which might prejudice those interests.

ARTICLE V

The present Convention shall be strictly confidential between the two High Contracting Parties.

In faith of which, the undersigned, duly authorized by their respective Governments, have signed this Convention and have affixed their seals thereto.

Done at St. Petersburg July 17/30, 1907, corresponding to the thirtieth day of the seventh month of the fortieth year of Meiji.

(Signed) ISWOLSKY (SEAL) (Signed) MOTONO (SEAL)

ADDITIONAL ARTICLE

The line of demarcation between North Manchuria and South Manchuria mentioned in Article I of the present Convention is established as follows:

Starting from the northwestern point of the Russo-Korean frontier, and forming a succession of straight lines, the line runs, by way of Hunchun and the northern extremity of Lake Pirteng, to Hsiu-shuichan; thence it follows the Sungari to the mouth of the Nunkiang, thereupon ascending the course of that river to the confluence of the Tola River. From that point, the line follows the course of that river to its intersection with Meridian 122° East of Greenwich.

(Signed) ISWOLSKY (SEAL) (Signed) MOTONO (SEAL)

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TRIPARTITE AGREEMENT IN REGARD TO

OUTER MONGOLIA BETWEEN RUSSIA,

MONGOLIA AND CHINA.

Signed at Kiachta, June 7, 1915.

The President of the Republic of China,

His Imperial Majesty, the Emperor of all the Russias,

and

His Holiness the Bogdo (Great) Cheptsun (Venerable) Damba (Sacred Hut'ukht'u (Reincarnated) Khan (Ruler) of Outer Mongolia,

Animated by a sincere desire to settle by mutual agreement various questions created by a new state of things in Outer Mongolia, have named for that purpose their Plenipotentiary Delegates, that is to say:

The President of the Republic of China, General Pi Kueifang and Monsieur Ch'en Lu, Envoy Extraordinary and Minister Plenipotentiary of China to Mexico;

His Imperial Majesty the Emperor of all the Russias, His Councillor of State Alexandre Miller, Diplomatic Agent and Consul General in Mongolia; and

His Holiness the Bogdo Cheptsun Damba Hut'ukht'u Khan of Outer Mongolia, E'êrh-te-ni Cho-nang Pei-tzu Se-leng-tan, Vice-Chief of Justice, and T'uhsieh-t'u Ch'in Wang Ch'a-K'o-tu-êrh-cha-pu, Chief of Finance,

Who having verified their respective full powers found in good and due form, have agreed upon the following:

ARTICLE 1. - Outer Mongolia recognizes the Sino-Russian Declaration and the Notes exchanged between China and Russia of the 5th day of the 11th month of the 2nd year of the Republic of China (23 October 1913).

ARTICLE II - Outer Mongolia recognizes China's suzerainty, China and Russia recognize the autonomy of Outer Mongolia forming part of Chinese territory,

ARTICLE III - Autonomous Mongolia has no right to conclude international treaties with foreign powers respecting political and territorial questions.

As respects questions of a political and territorial nature in Outer Mongolia, the Chinese Governemnt engages to conform to Article II of the Note exchanged between China and Russia on the 5th day of the 11th month of the 2nd Year of the Republic of China. (23rd October 1913).

ARTICLE IV. - The title: "Bogdo Cheptsun Damba Kut'ukht'u Khan of Outer Mongolia" is conferred by the President of the Republic of China. The calendar of the Republic as well as the Mongol calendar of cyclical signs are to be used in official documents.

ARTICLE V. - China and Russia, conformably to Articles II and III of the Sino-Russia, Declaration of the 5th day of the 11th month of the 2nd year of the Republic of China (23rd October 1913), recognize the exclusive right of the Autonomous Government of Outer Mongolia to attend to all the affirs of its internal administration and to conclude with foreign powers international treaties and agreements respecting all questions of a commercial and industrial nature concerning antonomous Mongolia.

ARTICLE VI. - Conformably to the same Article III of the Declaration, China and Russia engage not to interfere in the system of autonomous internal administration existing in Outer Mongolia.

ARTICLE VII. - The military escort of the Chinese Dignitary at Urga provided for by Article III of the above-mentioned Declaration is not to exceed two hundred men. The military escorts of his Assistants at

Uliassutai, at Kobdo, and at Mongolian-Kiachta are not to exceed fifty men each. If, by agreement with the Autonomous Government of Outer Mongolia, Assistants of the Chinese Dignitary are appointed in other localities of Outer Mongolia, their military escorts are not to exceed fifty men each.

ARTICLE VIII. - The Imperial Government of Russia is not to sent more than one hundred and fifty men as consular guard for its representative at Urga. The military escorts of the Imperial consulate and viceconsulates of Russia, which have already been established or which may be established by agreement with the Autonomous Government of Outer Mongolia, are not to exceed fifty men each.

ARTICLE IX - On all ceremonial or official occasions the first place of honor is due to the Chinese Dignitary. He has the right, if necessary, to present himself in private audience with His Holiness Bogdo Cheptsun Damba Kut'ukht'u of Outer Mongolia.

The Imperial representative of Russia enjoys the same right of private audience.

ARTICLE X - The Chinese Dignitary at Urga and his Assistants in the different localities of Outer Mongolia provided for by Article VII of this agreement are to exercise general control lest the acts of the autonomous Government of Outer Mongolia and its subordinate authorities may impair the suzerain right and the interests of China and her subjects in Autonomous Mongolia.

ARTICLE XI - Conformably to Article IV of the Notes exchanged between China and Russia on the 5th day of the 11th month of the 2nd Year of the Republic of China (23rd October 1913), the territory of the autonomous Outer Mongolia comprises the regions which were under the jurisdiction

of the Chinese Amban at Urga, of the Tartar-General at Uliassutai and of the Chinese Amban at Kobdo; and connects with the boundary of China by the limits of the banners of the four aimaks of Khalka and of the district of Kobdo, bounded by the district of Houlounbouir (i.e., Hailar) on the East, by Inner Mongolia on the South, by the Province of Sinkiang on the South-West, and by the district of Altai on the West.

The formal delimitation between China and autonomous Mongolia is to be carried out by a special commission of delegates of China, Russia and autonomous Outer Mongolia, which shall set itself to the work of delimitation within a period of two years from the date of signature of the present Agreement.

ARTICLE XII. - It is understood that customs duties are not to be established for goods of whatever origin they may be, imported by Chinese merchants into autonomous Outer Mongolia. Nevertheless, Chinese merchants shall pay all the taxes on internal trade which have been established in autonomous Outer Mongolia and which may be established therein in the future, payable by the Mongols of autonomous Outer Mongolia. Similarly the merchants of autonomous Outer Mongolia when importing any kind of goods of local production into Inner China, shall pay all the taxes on trade which have been established in "Inner China" and which may be established therein in the future, payable by Chinese merchants. Goods of foreign origin imported from autonomous Outer Mongolia into "Inner China" shall be subject to the customs duties stipulated in the Regulations for land trade of the 7th year of the Reign of Kuang-Hsü (1881).

ARTICLE XIII - Civil and criminal actions arising between Chinese subjects residing in autonomous Outer Mongolia are to be examined and adjudicated by the Chinese Dignitary at Urga and by his Assistants in the other

localities of autonomous Outer Mongolia.

ARTICLE XIV. - Civil and criminal actions arising between Mongols of autonomous Outer Mongolia and Chinese subjects residing therein are to be examined and adjudicated conjointly by the Chinese Dignitary at Urga and his Assistants in the other localities of autonomous Outer Mongolia, or their delegates, and the Mongolian Authorities. If the defendant or the accused is a Chinese subject and the claimant or the complainant is a Mongol of autonomous Outer Mongolia, the joint examination and decision of the case are to be held at the Chinese Dignitary's place at Urga and at that of his Assistant in the other localities of autonomous Outer Mongolia; if the defendant or the accused is a Mongol of autonomous Outer Mongolia and the claimant or the complainant is a Chinese subject, the case is to be examined and decided in the same manner in the Mongolian yamen. The guilty are to be punished according to their own laws. The interested parties are free to arrange their disputes amicably means of arbiters chosen by themselves.

ARTICLE XV - Civil and criminal action arising between Mongols of autonomous Outer Mongolia and Russian subjects residing therein are to be examined and decided conformably to the stipulations of Article XVI of the Russo-Mongolian Commercial Protocol of 21st October 1912.

ARTICLE XVI. - All civil and criminal action arising between Chinese and Russian subject in Autonomous Outer Mongolia are to be examined and decided in the following manner; in an action wherein the claimant or the complainant is a Russian subject and the defendant or the accused is a Chinese subject, the Russian Consul personally or through his delegate participates in the judicial trial, enjoying the same rights as the Chinese Dignitary at Urga or his delegate or his Assistants in the other localities

of Autonomous Outer Mongolia. The Russian Consul or his delegate proceeds to the hearing of the claimant and the Russian witnesses in the court in session, and interrogates the defendant and the Chinese witnesses through the medium of the Chinese Dignitary at Urga or his delegates or his Assistants in the other localities of Autonomous Outer Mongolia; the Russian Consul or his delegate or of his Assistants in the other localities of Autonomous Outer Mongolia; the Russian Consul or his delegate examines the evidence presented, demands security for "revindications" and has recourse to the opinion of experts, if he considers such expert opinion necessary for the elucidation of the rights of the parties, etc; he takes part in deciding and in the drafting of the judgment, which he signes with the Chinese Dignitary at Urga or his delegate or his Assistants in the other localities of Autonomous Outer Mongolia. The execution of the judgment constitutes a duty of the Chinese authorities. The Chinese Dignitary at Urga and his Assistants in the other localities of Autonomous Outer Mongolia may likewise personally or through their delegates be present at the hearing of an action in the Consulates of Russia wherein the defendant or the accused is a Russian subject and the claimant or the complainant is a Chinese subject. The execution of the judgment constitutes a duty of the Russian authorities.

ARTICLE XVII. - Since a section of the Kiachta-Urga Kalgan telegraph line lies in the territory of Autonomous Outer Mongolia, it is agreed that the said section of the said telegraph line constitutes the complete property of the Autonomous Government of Outer Mongolia.

The details respecting the establishment on the borders of that country and Inner Mongolia of a station to be administered by Chinese and Mongolian employees for the transmission of telegrams, as well as the

questions of the tariff for telegrams transmitted and of the apportionment of the receipts, etc., are to be examined and settled by a special commission of technical delegates of China, Russia and Autonomous Outer Mongolia.

ARTICLE XVIII - The Chinese postal institutions at Urga and Mongolian-Kiachta remain in force on the old basis.

ARTICLE XIX - The Autonomous Government of Outer Mongolia will place at the disposal of the Chinese Dignitary at Urga and of his Assistants at Uliassutai, Kobdo and Mongolia-Kiachta as well as of their staff the necessary houses, which are to constitute the complete property of the Government of the Republic of China. Similarly necessary grounds in the vicinity of the residence of the said staff are to be granted for their escort escorts.

ARTICLE XX. - The Chinese Dignitary at Urga and his Assistants in the other localities of Autonomous Outer Mongolia and also their staff are to enjoy the right to use the courier stations of the Autonomous Mongolian Government conformably to the stipulation of Article XI of the Russo-Mongolian Protocol of 21 October 1913.

ARTICLE XXI - The stipulations of the Sino-Russian Delegation and the Notes exchanged between China and Russia of the 5th day of the 11th month of the 2nd year of the Republic of China (23 October 1913) as well as those of the Russo-Mongolian Commercial Protocol of the 21 October 1912, remain in full force.

ARTICLE XXII - The present Agreement drawn up in triplicate in Chinese, Russian, Mongolian and French comes into force from the day of its signature. Of the four texts which have been duly compared and found to agree, the French text shall be authoritative in the interpretation of the Present

Agreement.

Done at Kiachta the 7th day of the Sixth Month of the Fourth Year of the Republic of China corresponding to the Twenty-fifth of May (Seventh of June), One Thousand Nine Hundred Fifteen.

KIACHTA, May 25/June 7, 1915

The undersigned Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta has the honor to acknowledge to their Excellencies Messieurs Pi Kuei-Fang and Ch'en Lu, Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta, the receipt of the following note of this day's date:

"The undersigned Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta, duly authorized for this purpose, have the honor, on proceeding to sign the tripartite agreement of this day's date relating to Autonomous Outer Mongolia, to declare in the name of their Government to His Excellency, Mr. Miller, Imperial Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta, as follows: From the day of signature of the present Sino-Russo-Mongolian agreement the Government of the Republic of China grants a full amnesty to all the Mongols who submitted to the Autonomous Government of Outer Mongolia; it leaves to all the Mongols of Outer Mongolia as of Inner Mongolia the freedom as before of residence and travel in the said regions. The Government of the Republic of China will not place any restraint upon Mongols going in pilgrimage to Urga to testify their veneration to His Holiness Bogdo Cheptsun Damba Hut'ukht'u Khan of Outer Mongolia."

The undersigned seizes this occasion to renew to the Delegates Plenipotentiary of the Republic of China the assurances of his very high

consideration.

(Signed) A. MILLER.

To

MM General Pi Kuei Fang

and

Ch'en Lu,

Chinese Delegates Plenipotentiary.

(TRANSLATION)

Kiachta May 25/June 7, 1915

The undersigned Imperial Delegate Plenipotentiary of Russia to the tripartite negotiations at Kiachta duly authorized for this purpose, has the honor, on proceeding to sign the tripartite agreement of this day's date relating to Autonomous Outer Mongolia, to declare in the name of his Government to their Excellencies Messieurs Pi Kuei-Fang and Ch'en-Lu, Delegates Plenipotentiary of the Republic of China to the tripartite negotiations at Kiachta as follows:

It is agreed that all the telegraph offices which are situated along that section of the Kalgan-Urga-Kiachta line which lies within Outer Mongolia and of which mention is made in Article XVII of the Agreement of Kiachta, are to be handed over by the Chinese officials to the Mongolia officials within a period at most of six months after the signing of the Agreement: and that the point of junction of the Chinese and Mongolian lines is to be fixed by the Technical Commission provided for in the aforesaid article.

The above is at the same time brought to the Knowledge of the Delegates Plenipotentiary of the Autonomus Government of Outer Mongolia.

The undersigned seizes this occasion to renew to the Delegates Plenipotentiary of the Republic of China the assurances of his very high consideration.

(Signed) A. MILLER,

To

MM. General Pi Kuei Fang.

and

Ch'en Lu,

Chinese Delegates Plenipotentiary.

(A note of identical tenor was simultaneously addressed to the Mongolian delegates; and replies embodying the same declaration were addressed by both Chinese and Mongolian delegates to the Russian delegate under the same date.)

DEF. DOC. #183

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 10 pages and entitled "Tripartite Agreement in regard to Outer Mongolia between Russia, Mongolia and China." is an exact and true copy of an official translation of the Japanese Foreign Office.

Certified at Tokyo,

on this 24th day of December, 1946.

K. Hayashi
Signature of Official

Witness : T. Sato

AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN SOCIALISTIC FEDERATION SOVIET REPUBLIC AND THE POPULAR GOVERNMENT OF MONGOLIA ON THE ESTABLISHMENT OF FRIENDLY RELATIONS BETWEEN RUSSIA AND MONGOLIA.

Signed at Moscow, November 5, 1921.
In force from November 5, 1921.

Whereas all former treaties and agreements concluded between the Tsarist Government of Russia and the former Autonomous Government of Mongolia compelled thereto by the insidious and encroaching policy of the above mentioned Government of Russia, have as a result of the new situation created in both countries lost their validity, now therefore the Polular Government of Mongolia on the one part, and the Government of the Russian Socialistic Federative Soviet Republic on the other part, moved by sincere aspirations towards free friendship and collaboration between the two neighbouring peoples, have with this aim resolved to enter into negotiations and for that purpose appointed their plenipotentiaries:

The Popular Government of Mongolia:

Danzan,

Suhe-Bator,

Tseren-Dorchi,

Erdeni-Chonon, Van-Shirnin, Damdin.

and the Government of the Russian Socialistic Federative Soviet Republic:

Sergei Ivanovich Duhovskii,

Boris Filtinovich Getz,

who, after exchanging their full powers recognized to be drawn up in proper form and due order, have agreed as under:

Article 1.

The Government of the Russian Socialistic Federative Soviet Republic recognizes the Popular Government of Mongolia as the sole lawful Government of Mongolia.

Article 2.

The Popular Government of Mongolia recognizes the Government of the Russian Socialistic Federative Soviet Republic as the sole lawful authority of Russia.

Article 3.

The two contracting parties mutually bind themselves:

1. Not to allow on their territory the formation or residence of governments, organizations, groups or individual persons aiming at struggling agaist the other party or overthrowing its government or governments of its allied states, neither to allow on their territory the mobilization or free recruiting, either of its own citizens or citizens of other states, into an army hostile to the other party.

2. To forbid and to take all measures for preventing, the importation into points within each one's territory and into territories of states in alliance with them, or the transportation through such territories, of arms belonging to or destined for any organization directly or indirectly struggling against one of the parties and likely to be used for such struggle.

Article 4.

The Government of the Russian Socilistic Federative Soviet Republic sends its Plenipotentiary Representative to the Capital of Mongolia and its Consuls to the cities. Kobdo, Uliassutai and Altan-Bulak (Maimaichin), as well as others by agreement with the Popular Government of Mongolia.

Article 5.

The Popular Government of Mongolia sends its Plenipotentiary Representative to the Capital of the Russian Socialistic Federative Soviet Republic, as well as its consuls to the frontier districts of Russian by agreement with the Government of the Russian Socialistic Federative Soviet Republic.

Article 6.

The state boundary between Russia and Mongolia

is to be determined by a Special Commission to be appointed by special Agreement between the Government of the Russian Socialistic Federative Soviet Republic and the Popular Government of Mongolia, such agreement to be concluded within the nearest possible future.

Article 7.

The citizens of each of the Contracting Parties, residing on the territory of the other party, enjoy the same rights and are subject to the same duties as the resident citizens of the most favoured country.

Article 8.

The judicial authority of each of the contracting parties shall extend, in civil as well as in criminal matters, over the citizens of the other contracting party residing in its territory, and the parties , guided by the high principles of civilization and humanity, renounce the application by their judicial, inquiring and other organs of any punitive or inquiring measures causing physical pain or degrading moral human state.

Both Parties, at the same time, recognize that in case one of the parties should grant to the citizens of any third state special privileges and advantages in the domain of criminal jurisdiction, judicial procedure or execution of judicial decisions, such privileges and advantages shall automatically extend to the citizens of the other Contracting Party as well.

Article 9.

Citizens of both contracting Parties, when importing into or exporting from the limits of the other country goods destined for trade, pay such duties as established by the laws of the country, such duties being not to exceed, however, similar duties levied on the import and export of similar goods from citizens of the most favoured country.

Article 10.

The Russian Soviet Government going to meet the wise measures of the Popular Government of Mongolia in the matter of organizing a postal and telegraphic exchange independent from encroaching tendencies of world imperialism so necessary for the cultural development of the labouring masses of Mongolia, gratuitously hands over into full ownership of the Mongolian people the buildings of telegraph offices with telegraphic equipment therein contained belonging to the Russian Republic and situated within the limits of Mongolia.

Article 11.

In consideration of the paramount importance of regulating the questions of postal and telegraphic relations between Russia and Mongolia, as well as transmission of telegraphic correspondence in transit through Mongolia, with the aim of strengthening the cultural and economic mutual relations springing up between the peoples of both countries, the Parties agree that there will be concluded on this subject a special agreement within

the soonest possible time.

Article 12.

The Popular Government of Mongolia declares to recognise in regard to Russian citizens owning lands or buildings in Mongolia, the same rights of ownership, lease and occupation of lots for buildings, and to apply the same means of collecting taxes, rents and other payments, as are recognized and applied, or shall be recognized and applied in regard to the citizens of the most favoured state.

Article 13.

The present agreement, made in two copies in the Russian and the Mongolian languages, enters into force from the moment of its signature.

Made in Moscow the 5th November, 1921, according to the European calendar, and by the Mongolian calendar on the 6th day of the tenth moon of the eleventh year of the Uplifted by Multitudes.

Original signed by:

S. DUHOVSKII.

BORIS GETZ.

DANZAN.

SUHE-BATOR.

TSEREN-DORCHI.

ERDENI-CHONON, VAN-SHIRNIN, DAMDIN.

DEF. DOC. #173

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 6 pages and entitled "Agreement between the Government of the Russian Socialistic Federation Soviet Republic and the Popular Government of Mongolia on the establishment of friendly relations between Russia and Mongolia," is an exact and true copy of an official translation of the Japanese Foreign Office.

Certified at Tokyo,

on this 24th day of December, 1946.

(signed) K. HAYASHI
Signature of Official

Witness : (signed) T. SATO

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DEF DOC # 548

IMMIGRATION ACT OF 1924

(43 S tat. 153)

AN ACT TO limit the immigration of aliens into the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act amy be cited as the "Immigration act of 1924." (Sec. 201)

IMMIGRATION VISAS

SEC. 2 (a) A consular officer upon the application of any immigrant (as defined in section 3) may (under the conditions hereinafter prescribed and subject to the limitations prescribed in this act or regulations made thereunder as to the number of immigration visas which may be issued by such officer) issue to such immigrant an immigration visa which shall consist of one copy of the application provided for in sec tion 7, visaed by such consular officer. Such visa shall specify (1) the nationality of the immigrant; (2) whether he is a quota immigrant (as defined in section 5) or a non-quota immigrant (as defined in section 4); (3) the date on which the validity of the immigration visa shall expire; and (4) such additional information necessary to the proper enforcement of the immigration law and the naturalization laws as may be by regulations prescribed.

(b) The immigrant shall furnish two copies of his photograph to the consular officer. One copy shall be permanently attached by the consular officer to the immigration visa and the other copy shall be disposed of as may be by regulations prescribed.

(c) The validity of an immigration visa shall expire at the end of such period, specified in the immigration visa, not exceeding four months, as shall be by regulations prescribed. In the case of an immigrant arriving in the United States by water, or arriving by water in foreign contiguous territory on a continuouous voyage to the United States, if the vessel, before the expiration of the validity of his immigration visa, departed from the last port outside the United States and outside foreign contiguous territory at which the immigrant embarked, and if the immigrant proceeds on a continuous voyage to the United States, then, regardless of the time of his arrival in the United States the validity of his immigration visa shall not be considered to have expired.

(d) If an immigrant is required by any law, or regulatic or orders made pursuant to law, to secure the visa of his pass-

port by a consular officer before being permitted to enter the United States, such immigrant shall not be required to secure any other visa of his passport than the immigration visa issued under this act, but a record of the number and date of his immigration visa shall be noted on his passport without charge therefor. This subdivision shall not apply to an immigrant who is relieved, under subdivision (b) of section 13, from obtaining an immigration visa.

(e) The manifest or list of passengers required by the immigration laws shall contain a place for entering thereon the date, place of issuance, and number of the immigration visa of each immigrant. The immigrant shall surrender his immigration visa to the immigration officer at the port of inspection, who shall at the time of inspection indorse on the immigration visa the date, the port of entry, and the name of the vessel, if any, on which the immigrant arrived. The immigration visa shall be transmitted forthwith by the immigration officer in charge at the port of inspection to the Department of Labor under regulations prescribed by the Secretary of Labor.

(f) No immigration visa shall be issued to an immigrant if it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that the immigrant is inadmissible to the United States under the immigration laws, nor shall such immigration visa be issued if the application fails to comply with the provisions of this act, nor shall such immigration visa be issued if the consular officer knows or has reason to believe that the immigrant is inadmissible to the United States under the immigration laws.

(g) Nothing in this act shall be construed to entitle an immigrant, to whom an immigration visa has been issued, to enter the United States, if, upon arrival in the United States, he is found to be inadmissible to the United States under the immigration laws. The substance of this subdivision shall be printed conspicuously upon every immigration visa.

(h) A fee of $ 9 shall be charged for the issuance of each immigration visa, which shall be covered into the Treasury as miscellaneous receipts.
(Sec. 202.)

DEFINITION OF "IMMIGRANT"

SEC. 3. When used in this act the term "immigrant" means

any alien departing from any place outside the United States destined for the United States, except (1) a Government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasures, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide of alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation.
(Sec. 203.)

NON-QUOTA IMMIGRANTS

SEC. 4. (as amended by sections 1 and 2 of joint resolution approved May 29, 1928, 45 Stat. 1009). When used in this act the term "non-quota immigrant" means -

(a) An immigrant who is the unmarried child under twenty-one years of age, or the wife, of a citizen of the United States, or the husband of a citizen of the United States by a marriage occurring prior to June 1, 1928;

(b) An immigrant previously lawfully admitted to the United States who is returning from a temporary visit abroad;

(c) An immigrant who was born in the Dominion of Canada, Newfoundland, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and his wife, and his unmarried children under eighteen years of age, if accompanying or following to join him;

(d) An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination, or professor of a college, academy, seminary, or university; and his wife, and his unmarried children under eighteen years of age, if accompanying or following to join him,

(e) An immigrant who is a bona fide student at least fifteen years of age and who seeks to enter the United States solely for the purpose of study at an accredited school, college, academy, seminary, or university, particularly designated by

him and approved by the Secretary of Labor, which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student, and if any such institution of learning fails to make such reports promptly the approval shall be withdrawn; or

(f) A woman who was a citizen of the United States and who prior to September 22, 1922, lost her citizenship by reason of her marrigge to an alien, but at the time of application for an immigration visa is unmarried.
(Sec. 204.)

QUOTA IMMIGRANTS

SEC. 5. When used in this act the term "quota immigrant" means any immigrant who is not a non-quota immigrant. An alien who is not particularly specified in this act as a non-quota immigrant or a nonimmigrant shall not be admitted as a non-quota immigrant or a nonimmigrant by reason of relationship to any individual who is so specified or by reason of being excepted from the operation of any other law regulating or forbidding immigration.
(Sec. 205.)

PREFERENCES WITHIN QUOTAS

SEC. 6, (as amended by section 3 of joint resolution, approved May 29, 1928; 45 Stat. 1009; this section became effective on July 1, 1928).

(a) Immigration visas to quota immigrants shall be issued in each fiscal year as follows:

(1) Fifty per centum of the quota of each nationality for such year shall be made available in such year for the issuance of immigration visas to the following classes of immigrants, without priority of preference as between such classes: (A) Quota immigrants who are the fathers or the mothers, or the husbands by marriage occurring after May 31, 1928, of citizens of the United States who are twenty-one years of age or over; and (b) in the case of any nationality the quota for which is three hundred or more, quota immigrants who are skilled in agriculture, and the wives, and the dependent children under the age of eighteen years, of such immigrants skilled in agriculture, if accompanying or following to join them.

(2) The remainder of the quota of each nationality for such year, plus any portion of the 50 per centum referred to in paragraph (1) not required in such year for the issuance of immi-

gration visas to the classes specified in such paragraph, shall be made available in such year for the issuance of immigration visas to quota immigrants of such nationality who are the unmarried children under twenty-one years of age, or the wives of alien residents of the United States who were lawfully admitted to the United States for permanent residence.

(3) Any portion of the quota of each nationality for such year not required for the issuance of immigration visas to the classes specified in paragraphs (1) and (2) shall be made available in such year for the issuance of immigration visas to other quota immigrants of such nationality.

(b) The preference provided in paragraphs (1) and (2) of subdivision (a) shall, in the case of quota immigrants of any nationality, be given in the calendar month in which the right to preference is established, if the number of immigration visas which may be issued in such month to quota immigrants of such nationality has not already been issued; otherwise, in the next calendar month.
(Sec. 206.)

APPLICATION FOR IMMIGRATION VISA

SEC. 7. (a) Every immigrant applying for an immigration visa shall make application therefor in duplicate in such form as shall be by regulations prescribed.

(b) In the application the immigrant shall state (1) the immigrant's full and true name; age, sex, and race; the date and place of birth; places of residence for the five years immediately preceding his application: whether married or single, and the names and places of residence of wife or husband and minor children if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); ability to speak, read, and write; names and addresses of parents, and if neither parent living, then the name and address of his nearest relative in the country from which he comes; port of entry into the United States: final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so what relative or friend and his name and complete address; the purposes for which he is going to the United States; the length of time he intends to remain in the United States; whether ever in prison or almshouse; whether he or either of his parents has ever been in an institution or hospital for the care and treatment of the insane; (2) if he claims to be a non-quota immigrant, the facts on which he bases such claim; and (3) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws, as may be by regulations prescribed.

(c) The immigrant shall furnish, if available, to the consular officer, with his application, two copies of his "dossier" and prison record and military record, two certified copies of his birth certificate and two copies of all other available public records concerning him kept by the Government to which he owes allegiance. One copy of the documents so furnished shall be permanently attached to each copy of the application and become a part thereof. An immigrant having an unexpired permit issued under the provisions of section 10 shall not be subject to this subdivision. In the case of an application made before September 1, 1924, if it appears to the satisfaction of the consular officer that the immigrant has obtained a visa of his passport before the enactment of this act, and is unable to obtain the documents referred to in this subdivision without undue expense and delay, owing to absence from the country from which such documents should be obtained, the consular officer may relieve such immigrant from the requirements of this subdivision.

(d) In the application the immigrant shall also state (to such extent as shall be by regulations prescribed) whether or not he is a member of each class of individuals excluded from admission to the United States under the immigration laws, and such classes shall be stated on the blank in such form as shall be by regulations prescribed, and the immigrant shall answer separately as to each class.

(e) If the immigrant is unable to state that he does not come within any of the excluded classes, but claims to be for any legal reason exempt from exclusion, he shall state fully in the application the grounds for such alleged exemption.

(f) Each copy of the application shall be signed by the immigrant in the presence of the consular officer and verified by the oath of the immigrant administered by the consular officer. One copy of the application, when visaed by the consular officer, shall become the immigration visa, and the other copy shall be disposed of as may be by regulations prescribed.

(g) In the case of an immigrant under 18 years of age the application may be made and verified by such individual as shall be by regulations prescribed.

(h) A fee of $ 1 shall be charged for the furnishing and verification of each application, which shall include the furnishing and verification of the duplicate, and shall be covered into the Treasury as miscellaneous receipts.
(Sec. 207 .)

NON-QUOTA IMMIGRATION VISAS

SEC. 8. A consular officer may, subject to the limitations provided in sections 2 and 9, issue an immigration visa to a non-quota immigrant as such upon satisfactory proof, under regulations prescribed under this act, that the applicant is entitled to be regarded as a non-quota immigrant.
(Sec. 208.)

ISSUANCE OF IMMIGRATION VISAS TO RELATIVES

SEC. 9. (a) In case of any immigrnat claiming in his application for an immigration visa to be a non-quota immigrant by reason of relationship under the provisions of subdivision (a) of section 4. or to be entitled to preference by reason of relationship to a citizen of the United States under the provisions of section 6. the consular officer shall not issue such immigration visa or grant such preference until he has been authorized to do so as hereinafter in this section provided.

(b) Any citizen of the United States claiming that any immigrant is his relative, and that such immigrant is properly admissible to the United States as a non-quota immigrant under the provisions of subdivision (a) of section 4 or is entitled to preference as a relative under section 6, may file with the Commissioner General a petition in such form as may be by regulations prescribed, stating (1) the petitioner's name and address; (2) if a citizen by birth, the date and place of his birth; (3) if a naturalized citizen, the date and place of his admission to citizenship and the number of his certificate, if any; (4) the name and address of his employer or the address of his place of business or occupation if he is not an employee; (5) the degree of the relationship of the immigrant for whom such petition is made, and the names of all the places where such immigrant has resided prior to and at the time when the petition is filed; (6) that the petitioner is able to and will support the immigrant if necessary to prevent such immigrant from becoming a public charge; and (7) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws as may be by regulations prescribed.

(c) The petition shall be made under oath administered by any individual having power to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer. The petition shall be supported by any documentary evidence required by regulations prescribed under this act. Application may be made in the same petition for admission of more than one individual.

(d) The petition shall be accompanied by the statements of two or more responsible citizens of the United States, to whom

the petitioner has been personally known for at least one year, that to the best of their knowledge and belief the statements made in the petition are true and that the petitioner is a responsible individual able to support the immigrant or immigrants for whose admission application is made. These statements shall be attested in the same way as the petition.

(e) If the Commissioner General finds the facts stated in the petition to be true, and that the immigrant in respect of whom the petition is made is entitled to be admitted to the United States as a non-quota immigrant under subdivision (a) of section 4 or in entitled to preference as a relative under section 6, he shall, with the approval of the Secretary of Labor, inform the Secretary of State of his decision, and the Secretary of State shall then authorize the consular officer with whom the application for the immigration visa, has been filed to issue the immigration visa or grant the preference.

(f) Nothing in this section shall be construed to entitle an immigrant, in respect of whom a peition under this section is granted, to enter the United States as a non-quota immigrant, if, upon arrival in the United States, he is found not to be a non-quota immigrant.
(Sec. 209.)

PERMIT TO REENTER UNITED STATES AFTER TEMPORARY ABSENCE

SEC. 10. (a) Any alien about to depart temporarily from the United States may make application to the Commissioner General for a permit to reenter the United States, stating the length of his intended absence, and the reasons therefor. Such application shall be made under oath, and shll be in such form and contain such information as may be by regulations prescribed, and shall be accompanied by two copies of the applicant's photograph.

(b) If the Commissioner General finds that the alien, has been legally admitted to the United States, and that the application is made in good faith, he shall, with the approval of the Secretary of Labor, issue the permit, specifying therein the length of time, not exceeding one year, during which it shall be valid. The permit shall be in such form as shall be by regulations prescribed and shall have permanently attached thereto the photograph of the alien to whom issued, together with such other matter as may be deemed necessary for the complete identification of the alien.

(c) On good cause shown the validity of the permit may be extended for such period or periods, not exceeding six months each, and under such conditions, as shall be by regulations prescribed.

(d) For the issuance of the permit, and for each extension

thereof, there shall be paid a fee of $3, which shall be covered into the Treasury as miscellaneous receipts.

(e) Upon the return of the alien to the United States the permit shall be surrendered to the immigration officer at the port of inspection.

(f) A permit issued under this section shall have no effect under the immigration laws, except to show that the alien to whom it is issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.
(Sec. 210.)

NUMERICAL LIMITATIONS

SEC. 11. (a) The annual quota of any nationality shall be 2 per centum of the number of foreign-born individuals of such nationality resident in continental United States as determined by the United States census of 1890, but the minimum quota of any nationality shall be 100.

(b) The annual quota of any nationality for the fiscal year beginning July 1, 1927, and for each fiscal year thereafter, shall be a number which bears the same ratio to 150,000 as the number of inhabitants in continental United States in 1920 having that national origin (ascertained as hereinafter provided in this section) bears to the number of inhabitants in continental United States in 1920, but the minimum quota of any nationality shall be 100.

(c) For the purpose of subdivision (b) national origin shall be ascertained by determing as nearly as may be, in respect of each geographical area which under section 12 is to be treated as a separate country (except the geographical areas specified in subdivision (c) of section 4) the number of inhabitants in continental United States in 1920 whose origin by birth or ancestry is attributable to such geographical area. Such determination shall not be made by tracing the ancestors or descendants of particular individuals, but shall be based upon statistics of immigration and emigration, together with rates of increase of population as shown by successive decennial United States censuses, and such other data as may be found to be reliable.

(d) For the purpose of subdivisions (b) and (c) the term "inhabitants in continental United States in 1920" does not include (1) immigrants from the geographical areas specified in subdivision (c) of section 4 or their descendants, (2) aliens ineligible to citizenship or their descendants, (3) the descendants of slave immigrants, or (4) the descendants of American aborigines.

(e) The determination provided for in subdivision (c) of this

section shall be made by the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly. In making such determination such officials may call for information and expert assistnace from the Bureau of the Census. Such officials shall, jointly, report to the President the quota of each nationality, determined as provided in subdivision (b), and the President shall proclaim and make known the quotas so reported. Such proclamation 3 shall be made on or before April 1, 1927. If the proclamation is not made on or before such date, quotas proclaimed therein shall not be in effect for any fiscal year beginning before the expiration of 90 days after the date of the proclamation. After the making of a proclamation under this subdivision the quotas proclaimed therein shall continue with the same effect as if specifically stated herein, and shall be final and conclusive for every purpose except (1) in so far as it is made to appear to the satisfaction of such officials and proclaimed by the President, that an error of fact has occurred in such determination or in such proclamation, or (2) in the case provided for in subdivision (c) of section 12. If for any reason quotas proclaimed under this subdivision are not in effect for any fiscal year, quotas for such year shall be determined under subdivision (a) of this section.

(f) There shall be issued to quota immigrants of any nationality (1) no more immigration visas in any fiscal year than the quota for such nationality, and (2) in any calender month of any fiscal year no more immigration visas than 10 per centum of the quota for such nationality, except that if such quota is less than 300 the number to be issued in any calendar month shall be prescribed by the Commissioner General, with the approval of the Secretary of Labor, but the total number to be issued during the fiscal year shall not be in excess of the quota for such nationality.

(g) Nothing in this act shall prevent the issuance (without increasing the total number of immigration visas which may be issued) of an immigration visa to an immigrant as a quota immigrant even though he is a non-quota immigrant.
(Sec. 221.)

NATIONALITY

SEC. 12. (A) For the purposes of this act nationality shall be determined by country of birth, treating as separate countries the colonies, dependencies, or self-governing dominions, for which separate enumeration was made in the United States census of 1890; except that (1) the nationality of a child under 21 years of age not born in the United States, accompanied by its alien parent not born in the United States, shall be determined by the country of birth of such parent if such parent is entitled

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to an immigration visa, and the nationality of a child under 21 years of age not born in the United States, accompanied by both alien parents not born in the United States, shall be determined by the country of birth of the father if the father is entitled to an immigration visa; and(2) if a wife is of a different nationality from her alien husband and the entire number of immigration visas which may be issued to quota immigrants of her nationality for the calendar month has already been issued, her nationality may be determined by the country of birth of her husband if she is accompanying him and he is entitled to an immigration visa, unless the total number of immigration visas which may be issued to quota immigrants of the nationality of the husband for the calendar month has already been issued. An immigrant born in the United States who has lost his United States citizenship shall be considered as having been born in the country of which he is a citizen or subject, or if he is not a citizen or subject of any country, then in the country from which he comes.

(b) The Secretary of State, the Secretary of Commerce, and the Secretary of Labor, jointly, shall, as soon as feasible after the enactment of this act, prepare a statement showing the number of individuals of the various nationalities resident in continental United States as determined by the United States census of 1890, which statement shall be the population basis for the purposes of subdivision (a) of section 11. In the case of a country recognized by the United States, but for which a separate enumeration was not made in the census of 1890, the number of individuals born in such country and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purposes of subdivision (a) of section 11 as having been determined by the United States census of 1890. In the case of a colony or dependency existing before 1890, but for which a separate enumeration was not made in the census of 1890 and which was not included in the enumeration for the country to which such colony or dependency belonged, or in the case of territory administered under a protectorate, the number of individuals born in such colony, dependency or territory, and resident in continental United States in 1890, as estimated by such officials jointly, shall be considered for the purpose of subdivision (a) of section 11 as having been determined by the United States census of 1890 to have been born in the country to which such colony or dependency belonged or which administers such protectorate.

(c) In case of changes in political boundaries in foreign countries occurring subsequent to 1890 and resulting in the

creation

creation of new countries, the governments of which are recognized by the United States, or in the establishment of self-governing dominions, or in the transfer of territory from one country to another, such transfer being recognized by the United States, or in the surrender by one country of territory, the Transfer of which to another country has not been recognized by the United States, or in the administration of territories under mandates, (1) such officials, jointly, shall estimate the number of individuals resident in continental United States in 1890 who were born within the area included in such new countries or self-governing dominions or in such territory so transferred or surrendered or administered under a mandate, and revise (for the purposes of subdivision (a) of section 11) the population basis as to each country involved in such change of political boundary, and (2) if such changes in political boundaries occur after the determination provided for in subdivision (c) of section 11 has been proclaimed, such officials, jointly, shall revise such determination, but only so far as necessary to allot the quotas among the countries involved in such change of political boundary. For the purpose of such revision and for the purpose of determining the nationality of an immigrant, (A) aliens born in the area included in any such new country or self-governing dominion shall be considered as having been born in such country or dominion, and aliens born in any territory so transferred shall be considered as having been born in the country to which such territory was transferred, and (B) territory so surrendered or administered under a mandate shall be treated as a separate country. Such treatment of territory administered under a mandate shall not constitute consent by the United States to the proposed mandate where the United States has not consented in a treaty to the administration of the territory by a mandatory power.

(d) The statements, estimates, and revisions provided in this section shall be made annually, but for any fiscal year for which quotas are in effect as proclaimed under subdivision (e) of section 11, shall be made only (1) for the purpose of determining the nationality of immigrants seeking admission to the United States during such year, or (2) for the purposes of clause (2) of subdivision (c) of this section.

(e) Such officials shall, jointly, report annually to the President the quota of each nationality under subdivision (a) of section 11, together with the statements, estimates, and revisions provided for in this section. The President, shall proclaim and make known the quotas so reported and thereafter such quotas shall continue, with the same effect as if specifically stated herein, for all fiscal years except those years for which quotas are in effect as proclaimed under subdivision (e) of section 11, and shall be final and conclusive for every purpose. (Sec. 212).

EXCLUSION FROM UNITED STATES

SEC. 13. (a) No immigrant shall be admitted to the United States unless he (1) has an unexpired immigration visa or was born subsequent to the issuance of the immigration visa of the accompanying parent, (2) is of the nationality specified in the visa in the immigration visa, (3) is a non-quota immigrant if specified in the visa in the immigration visa as such, and (4) is otherwise admissible under the immigration laws.

(b) In such classes of cases and under such conditions as may be by regulations prescribed immigrants who have been legally admitted to the United States and who depart therefrom temporarily may be admitted to the United States without being required to obtain an immigration visa.

(c) No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivisions (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3.

(d) The Secretary of Labor may admit to the United States any otherwise admissible immigrant not admissible under clause (2) or (3) of subdivision (a) of this section, if satisfied that such inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by such immigrant prior to the departure of the vessel from the last port outside the United States and outside foreign contiguous territory, or, in the case of an immigrant coming from foreign contiguous territory, prior to the application of the immigrant for admission.

(e) No quota immigrant shall be admitted under subdivision (d) if the entire number of immigration visas which may be issued to quota immigrants of the same nationality for the fiscal year has already been issued. If such entire number of immigration visas has not been issued, then the Secretary of State, upon the admission of a quota immigrant under subdivision (d), shall reduce by one the number of immigration visas which may be issued to quota immigrants of the same nationality during the fiscal year in which such immigrants is admitted; but if the Secretary of State finds that it will not be practicable to make such reduction before the end of such fiscal year, then such immigrant shall not be admitted.

(f) Nothing in this section shall authorize the remission

or refunding of a fine, liability to which has accrued under Section 16.
(Section 213.)

DEPORTATION

SEC. 14. Any alien who at any time after entering the United States is found to have been at the time of entry not entitled under this act to enter the United States, or to have remained therein for a longer time than permitted under this act or regulations made thereunder, shall be taken into custody and deported in the same manner, as provided for in sections 19 and 20 of the immigration act of 1917: Provided, that the Secretary of Labor may, under such conditions and restrictions as to support and care as he may deem necessary, permit permanently to remain in the United States, any alien child who, when under 16 years of age was heretofore temporarily admitted to the United States and who is now within the United States and either of whose parents is a citizen of the United States.
(Sec. 214)

MAINTENANCE OF EXEMPT STATUS

SEC. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (2), (3), (4), (5), or (6) of section 3, or declared to be a non-quota immigrant by subdivision (e) of section 4, shall be for such time as may be by regulations prescribed, and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed) to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States.
(Sec. 215.)

PENALTY FOR ILLEGAL TRANSPORTATION

SEC. 16. (a) It shall be unlawful for any person, including any transportation company, or the owner, master, agent, charterer, or consignee of any vessel, to bring to the United States by water from any place outside thereof (other than foreign contiguous territory) (1) any immigrant who does not have an unexpired immigration visa, or (2) any quota immigrant having an immigration visa the visa in which specifies him as a non-quota immigrant.

(b) If it appears to the satisfaction of the Secretary

Labor that any immigrant has been so brought, such person, or transportation company, or the master, agent, owner, charterer, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each immigrant so brought, and in addition a sum equal to that paid by such immigrant for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the immigrant on whose account assessed. No vessel shall be granted clearance pending the determination of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Such sums shall not be remitted or refunded, unless it appears to the satisfaction of ~~the Secretary~~ of Labor that such person, and the owner, master, agent, charterer, and consignee of the vessel, prior to the departure of the ~~vessel from the last~~ port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, (1) that the individual transported was an immigrant, if the fine was imposed for bringing an immigrant without an unexpired immigration visa, or (2) that the individual transported was a quota immigrant, if the fine was imposed for bringing a quota immigrant the visa in whose immigration visa specified him as being a non-quota immigrant.

(SEC. 216.).

ENTRY FROM FOREIGN CONTIGUOUS TERRITORY

SEC. 17. The Commissioner General, with the approval of the Secretary of Labor, shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from or through foreign contiguous territory. In prescribing rules and regulations and making contracts for the entry and inspection of aliens applying for admission from or through foreign contiguous territory due care shall be exercised to avoid any discriminatory action in favor of transportation companies transporting to such territory aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory of aliens brought thereto by them, to submit to and comply with all the requirements of this act which would apply were they bringing such aliens directly to ports of the United States. After this section takes effect no alien applying for

admission

admission from or through foreign contiguous territory (except an alien previously lawfully admitted to the United States who is returning from a temporary visit to such territory) shall be permitted to enter the United States unless upon proving that he was brought to such territory by a transportation company which had submitted to and complied with all the requirements of this act, or that he entered, or has resided in such territory more than two years prior to the time of his application for admission to the United States.
(Sec. 217.)

UNUSED IMMIGRATION VISAS

SEC. 18. If a quota immigrant of any nationality having an immigration visa is excluded from admission to the United States under the immigration laws and deported, or does not apply for admission to the United States before the expiration of the validity of the immigration visa, or if an alien of any nationality having an immigration visa issued to him as a quota immigrant is found not to be a quota immigrant, no additional immigration visa shall be issued in lieu thereof to any other immigrant.
(Sec. 218.)

ALIEN SEAMEN

SEC. 19. No alien seaman excluded from admission into the United States under the immigration laws and employed on board any vessel arriving in the United States from any place outside thereof, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Secretary of Labor may prescribe for the ultimate departure, removal, or deportation of such alien from the United States.
(Sec. 166.)

SEC. 20. (a) The owner, charterer, agent, consignee, or master of any vessel arriving in the United States from any place outside thereof who fails to detain on board any alien seaman, employed on such vessel until the immigration officer in charge at the port of arrival has inspected such seaman (which inspection in all cases shall include a personal physical examination by the medical examiners), or who fails to detain such seaman on board after such inspection or to deport such seaman if required by such immigration officer or the Secretary of Labor to do so, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien seaman in respect of whom such failure occurs. No vessel shall be granted clearance pending the determination of the liability

to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs,

(b) Proof that an alien seaman did not appear upon the outgoing manifest of the vessel on which he arrived in the United States from any place outside thereof, or that he was reported by the master of such vessel as a deserter, shall be prima facie evidence of a failure to detain or deport after requirement by the immigration officer or the Secretary of Labor.

(c) If the Secretary of Labor finds that deportation of the alien seaman on the vessel on which he arrived would cause undue hardship to such seaman, he may cause him to be deported on another vessel at the expense of the vessel on which he arrived, and such vessel shall not be granted clearance until such expense has been paid or its payment guaranteed to the satisfaction of the Secretary of Labor.
(Sec. 167)

(d) Section 32 of the immigration act of 1917 is repealed, but shall remain in force as to all vessels, their owners, agents, consignees, and masters, and as to all seamen, arriving in the United States prior to the enactment of this act.

PREPARATION OF DOCUMENTS

SEC. 21. (a) Permits issued under section 10 shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed under this act.
(Sec. 219.)

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, additional copies of blank forms of manifests and crew lists to be prescribed by the Secretary of Labor pursuant to the provisions of sections 12, 13, 14 and 36 of the immigration act of 1917.
(Sec. 179.)

OFFENSES IN CONNECTION WITH DOCUMENTS

SEC. 22. (a) Any person who knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise

procured by fraud or unlawfully obtained; or who, except under direction of the Secretary of Labor or other proper officer, knowingly (3) possesses any blank permit, (4) engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, (5) makes any print, photograph, or impression in the likeness of any immigration visa or permit, or (6) has in his possession a distinctive paper which has been adopted by the Secretary of Labor for the printing of immigration visas or permits, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(b) Any individual who (1) when applying for an immigration visa or permit, or for admission to the United States, personates another or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name, or (2) sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, an immigration visa or permit, to any person not authorized by law to receive such document, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.

(c) Whoever knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both.
(Sec. 220.)

BURDEN OF PROOF

SEC. 23. Whenever any alien attempts to enter the United States the burden of proof shall be upon such alien to establish that he is not subject to exclusion under any provision of the immigration laws; and in any deportation proceeding against any alien the burden of proof shall be upon such alien to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigration visa, if any, or of other documents concerning such entry, in the custody of the Department of Labor.
(Sec. 221)

RULES AND REGULATIONS

SEC. 24. The Commissioner General, with the approval of the Secretary of Labor, shall prescribe rules and regulations for the enforcement of the provisions of this act; but all such rules

and regulations, in so far as they relate to the administration of this act by consular officers, shall be prescribed by the Secretary of State on the recommendation of the Secretary of Labor
(Sec. 222.)

ACT TO BE IN ADDITION TO IMMIGRATION LAWS

SEC. 25. The provisions of this act are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as a part of such laws, and all the penal or other provisions of such laws, not inapplicable, shall apply to and be enforced in connection with the provisions of this Act. An alien, although admissible under the provisions of this act, shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this act, and an alien, although admissible under the provisions of the immigration laws other than this act, shall not be admitted to the United States if he is excluded by any provision of this act.
(Sec. 223.)

STEAMSHIP FINES UNDER 1917 ACT

SEC. 26. (Amends sec. 9 of immigration act of 1917.)
(Sec. 145.)

SEC. 27. (Amends sec. 10 of immigration act of 1917.)
(Sec. 146.)

GENERAL DEFINITIONS

SEC. 28. As used in this act —

(a) The term "United States", when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, the District of Columbia, Porto Rico, and the Virgin Islands; and the term "continental United States" means the States and the District of Columbia;

(b) The term "alien" includes any individual not a native-born or naturalized citizen of the United States, but this definition shall not be held to include Indians of the United States not taxed, nor citizens of the islands under the jurisdiction of the United States;

(c) The term "ineligible to citizenship," when used in reference to any individual, includes an individual who is debarred from becoming a citizen of the United States under section 2169 of the Revised Statutes, or under section 14 of the act entitled "An act to execute certain treaty stipulations relating to Chinese," approved May 6, 1882, or under section 1996, 1997, or 1998 of the Revised Statutes, as amended, or under section 2 of the act entitled "An act to authorize the President to increase

temporarily the Military Establishment of the United States," approved May 18, 1917, as amended, or under law amendatory of, supplementary to, or in substitution for, any of such sections;

(d) The term "immigration visa" means an immigration visa issued by a consular officer under the provisions of this act;

(e) The term "consular officer" means any consular or diplomatic officer of the United States designated, under regulations prescribed under this act, for the purpose of issuing immigration visas under this act. In case of the Canal Zone and the insular possessions of the United States the term "consular officer" (except as used in section 24) means an officer designated by the President, or by his authority, for the purpose of issuing immigration visas under this act;

(f) The term "immigration act of 1917" means the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in the United States";

(g) The term "immigration laws" includes such act, this act, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, or expulsion of aliens;

(h) The term "person" includes individuals, partnerships, corporations, and associations;

(i) The term "Commissioner General" means the Commissioner General of Immigration;

(j) The term "application for admission" has reference to the application for admission to the United States and not to the application for the issuance of the immigration visa;

(k) The term "permit" means a permit issued under section 10;

(l) The term "unmarried," when used in reference to any individual as of any time, means as individual who at such time is not married, whether or not previously married;

(m) The terms "child," "father," and "mother," do not include a child or parent by adoption unless the adoption took place before January 1, 1924;

(n) The terms "wife" and "husband" do not include a wife or husband by reason of a proxy or picture marriage.
(Sec. 224.)

AUTHORIZATION OF APPROPRIATION

SEC. 29. The appropriation of such sums as may be necessary for the enforcement of this act is hereby authorized.
(Sec. 225.)

ACT OF MAY 19, 1921

SEC. 30. The act entitled "An act to limit the immigration of aliens into the United States," approved May 19, 1921, as amended and extended, shall, notwithstanding its expiration on June 30, 1924, remain in force thereafter for the imposition, collection, and enforcement of all penalties that may have accrued thereunder, and any alien who prior to July 1, 1924, may have entered the United States in violation of such act or regulations made thereunder may be deported in the same manner as if such act had not expired.
(Sec. 229.)

TIME OF TAKING EFFECT

SEC. 31. (a) Sections 2,8, 13, 14, 15 and 16, and subdivision (f) of section 11, shall take effect on July 1, 1924, except that immigration visas and permits may be issued prior to that date, which shall not be valid for admission to the United States before July 1, 1924. In the case of quota immigrants of any nationality, the number of immigration visas to be issued prior to July 1, 1924, shall not be in excess of 10 per centum of the quota for such nationality, and the number of immigration visas so issued shall be deducted from the number which may be issued during the month of July, 1924. In the case of immigration visas issued before July 1, 1924, the four-month period referred to in subdivision (c) of section 2 shall begin to run on July 1, 1924, instead of at the time of the issuance of the immigration visa.

(b) The remainder of this act shall take effect upon its enactment.

(c) If any alien arrives in the United States before July 1, 1924, his right to admission shall be determined without regard to the provisions of this act, except section 23.

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY

SEC. 32. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved, May 26, 1924.
(Sec. 226.)

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English, consisting of 22 pages and entitled "IMMIGRATION ACT of 1924" is an exact and true copy of an excerpt from the book "Immigration Laws and Rules of January 1,1930 with Amendments from January 1, 1930 to May 24, 1934. United States Government Printing Office Washington: 1935."

Signed at Tokyo,

on this 26th day of August, 1946.

(signed) K. HAYASHI
Signature of Official

Witness: (signed) Nagaharu ODO

Defense Document No. 206-B(30)

5306

WHY AMERICA SHOULD NOT REPEAL THE EXCLUSION ACT

January 27, 1935

The Bishop Reifsniders, just returned from America, and the Walter Edges, on their way around the world, came to tea. Reifsnider told me of his talks with Hull, Castle, and others, chiefly with regard to a repeal of the discriminatory provisions of the Exclusion Act of 1924. He tried to see Hearst in California to ascertain his attitude, but Hearst was ill and couldn't see him. I do not think that this is the time to approach the question; of course the Act always rankles and always will, but to repeal the discriminatory provisions now would be interpreted by many as an indication of weakness and as a desire to placate the martial spirit of Japan, and while lovely editorials would be written about our graceful action in recognizing Japan as an equal, it would not in the slightest degree alter Japanese policy or tone down the military propaganda. On the contrary I can see some Japanese writers arguing that having recognized Japan as an equal on the immigration issue, it would now be all the more appropriate and logical for us to recognize her as an equal on the naval issue. Besides, who can ever predict with certainty that any bill will pass the Senate? We thought our Lausanne Treaty with Turkey secure, and, so far as I am aware, the administration thought the World Court Protocol would pass, yet both were defeated. To bring up the repeal of the discriminatory provisions of the Exclusion Act and to have the effort fail would be disastrous. Better let things lie for the present.

EXCERPT FROM DIARY OF FORMER UNITED
STATES AMBASSADOR GREW, page 153

J308

PROTOCOL (A)

Signed at Peking, January 20, 1925.
Promulgated February 27, 1925.

Japan and the Union of Soviet Socialist Republics, in proceeding this day to the signature of the Convention embodying Basic Rules of the relations between them, have deemed it advisable to regulate certain questions in relation to the said Convention, and have, through their respective Plenipotentiaries, agreed upon the following stipulations:

ARTICLE 1.

Each of the High Contracting Parties undertakes to place in the possession of the other Party the movable and immovable property belonging to the Embassy and Consulates of such other party and actually existing within its own territories.

In case it is found that the land occupied by the former Russian Government at Tokyo is so situated as to cause difficulties to the town planning of Tokyo or to the service of the public purposes, the Government of the Union of Soviet Socialist Republics shall be willing to consider the proposals which may be made by the Japanese Government looking to the removal of such difficulties.

The Government of the Union of Soviet Socialist Republics shall accord to the Government of Japan all reasonable facilities in the selection of suitable sites and buildings for the Japanese Embassy and Consulates to be established in the territories of the Union of Soviet Socialist Republics.

ARTICLE 2.

It is agreed that all questions of the debts due to the Government or subjects of Japan on account of public loans and treasury bills issued by the former Russian Governments, to wit by the Imperial Governments, of Russia and the provisional Government which succeeded it, are reserved for adjustment at subsequent negotiations between the Government of Japan and theGovernment of the Union of Soviet Socialist Republics.

Provided that in the adjustment of such questions, the Government or subjects of Japan shall not, all other conditions being equal, be placed in any position less favourable than that which the Government of the Union of Soviet Socialist Republics may accord to the Government or nationals of any other country on similar questions.

It is also agreed that all questions relating to claims of the Government of either Party to the Government of the other, or of the nationals of either Party to the Government of the other, are reserved for adjustment at subsequent negotiations between the Government of Japan and the Government of the Union of Soviet Socialist Requblics.

ARTICLE 3.

In view of climatic conditions in Northern Saghalien preventing the immediate homeward transportation of Japanese troops now stationed there, these troops shall be completely withdrawn from the said region by May 15, 1925.

Such withdrawal shall be commenced as soon as climatic conditions will permit it and any and all districts in Northern Saghlien so evacuated by Japanese troops shall immediately thereupon be restored in full

sovereignty to the proper authorities of the Union of Soviet Socialist Republics.

The detail, pertaining to the transfer of administration and to the termination of the occupation shall be arranged at Alexandrovsk between the Commander of the Japanese Occupation Army and the Representatives of the Union of Soviet Socialist Republics.

ARTICLE 4.

The High Contracting Parties mutually declare that there actually exists no treaty or agreement of military alliance nor any other secret agreement which either of them has entered into with any third party and which constitutes an infringement upon, or a menace to, the sovereignty, territorial rights or national safety of the other Contracting Party.

ARTICLE 5.

The present Protocol is to be considered as ratified with the ratification of the Convention embodying Basic Rules of the Relations between Japan and the Union of Soviet Socialist Republics, signed under the same date.

In witness whereof the respective Plenipotentiaries have signed the present Protocol in duplicate in the English language, and have affixed thereto their seals.

Done at Peking, this Twentieth Day of January, One Thousand Nine Hundred Twenty-Five.

K. YOSHIZAWA.
(L.S.)

L. KARAKHAN.
(L.S.)

DEF. DOC. #46

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of Archives Section, Japanese Foreign Office, hereby certify that the document in English hereto attached, consisting of 3 Pages and entitled " Protocol (A) relating to signature of Convention between Japan and U.S.S.R., signed at Peking Jan. 20, 1925, Promuligated Feb. 27, 1925." is an exact and true copy of an official document of the Japanese Foreign Office.

Signed at Tokyo on this

2nd day of Sept., 1946.

K. Hayashi
Signature of Official

Witness: Nagaharu Odo

5309 72

PROTOCOL (B)

Signed at Peking January 20, 1925,
Promulgated February 27, 1925.

The High Contracting Parties have agreed upon the following as the basis for the Concession Contracts to be concluded within five months from the date of the complete evacuation of Northern Saghalien by Japanese troops, as provided for in Article 3 of Protocol (A) signed this day between the Plenipotentiaries of Japan and of the Union of Soviet Socialist Republics.

1. The Government of the Union of Soviet Socialist Republics agrees to grant to Japanese concerns recommended by the Government of Japan the concession for the exploitation of 50% in area, of each of the oil fields in Northern Saghalien which are mentioned in the Memorandum submitted to the Representative of the Union by the Japanese Representative on August 29th, 1924. For the purpose of determining the area to be leased to the Japanese concerns for such exploitation, each of the said oil fields shall be divided into checker-board squares of from fifteen to forty dessiatines each, and a number of these squares representing 50% of the whole area shall be allotted to the Japanese, it being understood that the squares to be so leased to the Japanese are, as a rule, to be non-contiguous to one another, but shall include all the wells now being drilled or worked by the Japanese. With regard to the remaining unleased lots of the oil fields mentioned in the said Memorandum, it is agreed that should the Government of the Union of Soviet Socialist Republics decide to offer such lots, wholly or in part, for foreign conces-

sion, Japanese concerns shall be afforded equal opportunity in the matter of such concession.

2. The Government of the Union of Soviet Socialist Republics also agrees to authorize Japanese concerns recommended by the Government of Japan to prospect oil fields, for a period of from five to ten years, on the Eastern coast of Northern Saghalien over an area of one thousand square versts to be selected within one year after the conclusion of Concession Contracts, and in case oil fields shall have been established in consequence of such prospecting by the Japanese, the Concession for the exploitation of 50%, in area, of the oil fields so established shall be granted to the Japanese.

3. The Government of the Union of Soviet Socialist Republics agrees to grant to Japanese concerns recommended by the Government of Japan the concession for the exploitation of coal fields on the Western coast of Northern Saghalien over a specific area which shall be determined in the Concession Contracts. The Government of the Union of Soviet Socialist Republics further agrees to grant to such Japanese concerns the concession regarding coal fields in the Doue district over a specific area to be determined in the Concession Contracts. With regard to the coal fields outside the specific area mentioned in the preceding two paragraphs, it is also agreed that should the Government of the Union of Soviet Socialist Republics decide to offer them for foreign concession, Japanese concerns shall be afforded equal opportunity in the matter of such concession.

4. The period of the concession for the exploitation of oil and coal fields stipulated in the preceding paragraphs shall be from forty to fifty years.

5. As royalty for the said concessions, the Japanese concessionnaires shall make over annually to the Government of the Union of Soviet Socialist Republics, in case of coal fields, from 5 to 8 percent of their gross output, and, in case of oil fields, from 5 to 15 percent of their gross output: provided that in the case of a gusher, the royalty may be raised up to 45 percent of its gross output.

The percentage of output thus to be made over as royalty shall be definitively fixed in the Concession Contracts and it may be graduated according to the scale of annual output in a manner to be defined in such Contracts.

6. The said Japanese concerns shall be permitted to fell trees needed for purpose of the enterprises and to set up various undertakings with a view to facilitating communication and transportation of materials and products. Details connected therewith shall be arranged in the Concession Contracts.

7. In consideration of the royalty abovementioned and taking also into account the disadvantages under which the enterprises are to be placed by reason of the geographical position and other general conditions of the districts affected it is agreed that the importation and exportation of any articles, materials or products needed for or obtained from such enterprises shall be permitted free of duty, and that the enterprises shall not be subjected to any such taxation or restriction as may in fact render their remunerative working impossible.

8. The Government of the Union of Soviet Socialist Republics shall accord all reasonable protection and facilities to the said enterprises.

9. Details connected with the foregoing Articles shall be arranged in the Concession Contracts.

The present Protocol is to be considered as ratified with the ratification of the Convention embodying Basic Rules of the Relations between Japan and the Union of Soviet Socialist Republics, signed under the same date.

In witness whereof the respective Plenipotentiaries have signed the present Protocol in duplicate in the English Language, and have affixed thereto their seals.

Done at Peking, this Twentieth Day of January, One Thousand Nine Hundred Twenty-Five.

K. YOSHIZAWA. L. KARAKHAN.

(L. S.) (L. S.)

DEF. DOC. # 47

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of Archives Section, Japanese Foreign Office, hereby certify that the document in English hereto attached, consisting of 4 pages and entitled " Protocol (B) relations to Concession Contracts between Japan & S.S.R. Signed at Peking Jan. 20, 1925 Promulgated Feb. 27, 1925 " is an exact and true copy of an official document of the Japanese Foreign Office.

Signed at Tokyo on this
wnd day of Sept., 1946.

(signed) K K. Hayashi
Signature of Official

Witness: Nagaharu Odo

2310

DEF. DOC. # 49

DECLARATION

Dated at Peking, January 20, 1925.
Published February 27, 1925.

In proceeding this day to the signature of the Convention embodying the Basic Rules of the Relations between the Union of Soviet Socialist Republics and Japan, the undersigned Plenipotentiary of the Union of Soviet Socialist Republics has the honour to declare that the recognition by his Government of the validity of the Treaty of Portsmouth of September 5, 1905, does not in any way signify that the Government of the Union shares with the former Tsarist Government the Political responsibility for the conclusion of the said Treaty.

L KARAKHAN.

(L. S.)

Peking.

January 20, 1925.

C E R T I F I C A T E

Statement of Souce and Authenticity

I, HAYASHI, Kaoru, Chief of Archives Section, Japanese Foreign Office, hereby certify that the document in English hereto attached, consisting of 1 page and entitled "Declaration of L. Karakhan of U.S.S.R. concerning Convention Between Japan & U.S.S.R. Dated at Peking Jan. 20, 1925. Published Feb. 27, 1925." is an exact and true copy of an official document of the Japanese Foreign Office.

Signed at Tokyo on this
2nd day of Sept., 1946.

K. Hayashi
Signature of Official

Witness: Nagaharu Odo

3371

DEF. DOC. #50

ANNEXED NOTE.

Dated at Peking, January 20, 1925.
Published February 27, 1925.

In proceeding this day to the signature of the Convention embodying Basic Rules of the Relations between the Union of Soviet Socialist Republics and Japan, the undersigned Plenipotentiary of the Union of Soviet Socialist Republics has the honour to tender hereby to the Government of Japan an expression of sincere regrets for the Nikolaievsk incident of 1920.

L. KARAKHAN.

(L. S.)

Peking.

January 20th, 1925.

Def. doc. #50

CERTIFICATE

Statement of Source and Authenticity

I. HAYASHI, Kaoru, Chief of Archives Section, Japanese Foreign Office, hereby certify that the document in English hereto attached, consisting of 1 page and entitled "Annexed Note (to Convention between Japan and U.S.S.R.), signed L. Karakhan. Dated at Peking Jan. 20, 1925. Published Feb. 27, 1925." is an exact and true copy of an official document of the Japanese Foreign Office.

Signed at Tokyo on this
2nd day of Sept., 1946.

K. Hayashi
Signature of Official

Witness: Nagaharu Odo

2312

PROTOCOL OF SIGNATURE.

Signed at Peking, January 20, 1925,
Published February 27, 1925.

Kenkichi Yoshizawa, His Imperial Japanese Majesty's Envoy Extraordinary and Minister Plenipotentiary to China, and Lev Mikhailovitch Karakhan, Ambassador of the Union of Soviet Socialist Republics to China, authorized under their respective full powers found in due and good form, met this day at Peking, and closely examined the following documents:

1. A Convention embodying Basic Rules of the relations between Japan and the Union of Soviet Socialist Republics.
2. Two Protocols.
3. One Declaration.
4. One set of Notes.
5. One annexed Note.

Having agreed upon every term and stipulation contained therein, the Plenipotentiaries have officially signed and sealed the respective documents.

The Two Plenipotentiaries further agreed that there should be apposed to the present Protocol the Memorandum, handed by the Japanese Plenipotentiary to the Plenipotentiary of the Union of Soviet Socialist Republics on August 29th, 1924, and embodying a statement on the conditions of oil and coal fields worked by the Japanese in Northern Saghalien.

In faith whereof, the respective Plenipotentiaries of the Two High Contracting Parties have signed the present Protocol

in the English language, and have affixed thereto their seals.

Done at Peking this Twentieth Day of January One Thousand Nine Hundred and Twenty-Five.

K. YOSHIZAWA, L. KARAKHAN

(L. S.) (L. S.)

DEF. DOC. # 48

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of Archives Section, Japanese Foreign Office, hereby certify that the document in English hereto attached, consisting of 2 pages and entitled " Protocol of Signature between L. Karakhan of U. S. S. R. and Kenkichi Yoshizawa of Japan. Signed at Peking Jan 20, 1925. Published Feb. 27, 1925 " is an exact and true copy of an official document of the Japanese Foreign Office.

Signed at Tokyo on this
2nd day of Sept., 1946

(Signed) K. HAYASHI
Signature of Official

Witness: (Signed) Nagaharu ODO

DEF DOC. # 145

4373

FISHERY CONVENTION BETWEEN JAPAN AND
THE UNION OF SOVIET SOCIALIST REPUBLICS.

Signed at Moscow, January 23, 1928.
Ratified May 22, 1928.
Ratifications exchanged at Tokyo, May 23, 1928.
Promulgated May 25, 1928.

His Majesty the Emperor of Japan and the Central Executive Committee of the Union of Soviet Socialist Republics, for the purpose of concluding a Fishery Convention in conformity with the provisions of Article 3 of the Convention embodying Basic Rules of the Relations between Japan and the Union of Soviet Socialist Republics concluded at Peking on January 20th, 1925, have named their respective Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan:

TOKICHI TANAKA, Ambassador Extraordinary and Plenipotentiary to the Union of Soviet Socialist Republics, Shōshii, a member of the First Class of the Imperial Order of the Sacred Treasure;

The Central Executive Committee of the Union of Soviet Socialist Republics:

LEV MIKHAILOVITCH KARAKHAN, People's Deputy Commissary for Foreign Affairs of the Union of Soviet Socialist Republics, and

Vasil. wanted to know purpose —
Lazar — to bring Court up to date on Border trouble and to show [illegible] of disputes between Russia and Japan
V — Indictment - defendants "not charged w/ violating any fishery convention" — this doc is an attempt to accuse USSR + [illegible] the USSR as an accuser at the trial. and to accuse the USSR with violation of the convention. It is inadmissible + if admitted we will have to make a spec [illegible]

MARTIN IVANOVITCH LACIS, a member of the Collegeum of the People's Commissariat for Agriculture of the Russian Socialist Federative Soviet Republic;

Who, after having communicated to each other their respective Full Powers, found to be in good and due form, have agreed upon the following Articles:

ARTICLE 1.

The Union of Soviet Socialist Republics grants to Japanese subjects, in conformity with the stipulations of the present Convention, the right to catch, to take and to prepare all kinds of fish and aquatic products, except fur-seals and sea-otters, along the coasts of the possessions of the Union of Soviet Socialist Republics in the Japan, Okhotsk and Bering Seas, with the exception of rivers and inlets. The inlets comprised in this exception are enumerated in Article 1 of the Protocol (A) attached to the present Convention

ARTICLE 2.

Japanese subjects are at liberty to engage in catching, taking and preparing fish and aquatic products in the fishery lots, lying both in the sea and on shore, which are specifically designated for that purpose. The lease of the said fishery lots shall be granted by public auction, without any discrimination being made between Japanese subjects and citizens of the Union of Soviet Socialist Republics.

It is understood, however, that, as an exception to the foregoing, those fishery lots for which the Governments of the two High Contracting Parties have so agreed may be leased without auction.

The auction of fishery lots shall take place at Vladivostok in February every year, and the date and locality designated for this purpose, as well as the necessary details relating to the lease of various fishery lots to be sold, shall be officially notified to the Japanese Consular officer at Vladivostok at least two months before the auction.

With regard to fishery lots for which there shall have been no successful bidder, they shall again be put up to auction within fifteen days, but not earlier than five days, after the preceding auction.

The catching of whales and codfish, as well as of all the fish and aquatic products which can not be caught or taken in specific lots is permitted to Japanese subjects on board sea-going vessels furnished with a special licence.

ARTICLE 3.

The Japanese subjects who have obtained the lease of fishery lots in conformity with the provisions of Article 2 of the present Convention shall have, within the limits of those fishery lots, the right to make free use of the littoral.

They may there carry out necessary repairs to their boats and nets, haul them ashore, and land, prepare and preserve their catches and collections. For these purposes they shall be at liberty to erect there buildings, warehouses, huts and drying-sheds or to remove the same.

ARTICLE 4.

With regard to taxes, imposts and fees to be levied in connection with the fishing industry, Japanese subjects shall be subject to the following conditions and shall under no circumstances be subject to any treatment less favourable than that accorded to citizens of the Union of Soviet Socialist Republics.

(1) The amount of the business tax chargeable to Japanese sujects having fishery rights shall not exceed three per cent of the price on the fishery grounds of fish and aquatic products caught, taken or prepared by them.

(2) The said Japanese subjects shall be exempted from all kinds of taxes, imposts and fees, except the business tax and the taxes, imposts and fees mentioned in Article 9 of the Protocol (A) attached to the present Convention.

(3) The payment of the business tax and other taxes, imposts and fees may be arranged by a special agreement between the two Governments.

(4) No taxes or imposts shall be levied on the income

of Japanese employees having their domicile in Japan and engaged in seasonal labour on fishery grounds leased to Japanese subjects.

ARTICLE 5.

The Union of Soviet Socialist Republics shall levy no duties on fish and aquatic products caught or taken in the Far Eastern waters of the Union of Soviet Socialist Republics, whether such fish and aquatic products have or have not undergone a process of manufacture, when they are destined for export from the Union of Soviet Socialist Republics to Japan.

ARTICLE 6.

No restriction shall be established with regard to the nationality of the employees of Japanese subjects engaged in catching, taking and preparing fish and aquatic products in the districts specified in Article 1 of the present Convention.

ARTICLE 7.

So far as concerns methods of preparation of fish and aquatic products, the Union of Soviet Socialist Republics engages not to impose unpon the Japanese subjects who have obtained fishery rights in the districts specified in Article 1 of the present Convention any restriction from which the citizens of the Union of Soviet Socialist Republics who have obtained fishery rights in the said districts are exempt.

ARTICLE 8.

The Japanese subjects who have obtained fishery rights may make use of sea-going vessels furnished with a navigation certificate issued in Japan by the competent Consular officer of the Union of Soviet Socialist Republics, as also with a health certificate issued by the Japanese authorities, for the direct navigation from Japan to their fishery grounds, from one of their fishery grounds to another, as well as from their fishery grounds to Japan; the said vessels may also proceed from the fishery grounds direct to a third state, provided they conform to the formalities required for the exportation to the said state of the fish and aquatic products on board, caught or taken in the Far Eastern waters of the Union of Soviet Socialist Republics.

The above-mentioned vessels shall be at liberty to transport, free of imposts and taxation, the persons and things necessary for the fishing industry, as also catches and collections.

The Japanese subjects who have obtained fishery rights may, free of imposts and taxation, transport by land, along shore or by sea, on board fishing boats the above-mentioned persons, things, catches and collections between their own fishery lots or vessels furnished with the licence mentioned in the last paragraph of Article 2 of the present Convention.

The provisions of the present Article shall equally apply to the case when the respective holders of separate fishery lots

or licences make use of a vessel or a fishing boat jointly.

The provisions of the present Article shall apply to the removal of remaining properties in the fishery lots, the lease term of which has expired, to other fishery lots or to Japan.

The above-mentioned vessels and boats must in all other respects comply with the laws of the Union of Soviet Socialist Republics which are or may be enacted respecting the coasting trade.

ARTICLE 9.

The Japanese subjects who have obtained fishery rights may freely export to Japan fish and aquatic products caught or taken by Japanese subjects, without any export-licence; they may also export such fish and aquatic products to a third state, conforming to the formalities required for the exportation thereof.

For the exportation of fish and aquatic products bought from the state or other enterprises or citizens of the Union of Soviet Socialist Republics, the said Japanese subjects shall conform to the formalities required for the exportation thereof.

The said Japanese subjects are at liberty to import the necessaries solely intended for use for their fishing industry, as well as for themselves or their employees, without any import-licence.

No duties or imposts shall be levied on the importation of the goods above mentioned; the said goods as well as their quantity will be defined in the list, which shall be formulated every year in due time by the competent local authorities subject to

the approval of the central authorities of the Union of Soviet Socialist Republics.

ARTICLE 10.

With regard to the entry, stay, removal and departure of the Japanese subjects who have obtained fishery rights, as well as of their employees who are not citizens of the Union of Soviet Socialist Republics, the summary regulations which are or may be enacted by the authorties of the Union of Soviet Socialist Republics shall be applied in the districts specified in Article 1 of the present Convention; in all other cases, Japanese subjects shall conform to the laws and regulations which are or may be enacted concerning the entry and stay in, and departure from, the Union of Soviet Socialist Republics, the summary regulations which are or may be enacted by the authorities of the Union of Soviet Socialist Republics shall be applied in the districts specified in Article I of the present Convention; in all other cases, Japanese subjects shall conform to the laws and regulations which are or may be enacted concerning the entry and stay in, and departure from, the Union of Soviet Socialist Republics, of foreigners.

The Japanese subjects and the citizens of the Union of Soviet Socialist Republics who have obtained fishery rights in the districts above mentioned shall be placed on a footing of equality as regards the laws, regulations and ordinances which are or may be enacted concerning pisciculture and the

protection of fish and aquatic products, the control of industry germane thereto and all other matters, relating to fisheries.

Information of newly enacted laws and regulations, applicable to the fishing industry in the Far Eastern waters of the Union of Soviet Socialist Republics, shall be furnished to the Japanese Government at least three months before they are put in force; information of ordinances of the same nature newly issued by the local authorities of the Union of Soviet Socialist Republics shall be furnished to the Japanese Consular officer at Khabarovsk at least two months before they are put in force.

ARTICLE 11.

Japanese subjects are at liberty to engage in the preparation of fish and aquatic products in the landed lots leased to them outside the limits of the districts specified in Article 1 of the present Convention, always complying with the laws, regulations and ordinances which are or may be enacted and applicable to all foreigners in the Union of Soviet Socialist Republics.

ARTICLE 12.

The Japanese Government, in consideration of fishery rights accorded by the Union of Soviet Socialist Republics to Japanese subjects in virtue of the present Convention, engages not to impose any import duties on fish and aquatic products caught or taken in the Far Eastern waters of the Union of Soviet Socialist

Republics, whether such fish and aquatic products have or have not undergone any process of manufacture.

ARTICLE 13.

Recognizing that Japanese employees, with their place of habitation in Japan, are engaged there and return thereto after carrying on labour in the seasonal industry of fishery; that their habits and customs are characteristic of Japanese nationality; that free passage between Japan and fishery grounds and free rations during the whole term of engagement are granted; that a share of catches and collections is given them in addition to regular wages, and that medical aid and other means of relief are provided for free of charge;

The Union of Soviet Socialist Republics agrees to conform to the above-mentioned facts in the application of its laws and regulations regarding the protection and regulation of labour, which are or may be enacted, to the labour of Japanese employees in the fishery grounds leased to Japanese subjects in accordance with the provisions of the present Convention.

ARTICLE 14.

So far as concerns matters not specially dealt with in the present Convention, but yet relating to the fishing industry in the districts specified in Article I of the present Convention, Japanese subjects shall be entitled to the same treatment as accorded to the citizens of the Union of Soviet Socialist Re-

publics who have obtained fishery rights in the said districts.

ARTICLE 15.

The present Convention shall remain in force for eight years and shall be revised or renewed at the end of the said period; thenceforth the Convention shall be revised or renewed at the end of every twelve years.

Either of the High Contracting Parties may give notice to the other of its desire to revise the present Convention, twelve months before the termination of the Convention. Negotiations for the revision shall be concluded within the said twelve months.

Should neither of the High Contracting Parties give notice for such revision, the present Convention shall remain in force for a further period of twelve years.

ARTICLE 16.

The present Convention shall be ratified, and the ratifications thereof shall be exchanged at Tokyo at as early a date as possible and in any case not later than four months after its signature.

The Convention shall come into force on the fifth day following the date of the exchange of its ratifications.

In witness whereof the respective Plenipotentiaries have signed the present Convention in duplicate in the English language and have affixed thereto their seals.

DOC.# 145

Done in the City of Moscow, this 23rd day of January, 1928.

L. KARAKHAN (L. S.)

T. TANAKA (L. S.)

M. LACIS (L. S.)

DOC. # 145

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document in English entitled "FISHERY CONVENTION BETWEEN JAPAN AND THE UNION OF SOVIET SOCIALIST REPUBLICS." is an exact and true copy of an official document of the Japanese Foreign Office.

Certified at Tokyo 13 November 1946.

K. Hayashi
Signature of Official

Witness : T. Sato

S314A

DEF DOC # 194

Excerpt from "Treaty for the Renunciation of War"

United States
Government Printing Office

P.P. 32 - 33

Note of the Government of the United States to the Governments of Great Britain, Germany, Italy, and Japan, Delivered at the Respective Foreign Offices April 13, 1928

As Your Excellency is aware, there has recently been exchanged between the Governments of France and the United States a series of notes dealing with the question of a possible international renunciation of war. The views of the two Governments have been clearly set forth in the correspondence between them.

The Government of the United States, as stated in its note of February 27, 1928, desires to see the institution of war abolished and stands ready to conclude with the French, British, German, Italian and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other Governments binding the parties thereto not to resort to war with one another.

The Government of the French Republic, while no less eager to promote the cause of world peace and to cooperate with other nations in any practical movement towards that end, has pointed out certain considerations which in its opinion must be borne in mind by those Powers which are members of the League of Nations, parties to the Treaties of Locarno, or parties to other treaties guaranteeing neutrality. My Government has not conceded that such considerations necessitate any modification of its proposal for a multilateral treaty, and is of the opinion that every nation in the world can, with a proper regard for its own interests, as well as for the interests of the entire family of nations, join in such a treaty. It believes, moreover, that the execution by France, Great Britain, Germany, Italy, Japan and the United States of a treaty solemnly renouncing war in favor of the pacific settlement of international controversies would have tremendous moral effect and ultimately lead to the adherence of all the other governments of the world.

The discussions which have taken place between France and the United States have thus reached a point where it seems essential, if ultimate success is to be attained, that the British, German, Italian and Japanese Governments should each have an opportunity formally to decide to what extent, if any, its existing commitments constitute a bar to its participation with the United States in an unqualified renunciation of war.

In these circumstances the Government of the United States, having reached complete agreement with the Government of the French Republic as to this procedure, has instructed me formally to transmit herewith for the consideration of your Government the text of M. Briand's original proposal of last June, together with copies of the notes subsequently exchanged between France and the United States on the subject of a multilateral treaty for the renunciation of war.

I have also been instructed by my Government to transmit herewith for consideration a preliminary draft of a treaty representing in a general way the form of treaty which the Government of the United States is prepared to sign with the French, British, German, Italian and Japanese Governments and any other Governments similarly disposed. It will be observed that the language of Articles I and II of this draft treaty is practically identical with that of the corresponding articles in the treaty which M. Briand proposed to the United States.

The Government of the United States would be pleased to be informed as promptly as may be convenient whether Your Excellency's Government is in a position to give favorable consideration to the conclusion of a treaty such as that transmitted herewith, and if not, what specific modifications in the text thereof would make it acceptable.

P. 43

The British Secretary of State for Foreign Affairs (Chamberlain) to the American Ambassador (Houghton)

(London,) May 19, 1928.

Your Excellency: Your note of the 13th April, containing the text of a draft treaty for the renunciation of war, together with copies of the correspondence between the United States and French Governments on the subject of this treaty, has been receiving sympathetic consideration at the hands of His Majesty's Government in Great Britain. A note has also been received from the French Government, containing certain suggestions for discussion in connexion with the proposed treaty, and the German Government were good enough to send me a copy of the reply which has been made by them to the proposals of the Unites States Government.

P. 44

4. After studying the wording of article I of the Unites States draft, His Majesty's Government do not think that its terms exclude action which a State may be forced to take in self-defence. Mr. Kellogg has made it clear in the speech to which I have referred above that he regards the right of self-defence as inalienable, and His Majesty's Government are disposed to think that on this question no addition to the text is necessary.

P. 45

10. The language of article I, as to the renunciation of war as an instrument of national policy, renders it desirable that I should remind your Excellency that there are certain regions of the world the welfare and integrity of which constitute a special and vital interest for our peace and safety. His Majesty's Government have been at pains to make it clear in the past that interference with these regions cannot be suffered. Their protection against attack is to the British Empire a measure of self-defence. It must be clearly understood that His Majesty's Government

in Great Britain accept the new treaty upon the distinct understanding that it does not prejudice their freedom of action in this respect. The Government of the United States have comparable interests any disregard of which by a foreign Power they have declared that they would regard as an unfriendly act. His Majesty's Government believe, therefore, that in defining their position they are expressing the intention and meaning of the Unites States Goverment.

P. 46

I have (etc.) Austen Chamberlain

P. 51

No. 46/E 2 Tokyo, May 26, 1928.

Monsieur l'Ambassadeur: I have the honour to acknowledge the receipt of Your Excellency's Note No.336 of April 13th last, transmitting to me, under instructions from the Government of the United States, the preliminary draft of a proposed multilateral treaty representing in a general way a form of treaty which the Government of the United States is prepared to sign with the French, British, German, Italian and Japanese Governments and any other Governments similarly disposed, with the object of securing the renunciation of war. At the same time Your Excellecy enclosed a copy of the correspondence recently exchanged between the Governments of the United States and the French Republic commencing with a proposal put forward by M. Briand in June, 1927: and you intimated that the Government of the United States desired to be informed whether the Japanese Government were in a position to give favourable consideration to the conclusion of such a treaty as that of which you enclosed a draft -- and if not, what specific modifications in the text would make it acceptable.

I beg to inform Your Excellency that the Government of Japan sympathize warmly with the high and beneficent aims of the proposal now made by the United States, which they take to imply the entire abolition of the institution of war, and that they will be glad to render their most cordial co-operation towards the attainment of that end.

The proposal of the United States is understood to contain nothing that would refuse to independent states the right of self defence, and nothing which is incompatible with the obligations of agreements guranteeing the public peace, such as are embodied in the Covenant of the League of Nations and the Treaties of Locarno. Accordingly the Imperial Government firmly believe that unanimous agreement on a mutually acceptable text for such a treaty as is contemplated is well capable of realization by discussion between the six Powers referred to, and they would be happy to collaborate with cordial good will in the discussions with the purpose of securing what they are persuaded is the common desire of all the peoples of the world -- namely, the cessation of wars and the definite establishment among the nations of an era of permanent and universal peace.

I avail (etc.)

Baron Giichi Tanaka
Minister for Foreign Affairs

P. 72

The British Secretary of State for Foreign Affairs (Chamberlain)
to the American Charge (Atherton)

(London,) July 18, 1928

P. 73

As regards the passage in my note of the 19th May relating to certain regions of which the welfare and integrity constitute a special and vital interest for our peace and safety, I need only repeat that His Majesty's Government in Great Britain accept the new treaty upon the understanding that it does not prejudice their freedom of action in this respect.

I am entirely in accord with the views expressed by Mr. Kellogg in his speech of the 28th April that the proposed treaty does not restrict or impair in any way the right of self-defence, as also with his opinion that each State alone is competent to decide when circumstances necessitate recourse to war for that purpose.

In the light of the foregoing explanations, His Majesty's Government in Great Britain are glad to join with the United States and with all other Governments similarly disposed in signing a definitive treaty for the renunciation of war in the form transmitted in your note of the 23rd June. They rejoice to be associated with the Government of the United States of America and the other parties to the proposed treaty in a further and signal advance in the outlawry of war.

I have (etc.) Austen Chamberlain

P. 222

(Translation)

No. 12050 Mexico, September 14, 1928

Mr. Ambassador: I have received note No. 52541 of August 27 last, in which Your Excellency was pleased to inform me that on that day the Governments of Germany, the United States of America, Belgium, France, Great Britain, Canada, Australia, New Zealand, South Africa, the Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia signed in Paris a treaty binding them to renounce war as an instrument of national policy in their relations with one another and to seek only by pacific means the settlement or solution of all disputes which might arise among them.

P. 223

Mexico defined its attitude still further when its Delegation, in connection with article 13 of the same project, relative to the intervention on the part of a state responsible for the execution of a treaty, against one of the parties, declared that said article was not acceptable to this country because it could not admit the possibility of an intervention, stating in addition that Mexico only admitted war in selfdefense. And in signing the convention in question, the Mixican Delegation made the reservation that under no circumstances did it accept said article 13.

Defense Doc. #154 2375A

REPORT TO THE CONFERENCE FROM THE SECOND COMMISSION ON OPENING OF HOSTILITIES [1]

(Reporter, Mr. Louis Renault)

The Russian programme contains the following topic:

> Additions to be made to the provisions of the Convention of 1899 relative to the laws and customs of war on land - besides others, those concerning: the opening of hostilities, and the rights of neutrals on land.

It was the duty of the Second Commission to study this part of the programme; the present report, however, deals only with 'the opening of hostilities'.

The question whether there is an obligation upon a Government intending to make war to give notice to its adversary before beginning hostilities has been discussed for years and has given rise not only to lengthy theoretical expositions but also to frequent recriminations between belligerents. It would be a vain task, from the point of view that we must take here, to review the practice in the various wars since the beginning of the last century in an effort to determine whether there is, according to positive international law, any rule on this subject. We have only to ask ourselves whether it is advisable to lay one down, and if so, in what terms.

As to the first point, there can be no doubt. It is clearly desirable that the uncertainty seen in various quarters should cease. Everybody is in favour of an affirmative answer to the first question placed before us by the president of the second subcommission, his Excellency Mr. Asser, in his *questionnaire*.[2]

[1] The report was presented to the Second Commission in the name of a committee of examination thus made up: president, his Excellency Mr. Asser; members: Major-General von Gündell, Brigadier-General Davis, Major-General Baron Giesl von Gieslingen, his Excellency Mr. A. Beernaert, his Excellency Mr. van den Heuvel, his Excellency Mr. de Bustamante, his Excellency Mr. Brun, Mr. Louis Renault, reporter; his Excellency Lord Reay, Lieutenant-General Sir Edmond R. Elles, his Excellency Mr. Tsudzuki, his Excellency Mr. Eyschen, his Excellency Lieutenant-General Jonkheer den Beer Portugal, his Excellency Samad Khan, Momtas-es-Saltaneh, his Excellency Mr. Beldiman, his Excellency Mr. Carlin, Colonel Borel. *Actes et documents*, vol. 1, p. 131.

[2] *Post*, p. 507.

The subcommission has had before it a proposition of the French delegation,[1] and an amendment thereto offered by the Netherland delegation.[2] The proposition and its amendment were alike in requiring a warning to be given before opening hostilities and also a notification to neutrals. The difference between them lay in the interval between the warning and hostilities, which the Netherland delegation proposed to fix definitely. Some special questions have also been raised regarding the notification to neutrals. We shall give you an explanatory statement on these several points.

The French proposition was worded as follows:

ARTICLE 1

The contracting Powers recognize that hostilities between themselves must not commence without a previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.

ARTICLE 2

The existence of a state of war must be notified to the neutral Powers without delay.

The main provision of this proposal, which was inspired by a resolution[3] passed by the Institute of International Law at its meeting at Ghent in September, 1906, is easily justified. Two distinct cases are provided for. When a dispute occurs between two States, it will ordinarily lead to diplomatic negotiations more or less lengthy, in which each party attempts to have its pretensions recognized, or at least to secure partial satisfaction. If an agreement is not reached, one of the Powers may set forth in an ultimatum the conditions which it requires and from which it declares it will not recede. At the same time it fixes an interval within which a reply may be made and declares that, in the absence of a satisfactory answer, it will have recourse to armed force. In this case there is no surprise and no equivocation. The Power to which such an ultimatum is addressed can come to a decision with a full knowledge of the circumstances; it may give satisfaction to its adversary or it may fight.

Again, a dispute may arise suddenly, and a Power may desire to have recourse to arms without entering upon or prolonging diplomatic negotiations that it considers useless. It ought in that case to give a direct warning of its intention to its adversary, and this warning ought to be explicit.

1 Actes et documents, vol. iii, p. 254, annex 20.
2 Post, p. 508.
3 Resolutions of the Institute of International Law (New York, 1916), p. 164.

When an intention to have recourse to armed force is stated conditionally in an ultimatum, a reason is expressed, since war is to be the consequence of a refusal to give the satisfaction demanded. This is, however, not necessarily the case when the intention to make war is made manifest directly and without a previous ultimatum. The proposal set out above requires that reasons be assigned in this case also. A Government ought not to employ so extreme a measure as a resort to arms without giving reasons. Every one, both in the countries about to become belligerents, and also in neutral countries, should know what the war is about in order to form a judgement on the conduct of the two adversaries. Of course this does not mean that we are to cherish the illusion that the real reasons for a war will always be given; but the difficulty of definitely stating reasons, and the necessity of advancing reasons not well substantiated or out of proportion to the gravity of war itself, will naturally arrest the attention of neutral Powers and enlighten public opinion.

The warning should be previous in the sense of preceding hostilities. Shall a given length of time elapse between the receipt of the warning and the beginning of hostilities? The French proposition specifies no interval, which implies that hostilities may begin as soon as the warning has reached the adversary. The time limitation before war is begun is thus less determinable than in the case of an ultimatum. In the opinion of the French delegation the necessities of modern warfare do not allow of a requirement that the party desiring to take the aggressive should grant further time than what is absolutely indispensable to let its adversary know that force is to be employed against it.

The principle of the French proposal met with no objection and the text was voted almost unanimously by the submcommission, after the delegations of Germany, Great Britain, Japan, and Russia had expressly declared themselves in accord with it.

The delegation of the Netherlands desired to supplement the principle as follows:

> The contracting Powers recognize that hostilities between themselves must not commence until the lapse of twenty-four hours after an explicit warning, having the form of a reasoned declaration of war, or of an ultimatum with conditional declaration of war, has officially come to the attention of the adversary's Government.

The difference between this and the French proposal lies in requiring a fixed interval between the receipt of the warning and the opening of hostilities. The need for this delay was

explained by Colonel Michelson, speaking for the Russian delegation, in these words:

> The problem of such a delay is intimately connected with the relation which exists between the peace and war establishments of every country. Consequently a result of its adoption would be a more or less considerable reduction of expenditures. The time may not be so far distant after all when we shall be able to distinguish between the troops and other preparations for war which every country in its own sovereign judgement deems requisite in its political situation and those that it is compelled to maintain only through the necessity of being constantly in readiness for fighting. By establishing a certain interval between the rupture of peaceful relations and the beginning of hostilities, an opportunity would be afforded to such countries as may desire it to realize certain economies during times of peace. It is undeniable that these economies would be beneficial in every way, and could not fail to bring about a great relief from the burden of peace armies, a relief all the more acceptable because it would in no way affect the right of each nation to fix its own forces and armament solely in accordance with its own views and needs.
>
> There is still another advantage to be derived from the proposed delay. It would leave to friendly and neutral Powers some precious time which they could use in making efforts to bring about a reconciliation, or to persuade the disputants to submit their causes of difference to the high Court of Arbitration here. But, while speaking of this subject of a delay, we must not lose sight of what is at present possible. The idea of any considerable delay is not yet developed in the consciences of the people of the nations. Consequently it would perhaps not be wise to go to far with our desires, in order that we may not get beyond what is really possible in practice at the present day. So let us content ourselves with accepting the delay of twenty-four hours which has been proposed by the delegation of the Netherlands. Let us leave to the future the work of the future, and merely express our hope that in the future the benefits of a still longer delay will be secured.

While the force of this reasoning is undeniable, it did not convince the majority of the subcommission. It did not appear consistent with military exigencies of the present day to fix such an interval; a great advance is gained, however, in securing the admission of the need of a previous warning. Let us hope that in the future we shall make a further advance; but let us not proceed too rapidly. It is noteworthy that

the Institute of International Law,[1] in its resolution referred to above, considered that it could not go so far as to suggest a definite interval, although in such a matter as this an assembly of jurists might be expected to be less conservative than an assembly of diplomatists and military and naval men. It limited itself to saying: 'Hostilities shall not commence before the expiration of a delay sufficient to make it certain that the rule of previous and explicit notice cannot be considered as evaded.'

An obligation to make a declaration of war include the reasons therefor awakened some scruples as being contrary to provisions in some constitutions. Thus the Cuban delegates made the following statement: 'In view of the fact that paragraph 12 of Article 59 of the constitution of Cuba mentions among the powers of Congress that of declaring war, it is not possible for the delegation to subscribe to any act that does not reserve to our Congress the right to determine the form and conditions of such a declaration.' On the other hand, General Porter declared that the French proposal was not inconsistent with the provisions of the American federal constitution, under which Congress has the power to declare war. Indeed, there seems to be some misunderstanding on this point. We should make a distinction between two acts that are often confused because the same expression is used to describe both: namely, the act of deciding on war and the act of communicating this decision to the adversary. According to the constitutions the decision belongs to the sovereign or head of the State, either acting alone or in conjunction with the representatives of the people; but the notification is essentially for the executive. Since the notification closely follows the decision, they are combined under the term 'declaration', and this is especially the understanding where there is externally only one sovereign act. Bearing this in mind, it is easily shown that the French proposition voted by the subcommission is not at all inconsistent with constitutional provisions of the kind indicated. The liberty of a congress to decide on war in whatever way it chooses is not touched. Can it be supposed that war will be determined upon lightly, even though the formal resolution may not indicate the reasons, and is it too much to ask of a Government which, in execution of such a decision, declares war that it give its reasons therefor? We do not think so.

According to the second article of the French proposal, 'the existence of a state of war must be notified to the neutral Powers without delay'. As a matter of fact, war not only modifies the relations existing between belligerents, but it also seriously affects neutral States and their citizens; it is therefore important that these be given the earliest possible notice. It is hardly to be supposed that, with the present

[1] Resolutions of the Institute of International Law (New York, 1916), p. 164

rapid spread of news, much time will elapse before it is everywhere known that a war has broken out, or that a State will be able to invoke its ignorance of the existence of a war in order to evade all responsibility. But as it is possible, in spite of telegraph and cable lines and radiotelegraphy, that the news might not of itself reach those concerned, precautions must be taken. Accordingly two amendments were offered. The first, from the Belgian delegation, was as follows: 'The existence of a state of war must be notified to the neutral Powers. This notification, which may be given even by telegraph, shall not take effect in regard to them until forty-eight hours after its receipt.'[1] The other, offered by the British delegation, in an article contained in a proposal submitted to the Third Commission and referred to this subcommission, said: 'A neutral State is bound to take measures to preserve its neutrality only when it has received from one of the belligerents a notification of the commencement of the war.'[2]

The Belgian amendment was intended merely to put neutral States in a position to discharge their obligations, but as it might be differently interpreted, if taken literally it was modified. It did not, however, even as amended, receive the approval of the Commission.

The view which has been adopted is that it is impracticable to fix any delay. The governing idea is a very simple one. A State can be held to duties of neutrality only when it is aware of the existence of the war creating such duties. From the moment when it is informed, no matter by what means (provided there is no doubt of the fact), it must not do anything inconsistent with neutrality. Is it at the same time obliged to prevent acts contrary to neutrality that might be committed on its territory? The obligation to do so presupposes the ability. What can be required of a neutral Government is that it take the necessary measures without delay. The interval within which the measures can be taken will vary, naturally, according to circumstances, extent of territory, and facility of communication. The interval of forty-eight hours, as was proposed, might be, in a given case, too long or too short. There is no need of establishing a legal presumption that the neutral is or is not responsible. It is a question of fact which can be determined usually with but little difficulty.

The subcommission therefore confined itself to the following draft:

> The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification, which may, however, be given by telegraph.

1 Actes et documents, vol. iii, p. 254, annexe 21
2 Ibid., p. 695, annexe 44; post, p. 870.

In the committee of examination it was pointed out that the rule phrased in this way is too positive, since it implies that a neutral Government which through some circumstance or other had not received the notification provided for, even though it is unquestionably aware of the existence of a war, could evade all responsibility for its acts, simply by relying on the absence of a notification. The essential point would seem to be that a Government must be aware of the existence of a state of war in order to take necessary measures. Proof is easy when a notification is given; but if there has been no notification, the belligerent who complains of a violation of neutrality must clearly establish that the existence of the war was with certainty known in the country where the alleged unlawful acts took place.

After a discussion the majority of the committee decided to add the following clause:

> However, it is understood that neutral Powers cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

This text was accepted by the Commission and seems to take all interests sufficiently into account.

It has been asked what form ought to be given to the provisions thus adopted. Shall they be placed in a special convention or delcaration? Or shall they be emodied in the Regulations of 1899 on the laws and customs of war on land? Without wishing to trespass on the field of the drafting committee, it is proper to say that the latter mode may be dismissed from consideration since the provisions are of a general character applying to naval war as well as to war on land. Besides, provisions respecting the duties of neutrals do not ordinarily fall within the scope of regulations intended to serve as instructions for troops. We might consider combining all the provisions concerning neutrals adopted by the Second and Third Commissions; but it should be borne in mind that our Article 2 is closely related to Article 1 and ought not to be separated from it. The drafting committee, however, will have the final decision.

We have the honour, therefore, to submit to the Conference the two following propositions:

ANNEX 1[1]

DRAFT OF REGULATIONS RELATING TO THE OPENING OF HOSTILITIES
Text submitted to the Conference

[1] Actes et documents, vol. i, p. 136, annexe C. This project was adopted unanimously by the Conference, September 7. For its subsequent history in the Drafting Committee, see ante, p. 223.

ARTICLE 1

The contracting Powers recognize that hostilities between themselves must not commence without a previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.

ARTICLE 2

The existence of a state of war must be notified to the neutral Powers without delay, and shall not take effect in regard to them until after the receipt of a notification, which may, however, be given by telegraph. However, it is understood that neutral Powers cannot rely on the absence of notification if it is clearly established that they were in fact aware of the existence of a state of war.

ANNEX 2[1]

QUESTIONNAIRE PREPARED BY HIS EXCELLENCY MR. T.M.C. ASSER, PRESIDENT OF THE SECOND SUBCOMMISSION OF THE SECOND COMMISSION, TO SERVE AS A BASIS FOR DISCUSSION.

1

Is it desirable to establish an international understanding relative to the opening of hostilities:

(On the supposition of an affirmative response to this question:)

2

Is it best to require that the opening of hostilities be preceded by a declaration of war or an equivalent act?

3

Is it best to fix upon a time which must elapse between the notification of such an act and the opening of hostilities?

4

Should it be stipulated that the declaration of war or equivalent act be notified to neutrals?
And by whom?

5

What should be the consequences of a failure to observe the preceding rules?

6

What is the diplomatic form in which it is best to set out the understanding?

[1] Ibid., vol. iii, p. 253, annexe 19

Defense Doc. #154

ANNEX 3[1]

PROPOSAL OF THE NETHERLAND DELEGATION. AMENDMENTS TO THE PROPOSAL OF THE FRENCH DELEGATION

ARTICLE 1

The contracting Powers recognize that hostilities between themselves must not commence until the lapse of twenty-four hours after an explicit warning, having the form of a reasoned declaration of war, or of an ultimatum with conditional declaration of war, has officially come to the attention of the adversary's Government.

ARTICLE 2

The existence of a state of war must be notified to the neutral Powers without delay and shall not begin with regard to them until after the notification thereof has officially come to their attention.

1 Actes et documents, vol. iii, p. 254, annexe 22.

2316

Def. Doc. # 471

TREATY OF COMMERCE AND NAVIGATION.

Signed at Washington, in English, February 21, 1911 (44th Year of Meiji).
Ratified March 30, 1911.
Ratifications exchanged at Tokio, April 4, 1911.
Promulgated April 4, 1911.

His Majesty the Emperor of Japan and the President of the United States of America, being desirous to strengthen the relations of amity and good understanding which happily exist between the two nations, and believing that the fixation in a manner clear and positive of the rules which are hereafter to govern the commercial intercourse between their respective countries will contribute to the realization of this most desirable result, have resolved to conclude a Treaty of Commerce and Navigation for that purpose, and to that end have named their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America; and

The President of the United States of America, Philander C. Knox, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE 1.

The subjects or citizens of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native subjects or citizens, submitting themselves to the laws and regulations there established.

They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native subjects or citizens.

The subjects or citizens of each of the High Contracting Parties shall receive, in the territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to native subjects or citizens, on their submitting themselves to the conditions imposed upon the native subjects or citizens.

They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia; from all contributions imposed in lieu of personal service, and from all forced loans or military exactions or contributions.

ARTICLE 2.

The dwellings, warehouses, manufactories and shops of the subjects or citizens of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE 3.

Each of the High Contracting Parties may appoint Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents in all ports, cities and places of the other, except in those where it may not be convenient to recognize such officers. This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to all other Powers.

Such Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents, having received exequaturs or other sufficient authorizations from the Government of the country to which they are appointed, shall, on condition of reciprocity, have the right to exercise the functions and to enjoy the exemptions and immunities which are or may hereafter be granted to the consular officers of the same rank of the most favored nation. The Government issuing exequaturs or other authorizations may in its discretion cancel the same on communicating the reasons for which it thought proper to do so.

ARTICLE 4.

There shall be between the territories of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects or citizens of each of the Contracting Parties, equally with the subjects or citizens of

the most favored nation, shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other which are or may be opened to foreign commerce, subject always to the laws of the country to which they thus come.

ARTICLE 5.

The import duties on articles, the produce or manufacture of the territories of one of the High Contracting Parties, upon importation into the territories of the other, shall henceforth be regulated either by special arrangements between the two countries or by the internal legislation of each.

Neither Contracting Party shall impose any other or higher duties or charges on the exportation of any article to the territories of the other than are or may be payable on the exportation of the like article to any other foreign country.

Nor shall any prohibition be imposed by either country on the importation or exportation of any article from or to the territories of the other which shall not equally extend to the like article imported from or exported to any other country. The last provision is not, however, applicable to prohibitions or restrictions maintained or imposed as sanitary measures or for purposes of protecting animals and useful plants.

ARTICLE 6.

The subjects or citizens of each of the High Contracting Parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment with native subjects or citizens in all that relates to warehousing, bounties, facilities and drawbacks.

ARTICLE 7.

Limited-liability and other companies and associations, commercial, industrial, and financial, already or hereafter to be organized in accordance with the laws of either High Contracting Party and domiciled in the territories of such Party, are authorized, in the territories of the other, to exercise their rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other Party.

The foregoingstipulation has no bearing upon the question whether a company or association organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the laws and regulations enacted or established in the respective countries or in any part thereof.

ARTICLE 8

All articles which are or may be legally imported into the ports of either High Contracting Party from foreign countries in national vessels may likewise be imported into those ports in vessels of the other Contracting Party, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in national vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place of origin or from any other foreign place.

In the same manner, there shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the territories of each of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese vessels or in vessels of the United States, and whatever may be the place of destination, whether a port of the other Party or of any third Power.

ARTICLE 9.

In all that regards the stationing, loading and unloading of vessels in the ports of the territories of the High Contracting Parties, no privileges shall be granted by either Party to national vessels which are not equally, in like cases, granted to the vessels of the other country; the intention of the Contracting Parties being that in these respects the respective vessels shall be treated on the footing of perfect equality.

ARTICLE 10.

Merchant vessles navigating under the flag of Japan or that of the United States and carrying the papers required by their national laws to prove their nationality shall in the United States and in Japan be deemed to be vessels of Japan or of the United States, respectively.

ARTICLE 11.

No duties of tonnage, harbor, pilotage, light-house, quarantine, or other similar or corresponding duties of whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments or any kind shall be imposed in the ports of the territories of either country upon the vessels of the other which shall not equally, under the same conditons, be imposed on national vessels in general, or on vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels from whatever place they may arrive and whatever may be theirplace of destination.

ARTICLE 12.

Vessels charged with performance of regular scheduled postal service of one of the High Contracting Parties, whether belonging to the State or subsidized by it for the purpose, shall enjoy, in the ports of the territories of the other, the same facilities, privileges and immunities as are granted to like vessels of the most favored nation.

ARTICLE 13.

The coasting trade of the High Contracting Parties is excepted from the provisions of the present Treaty and shall be regulated according to the laws of Japan and the United States, respectively. It is, however, understood that the subjects or citizens of either Contracting Party shall enjoy in this respect most favored-nation treatment in the territories of the other.

A vessel of one of the Contracting Parties, laden in a foreign country with cargo destined for two or more ports of entry in the territories of the other, may discharge a portion of her cargo at one of the said ports, and, continuing her voyage to the other port or ports of destination, there discharge the remainder of her cargo, subject always to the laws, tariffs and customs regulations of the country of destination; and, in like manner and under the same reservation, the vessels of one of the Contracting Parties shall be permitted to load at several ports of the other for the same outward voyages.

ARTICLE 14.

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, in all that concerns

commerce and navigation, any privilege, favor or immunity which either Contracting Party has actually granted, or may hereafter grant, to the subjects or citizens of any other State shall be extended to the subjects or citizens of the other Contracting Party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions, if the concession shall have been conditional.

ARTICLE 15.

The subjects or citizens of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native subjects or citizens in regard to patents, trademarks and designs, upon fulfillment of the formalities prescribed by law.

ARTICLE 16.

The present Treaty shall, from the date on which it enters into operation, supersede the Treaty of Commerce and Navigation dated the 22nd day of November, 1894; and from the same date the last-named Treaty shall cease to be binding.

ARTICLE 17.

The present Treaty shall enter into operation on the 17th of July, 1911, and shall remain in force twelve years or until the expiration of six 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 case neither of the Contracting Paties shall have given notice to the other six months before the expiration of the said period of twelve years of its intention to terminate the Treaty, it shall continue operative until the expiration of six months from the date on which either Party shall have given such notice.

ARTICLE 18.

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible and not later than three months from the present date.

In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of the 2nd month of the 44th year of Meiji, corresponding to the 21st day of February in the nineteen hundred and eleventh year of the Christian era.

(Signed) Y. UCHIDA. (L.S.)
(Signed) PHILANDER C. KNOX. (L.S.)

PROTOCOL

The Government of Japan and the Government of the United States of America have, through their respective Plenipotentiaries, agreed upon the following stipulation in regard to Article V of the Treaty of Commerce and Navigation between Japan and the United States signed this day to replace on the 17th of July, 1911, the Treaty of the 22nd of November, 1894:

Pending the conclusion of a special arrangement relating to tariff, the provisions relating to tariff in the Treaty of the 22nd of November, 1894, Shall be maintained.

In witness whereof, the respective Plenipotentiaries have signed this Protocol in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of the 2nd month of the 44th year of Meiji, corresponding to the 21st day of February, in the nineteen hundred and eleventh year of the Christian era.

(Signed) Y. UCHIDA. (L.S.)
(Signed) PHILANDER C. KNOX. (L.S.)

AMENDMENTS TO THE FOREGOING TREATY AND PROTOCOL PROPOSED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND AGREED TO BY THE IMPERIAL JAPANESE GOVERNMENT, PRIOR TO RATIFICATION.

1. Strike out, in the first paragraph of Article V of the Treaty, the words "special arrangements," and substitute therefor the word "treaty", so that the clause shall read "shall henceforth be regulated either by treaty between the two countries or by the internal legislation of each."

2. Strike out, in the first line of the second paragraph of the Protocol, the words "special arrangement," and substitute therefor the word "treaty," so that the phrase shall read "pending the conclusion of a treaty relating to tariff."

DEF. DOC. # 52.

Exchange of Notes Regarding China between K. ISHII and ROBERT LANSING, November 2, 1917

3317

From the Secretary of State to Viscount ISHII.

Department of State,

Washington,

November 2, 1917.

Excellency:

I have the honor 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 recognize that territorial propinquity creates special relations between countries, and, consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the 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

DEF. DOC. # 52.

the trade of other nations or to disregard the commercial rights heretofore granted by China in 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 for 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 shall be glad to have Your Excellency confirm this understanding of the agreement reached by us.

Accept, Excellency, etc., etc., etc.

ROBERT LANSING.

DEF. DOC. # 52.

Exchange of Notes Regarding China
between K. ISHII and ROBERT LANSING,
November 2, 1917

From Viscount Ishii to the Secretary of State.

Japanese Embassy,

Washington,

November 2, 1917.

Sir:

I have the honor 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 authorization of my Government, the understanding in 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 Government of Japan and the United States recognize that territorial propinquity creates special relations between countries, and, consequently the Government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous.

The territorial sovereignty of China, nevertheless, remains

DEF. DOC. # 52.

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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 for 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 etc., etc., etc.

K. ISHII.

Ambassador Extraordinary and

Plenipotentiary on Special Mission

DEF. DOC. # 52.

CERTIFICATE

Statement of Source and Authenticity

I, SHIMODA Takeso, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached consisting of ___2___ pages and entitled "Exchange of Notes Regarding China between K, ISHII and ROBERT LANSING, November 2, 1917" is an Exact and true copy of an official document of Japanese Foreign Office

Signed at Tokyo

on this ___6th___ day of August, 1946

(Signed) T. SHIMODA
Signature of Official

Witness: (Signed) Nagaharu ODO

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DEF. DOC. #152

AGREEMENT EFFECTED BY EXCHANGE OF NOTES CANCELLING THE ISHII-LANSING AGREEMENT OF NOVEMBER 2, 1917.

Dated at Washington, April 14, 1923 (12th year of Taisho)
Published April 16, 1923.

From the Secretary of State to the Japanese Ambassador.

Department of State,

Washington,

April 14, 1923.

Excellency:

I have the honor to communicate to Your Excellency my understanding of the views developed by the discussions which I had recently with your Embassy in reference to the status of the Lansing-Ishii exchange of notes of November 2, 1917.

The discussions between the two Governments have disclosed an identity of views and, in the light of the understandings arrived at by the Washington Conference on the Limitation of Armament, the American and Japanese Governments are agreed to consider the Lansing-Ishii correspondence of November 2, 1917, as cancelled and of no further force of effect.

I shall be glad to have your confirmation of the accord that is reached.

Accept, Excellency, etc., etc., etc.

(Signed) CHARLES E. HUGHES.

DEF. DOC. #152

From Japanese Ambassador to the Secretary of State.

Japanese Embassy,

Washington,

April 14, 1923.

Sir :-

I have the honor to acknowledge the receipt of your note of to-day's date, communicating to me your understanding of the views developed by the discussions which you have recently had with this Embassy in reference to the status of the Ishii-Lansing exchange of notes of November 2, 1917.

I am happy to be able to confirm to you, under instructions from my Government, your understanding of the views thus developed, as set forth in the following terms: -

The discussions between the two Governments have disclosed an identity of views and, in the light of the understandings arrived at by the Washington Conference on the Limitation of Armament, the Japanese and American Government are agreed to consider the Ishii-Lansing correspondence of November 2, 1917, as cancelled and of no further force of effect.

Accept, Sir, etc., etc., etc.

(Signed) M. HANIHARA.

DEF. DOC. #152

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 2 pages and entitled" Agreement effected by Exchange of Notes cancelling the Ishii-Lansing Agreement of November 2, 1917. " is an exact and true copy of an official document of the Japanese Foreign Office.

Certified at Tokyo, on this 17th day of December, 1946.

K, Hayashi
Signature of Official

Witness: Nagaharu Odo

Def. Doc. # 200-H.

3319

EXCERPT FROM CONFERENCE ON THE LIMITATION OF ARMAMENT, NOV 1921-FEB. 1922, PAGES 278, 324-338.

SIXTH PLENARY SESSION.
WASHINGTON, SATURDAY, FEBRUARY 4, 1922.

The Sixth Plenary Session of the Conference on the Limitation of Armament, in connection with which Pacific and Far Eastern questions will also be discussed, was held at Washington on Saturday, February 4, 1922, at 10.30 o'clock a.m., in Memorial Continental Hall. The Chairman, the Honorable Charles Evans Hughes, Secretary of State of the United States of America, Presided.

THE CHAIRMAN (Speaking in English): At the last Plenary Session of the Conference I had the pleasure of stating that the Chinese and Japanese Delegates had informed me that they had agreed upon a settlement of the controversy relating to Shantung. I now have the pleasure of stating that I am informed by the Chinese and Japanese representatives that the proposed Treaty on the question of Shantung has been agreed upon, the form of text approved, and the Treaty is ready for signature. (Applause.)

I am directed by the Committee on Pacific and Far Eastern Questions to read, for the purpose of having the statements formally placed upon the records of the Conference, the following declarations with respect to the so-called Twenty-one Demands or the Sino-Japanese Treaties and Notes of 1915.

The first statement that I shall read is the statement made in the Committee by Baron Shidehara on behalf of the Japanese Government. It is as follows:

"At a previous session of this Committee, the Chinese Delegation presented a statement urging that the Sino-Japanese Treaties and Notes of 1915 be reconsidered and cancelled. The Japanese Delegation, while appreciating the difficult position of the Chinese Delegation, does not feel at liberty to concur in the procedure now resorted to by China with a view to cancellation of international engagements which she entered into as a free sovereign nation

"It is presumed that the Chinese Delegation has no intention of calling in question the legal validity of the compacts of 1915, which were formally signed and sealed by the duly authorized representatives of the two Governments and for which the exchange of ratifications was effected in conformity with established international usages. The insistence by China on the cancellation of those instruments would in itself indicate that she shares the view that the compacts actually remain in force and will continue to be effective, unless and until they are cancelled.

"Its is evident that no nation can have given ready consent to cessions of its territorial or other rights of importance. If it should once be recognized that rights solemnly granted by treaty may be revoked at any time on the ground that they were conceded against the spontaneous will of the grantor, an exceedingly dangerous precedent will be established, with far-reaching consequences upon the stability of the existing international relations in Asia, in Europe and everywhere.

"The statement of the Chinese Delegation under review declares that China accepted the Japanese demands in 1915, hoping that a day would come when she should have the opportunity of bringing them up for reconsideration and cancellation. It is, however, difficult to understand the meaning ofthis assertion. It can not be the intention of the Chinese Delegation to intimate th that China may conclude a treaty, with any thought in mind of breaking it at the first opportunity.

"The Chinese Delegation maintains that the Treaties and Notes in question are derogatory to the principles adopted by the Conference with regard to China's sovereignty and independence. It has, however, been held by the Conference on more than one occasion that concessions made by China Ex contractu, in the exercise of her own sovereign rights, can not be regarded as inconsistent with her sovereignty and independence.

"It should also be pointed out that the term 'Twenty-one Demands,' often used to denote the Treaties and Notes of 1915, is inaccurate and grossly misleading. It may give rise to an erroneous impression that the whole original proposals of Japan had been pressed by Japan and accepted in toto by China. As a matter of fact, not only 'Group V,' but also several other matter contained in Japan's first proposals, were eliminated entirely or modified considerably, in deference to the wishes of the Chinese Government, when the final formula was presented to China for acceptance. Official records published by the two Governments relating to those negotiations will further show that the most important terms of the Treaties and notes, as signed, had already been virtually agreed to by the Chinese negotiators before the delivery of the ultimatum, which then seemed to the Japanese Government the only way of bringing the protracted negotiations to a speedy close.

"The Japanese Delegation cannot bring itself to the conclusion that any useful purpose will be served by research and re-examination at this Conference of old grievances which one of the nations represented here may have against another. It will be more in line with the high aim of the Conference to look forward to the future with hope and confidence.

"Having in view, however, the changes which have taken place in the situation since the conclusion of the Sino-Japanese Treaties and Notes of 1915, the Japanese Delegation is happy to avail itself of the present occasion to make the following declaration:

"1. Japan is ready to throw open to the joint activity of the International Financial Consortium recently organized, the right of option granted exclusively in favor of Japanese capital, with regard, first, to loans for the construction of railways in South Manchuria and Eastern Inner Mongolia, and, second, to loans to be secured on taxes in that region; it being understood that nothing in the present declaration shall be held to imply any modification or annulment of the understanding recorded in the officially announced notes and memoranda which where exchanged among the Governments of the countries represented in the Consortium and also among the national financial groups composing the Consortium, in relation to the scope of the joint activity of that organization.

"2. Japan has no intention of insisting on her preferenntial right under the Sino-Japanese arrangements in question concerning the engagement by China of Japanese advisers or instructors on political, financial, military or police matters in South Manchuria.

"3 Japan is further ready to withdraw the reservation which she made, in proceeding to the signature of the Sino-Japanese Treaties and Notes of 1915, to the effect that Group V of the original proposals of the Japanese Government would be postponed for future negotiations.

"It would be needless to add that all matters relating to Shantung contained in those Treaties and Notes have now been definitely adjusted and disposed of.

"In coming to this decision, which I have had the honor to announce, Japan has been guided by a spirit of fairness and moderation having always in view China sovereign rights and the principle of equal opportunity."

In response to that statement made on behalf of the Japanese Government, Mr. Wang, made to the Committee the following statement on behalf of the Chinese Delegation:

"The Chinese Delegation has taken note of the statement of Baron Shidehara made at yesterday's session of the Committee (30th meeting Feb. 2, 1922) with reference to the Sino-Japanese Treaties and notes of May 25, 1915.

"The Chinese Delegation learns with satisfaction that Japan is now ready to throw open to the joint activity of the banking interests of other Powers the right of option granted exclusively in favor of Japanese capital with regard, first, to loans for the construction of railways in South Manchuria and Eastern Inner Mongolia, and, second, to loans secured on taxes in that region; and that Japan has no intention of insisting upon a preferential right concerning the engagement by China of Japanese advisers or instructors on political, financial, military or police matters in South Manchuria; also that Japan now withdraws the reservation which she made to the effect that Group V of her original demands upon China should be postponed for future negotiation.

"The Chinese Delegation greatly regrets that the Government of Japan should not have been led to renounce the other claims predicated upon the Treaties and Notes of 1915.

"The Japanese Delegation expressed the opinion that abrogation of these agreements would constitute 'an exceedingly dangerous precedent,' with far-reaching consequences upon the stability of the existing international relations in Asia, in Europe and everyhere.

"The Chinese Delegation has the honor to say that a still more dangerous precedent will be established with consequences upon the stability of international relations which can not be estimated, if without rebuke or protest from other Powers, one nation can obtain from a friendly, but, in a military sense, weaker neighbor, and under circumstances such as attended the negotiation and signing of the Treaties of 1915, valuable concessions which were not in satisfaction of pending controversies and for which no quid pro quo was offered. These Treaties and Notes stand out, indeed, unique in the annals of international relations. History records scarcely another instance in which demands of such a serious character as those which Japan presented to China in 1915, have, without even pretense of provocation, been suddenly presented by one nation to another nation

with which it was at the time in friendly relations.

"No apprehension need be entertained that the abrogation of the agreements of 1915 will serve as a precedent for the annulment of other agreements, since it is confidently hoped that the future will furnish no such similar occurrence.

"So exceptional were the conditions under which the agreements of 1915 were negotiated, that the Government of the United States felt justified in referring to them in the identic note of May 13, 1915, which it sent to the Chinese and Japanese Governments, That note began with the statement that 'In view of the circumstances of the negotiations which have taken place and which are now pending between the Government of China and the Government of Japan and the agreements which have been reached as a result thereof, the Government of the United States had the honor to notify the Government of (the Chinese Republic--Japan) that it cannot recognize any agreement or undertaking which has been entered into or which may be entered into between the Governments of China and Japan impairing the treaty rights of the United States and its citizens in China, the political or territorial integrity of the Republic of China, or the international policy relative to China commonly known as the open door policy.

"Conscious of her obligations to the other Powers, the Chinese Government, immediately after signing the agreements, published a formal statement protesting against the agreements which she had been compeled to sign, and disclaiming responsibility for consequent violations of treaty rights of the other Powers. In the statement thus issued, the Chinese Government declared that although they were 'constrained to comply in full with the terms of the (Japanese) ultimatum' they nevertheless 'disclaim any desire to associate themselves with any revision, which may be thus effected, of the various conventions and agreements concluded between other Powers in respect of the maintenance of China's territorial independence and integrity, the preservation of the sttus quo, and the principle of equal opportunity for the commerce and industry of all nations in China.

"Because of the essential injustice of these provisions, the Chinese Delegation, acting in behalf of the Chinese Government and of the Chinese people, has felt itself in duty bound to present to this Conference, representing the Powers with substantial interests in the Far East, the question as to the equity and justice of these agreements and therefore as to their fundamantal validity.

"If Japan is disposed to rely solely upon a claim as to the technical or juristic validity of the agreements of 1915, as having been actually signed in due form by the two Governments, it my be said that, so far as this Conference is concerned, the contention is largely irrelevant, for this gathering of the representatives of the nine Powers has not had for its purpose the maintenance of the legal status quo. Upon the contrary, the purpose has been, if possible, to bring about such changes in existing conditions upon the Pacific and in the Far East as might be expected to promote that enduring friendship among the nations of which the Presi-

dent of the United States spoke in his letter of invitation to the Powers to participate in this Conference.

"For the following reasons, therefore, the Chinese Delegation is of the opinion that the Sino-Japanese Treaties and Exchange of Notes of May 25, 1915, should form the subject of impartial examination with a view to their abrogation:

"1. In exchange for the concessions demanded of China, Japan offered no quid pro quo. The benefits derived from the agreements were wholly unilateral.

"2. The agreements, in important respects, are in violation of treaties between China and the other Powers.

"3. The agreements are inconsistent with the principles relating to China which have been adopted by the Conference.

"4. The agreements have engendered constant misunderstandings between China and Japan, and, if not abrogated, will necessarily tend, in the future, to disturb friendly relations between the two countries, and will thus constitute an obstacle in the way of realizing the purpose for the attainment of which this Conference was convened. As to this, the Chinese Delegation, by way of conclusion, can, perhaps, do no better than quote from a Resolution introduced in the Japanese Parliament, in June, 1915, by Mr. Hara, later premier of Japan, a Resolution which received the support of some 130 of the members of the Parliament.

"The Resolution reads:

"'Resolved, that the negotiations carried on with China by the present Government have been inappropriate in every respect; that they are detrimental to the amicable relationship between the two countries, and provocative of suspicions on the part of the Powers; that they have the effect of lowering the prestige of the Japanese Empire; and that, while far from capable of establishing the foundation of peace in the Far East, they will form the source of future trouble'.

"The foregoing declaration has been made in order that the Chinese Government may have upon record the view which it takes, and will continue to take, regarding the Sino-Japanese Treaties and Exchange of Notes of May 25, 1915."

Thereupon, on behalf of the American Government, I stated to the Committee the position of the Government of the United States:

"The important statement made by Baron Shidehara on behalf of the Japanese Government makes it appropriate that I should refer to the position of the Government of the United States as it was set forth in identical notes addressed by that Government to the Chinese Government and to the Japanese Government on May 13, 1915.

"T "The note to the Chinese Government was as follows:

"'In view of the circumstances of the negotiations which have taken place and which are now pending between the Government of China and the Government of Japan and of the Agreements which have been reached as a result thereof, the Government of the United States has the honor to notify the Government of the Chinese Republic that it cannot recognize any agreement or undertaking which has been entered into or which may be entered into between the Governments of China and Japan impairing the treaty rights of the United States and its citizens in China, the political or territorial integrity of the Republic of China, or the international policy relative to China commonly known as the open door policy.

"'An identical Note has been transmitted to the Imperial Japanese Government.'

"That statement was in accord with the historic policy of the United States in its relation to China, and its position as thus stated has been , and still is, consistently maintained.

"It has been gratifying to learn that the matters concerning Shantung, which formed the substance of Group I of the original demands, and were the subject of the Treaty and Exchange of Notes with respect to the Province of Shantung, have been settled to the mutual satisfaction of the two parties by negotiations conducted collaterally with this Confernce, as reported to the Plenary Session on February 1st.

"It is also gratifying to be advised by the statement made by Baron Shidehara, on behalf ofthe Japanese Government, that Japan is now ready to withdraw the reservation which she made, in proceeding to the signature of the Treaties and Notes of 1915, to the effect that Group V of the Original proposals of the Japanese Government--namely, those concerning the employment of influential Japanese as political, financial and military advisers; land for schools and hospitals; certain railways in South China; the supply of arms, and the right of preaching--would be postponed for future negotiations. This definite withdrawal of the outstanding questions under Group V removes what has been an occasion for considerable apprehension on the part alike of China and of foreign nations, which felt that the renewal of these demands could not but prejudice the principles of the integrity of China and of the open door.

"With respect to the Treaty and the Notes concerning South Manchuria and Eastern Inner Mongolia, Baron Shidehara has made the reassuring statement that Japan has no intention of insisting on a preferential right concerning the engagement by China of Japanese advisers or instructor on political, financial, military or police matters in South Manchuria.

"Baron Shidehara has likewise indicated the readiness of Japan not to insist upon the right of option granted exclusively in favor of Japanese capital with regard, first, to loans for the construction of railways in South Manchuria and Eastern Inner Mongolia; and, second, with regard to loans secured on the taxes of those regions; but that Japan will throw them open to the joint activity of the Interna-

tional Financial Consortium recently organized.

"As to this, I may say that it is doubtless the fact that any enterprise of the character contemplated, which may be undertaken in these regions by foreign capital, would in all probability be undertaken by the Consortium. But it should be observed that existing treaties would leave the opportunity for such enterprises open on terms of equality to the citizens of all nations. It can scarcely be assumed that this general right of the treaty Powers in China can be effectively restricted to the nationals of those countries which are participants in the work of the Consortium, or that any of the Governments which have taken part in the organization of the Consortium would feel themselves to be in a position to deny all rights in the matter to any save the members of their respective national group in that organization. I therefore trust that it is in this sense that we may properly interpret the Japanese Government's declaration of willingness to relinquish its calim under the 1915 Treaties to any exclusive position with respect to railway construction and to financial operations secured upon local revenues, in South Manchuria and Eastern Inner Mongolia.

"It is further to be pointed out that by Articles II, III and IV of the Treaty of May 25, 1915, with respect to South Manchuria and Eastern Inner Mongolia, the Chinese Government granted to Japanese subjects the right to lease land for building purposes, for trade and manufacture, and for agricultural purposes in South Manchuria, to reside and travel in South Manchuria, and to engage in any kind of business and manufacture there, and to enter into joint undertakings with Chinese citizens in agriculture and similar industries in Eastern Inner Mongolia.

"With respect to this grant, the Government of the United States will, of course, regard it as not intended to be exclusive, and, as in the past, will claim from the Chinese Government for American citizens the benefits accruing to them by virtue of the most favored nation clauses in the treaties between the United States and China.

"I may pause here to remark that the question of the validity of treaties as between Japan and China is distinct from the question of the treaty rights of the United States under its treaties with China; these rights have been emphasized and consistently asserted by the United States.

"In this, as in all matters similarly affecting the general right of its citizens to engage in commercial and industrial enterprises in China, it has been the traditional policy of the American Government to insist upon the doctrine of equality for the nationals of all countries, and this policy, together with the other policies mentioned in the Note of May 13, 1915, which I have quoted, are consistently maintained by this Government. I may say that it is with especial pleasure that the Government of the United States finds itself now engaged in the act of reaffirming and defining, and I hope that I may add, revitalizing, by the proposed Nine Power Treaty, these policies with respect to China" (Applause.)

After these statements it was proposed and decided in the Committed that the statements thus made should be reported to the Con-

ference to be spread upon its record. In the course of the vote Mr. Koo stated in the Committee that his colleagues and he himself desired to indorse the Chairman's suggestion that all of the statements on this very important question should be spread upon the records of the Conference, it being understood of course that the Chinese Delegation reserved their right to seek a solution on all future appropriate occasions concerning those portions of the Treaties and Notes of 1915 which did not appear to have been expressly relinquished by the Japanese Government. The Chairman stated:

"Of course it is understood that the rights of all Powers are reserved with respect to the matters mentioned by Mr. Koo."

The question now is upon the approval of the Resolution that these statements be spread upon the minutes of the Conference as a part of its permanent record. Do you desire to discuss it?

The United States of America assents.
Belgium?
Baron de Cartier assented.
The Chairman: The British Empire?
Mr. Balfour assented.
The Chairman: China?
Mr. Sze assented.
The Chairman: France?
Mr. Sarraut assented.
The Chairman: Italy?
Senator Schanzer assented.
The Chairman: Japan?
Admiral Baron Kato assented.
The Chairman: The Netherlands?
Jonkheer Beelaerts van Blokland assented.
The Chairman: Portugal?
Viscount d'Alte assented.
The Chairman: It is so ordered.

23197

I... ens Document 200-A

Excerpts from
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Pages 888, 891, 892.

Committee on Pacific and Far Eastern Questions
Third Meeting, Monday, November 21, 1921, 4 P.M.
Columbus Room, Pan American Building
Present:

UNITED STATES: Mr. Hughes, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.

BELGIUM: Baron de Cartier. Accompanied by Mr. Silvercruys, Mr. Cattier.

BRITISH EMPIRE: Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lampson.

CHINA: Mr. Sze, Mr. Koo, Mr. Wang. Accompanied by Mr. Tyau, Mr. Chao, Mr. Zee.

FRANCE: Mr. Briand, Mr. Viviani, Mr. Sarraut, Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Massigli.

ITALY: Senator Schanzer, Senator Rolandi Ricci, Senator Albertini. Accompanied by Marquis Visconti-Venosta, Mr. Cora.

JAPAN: Admiral Baron Kato, Prince Tokugawa. Accompanied by Mr. Hanihara, Mr. Saburi, Mr. Ichihashi.

THE NETHERLANDS: Jonkheer van Karnebeek, Jonkheer Beelaerts van Blokland, Mr. de Kat Angelino.

PORTUGAL: Viscount d'Alte, Captain Vasconcellos.

The Secretary General. Assisted by Mr. Pierrepont.

Interpreter, Mr. Camerlynck.

ADMIRAL BARON KATO asked the meaning of the phrase "administrative integrity" as used in the proposed Resolution. He desired to know if this referred to political independence, and was not intended to touch upon interests or privileges which in the past had been granted to various countries.

MR. ROOT took the inquiry of Baron Kato to refer to the meaning of the words "administrative integrity" with reference to their effect upon privileges that had already been granted. He replied that this phrase certainly did not affect any privileges accorded by valid or effective grants; that, on the contrary, respect for the administrative integrity of a country required respect for the things that are done in the exercise of its full sovereignty by an independent State.

Defense Document 200-B

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Pages 986, 1004, 1006, 1012, 1014.

Committee on Pacific and Far Eastern Questions
Ninth Meeting, Tuesday, November 29, 1921, 11 A.M.
Columbus Room, Pan American Building

Present

UNITED STATES: Mr. Hughes, Senator Lodge, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.
BELGIUM: Baron de Cartier. Accompanied by Mr. Le Tellier, Mr. Jadot, Mr. Cattier.
BRITISH EMPIRE: Mr. Balfour, Lord Lee, Sir Auckland Geddes, Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lawson.
CHINA: Mr. Sze, Mr. Koo, Mr. Wang, Accompanied by Mr. Tyau, Mr. Chao, Mr. Zee
FRANCE: Mr. Viviani, Mr. Sarraut, Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Massigli.
ITALY: Senator Schanzer, Senator Albertini. Accompanied by Marquis Visconti-Venosta, Mr. Cora, Mr. Fileti.
JAPAN: Admiral Baron Kato, Prince Tokugawa, Mr. Hanihara. Accompanied by Mr. Saburi, Mr. Kimura, Mr. Ichihashi.
THE NETHERLANDS: Jonkheer van Karnebeek, Jonkheer Beelaerts van Blokland, Mr. Moresco. Accompanied by Jonkheer Van Starkenborgh, Mr. de Kat Angelino.
PORTUGAL: Viscount d'Alte, Captain Vasconcellos.
The Secretary General. Assisted by Mr. Pierrepont.
Interpreters, Mr. Camerlynck, Mr. Talamon.

MR. HANIHARA desired on behalf of the Japanese Delegation to state briefly the position of Japan regarding this matter. He did so by reading a statement as follows:

"JAPAN'S ATTITUDE IN REGARD TO THE FOREIGN GARRISONS IN CHINA.

"The Japanese Delegation wishes to explain, as succinctly as possible, why and how the Japanese garrisons in various parts of China have come to be stationed there. At the outset, however, I desire to disclaim most emphatically that Japan has ever entertained any aggressive purposes or any desire to encroach illegitimately upon Chinese sovereignty in establishing or maintaining these garrisons in China.

"(1) Japanese railway guards are actually maintained along the South Manchurian Railway and the Shantung Railway.

"With regard to the Shantung Railway guards, Japan believes that she has on more than one occasion made her position sufficiently clear. She has declared and now reaffirms her intention of withdrawing such guards as soon as China shall have notified her that the Chinese Police Force has been duly organized and is ready to take over the charge of the railway protection.

"The maintenance of troops along the South Manchurian Railway stands on a different footing. This is conceded and recognized by China under the Treaty of Peking of 1905. (Additional Agreement, Art. II). It is a measure of absolute necessity under the existing state of affairs in Manchuria--a region which has been made notorious by the activity of mounted bandits. Even in the presence of Japanese troops, those bandits have made repeated attempts to raid the railway zone. In a large number of cases they have cut telegraph lines and committed other acts of ravage. Their lawless activity on an extended scale has, however, been effectively checked by Japanese railway guards, and general security has been maintained for civilian residents in and around the railway zone. The efficiency of such guards will be made all the more significant by a comparison of the conditions prevailing in the railway zone with those prevailing in the districts remote from the railway The withdrawal of railway guards from the zone of the South Manchurian Railway will no doubt leave those districts at the mercy of bandits, and

Pages 986, 1004, 1006, 1012, 1014.

the same conditions of unrest will there prevail as in remote corners of Manchuria. In such a situation it is not possible for Japan to forego the right or rather the duty, of maintaining railway guards in Manchuria, whose presence is duly recognized by treaty.

"(2) Towards the end of 1911 the first Revolution broke out in China, and there was complete disorder in the Hupeh district which formed the base of the revolutionary operations. As the lives and property of foreigners were exposed to danger, Japan together with Great Britain, Russia, Germany, and other principal Powers, dispatched troops to Hankow for the protection of her people. This is how a small number of troops have come to be stationed at Hankow. The region has since been the scene of frequent disturbances; there was recently a clash between the North and South at Changsha, pillage by troops at Ichang, and a mutiny of soldiers at Hankow. Such conditions of unrest have naturally retarded the withdrawal of Japanese troops from Hankow.

"It has never been intended that these troops should remain permanently at Hankow, and the Japanese Government have been looking forward to an early opportunity of effecting complete withdrawal of the Hankow garrison. They must be assured, however, that China will immediately take effective measures for the maintenance of peace and order and for the protection of foreigners, and that she will fully assume the responsibility for the damage that may be or may have been done to foreigners.

"(3) The stationing of the garrisons of foreign countries in North China is recognized by the Chinese Government under the Protocol relating to the Boxer Revolution of 1900. Provided there is no objection from the other countries concerned, Japan will be ready, acting in unison with them, to withdraw her garrison as soon as the actual conditions warrant it.

"(4) The Japanese troops scattered along the lines of the Chinese Eastern Railway have been stationed in connection with an Inter-allied Agreement concluded at Vladivostok in 1919. Their duties are to establish communication between the Japanese contingents in Siberia and South Manchuria. It goes without saying, therefore, that these troops will be withdrawn as soon as the evacuation of Siberia by the Japanese troops is effected."

MR. HANIHARA read the following reply:

"JAPAN'S STATEMENT REGARDING THE MAINTENANCE OF JAPANESE POLICE IN MANCHURIA AND THE TREATY PORTS OF CHINA.

"In considering the question of Japanese Consular police in China, two points must be taken into account.

"(1) Such police do not interfere with Chinese or other foreign nationals. Their functions are strictly confined to the protection and control of Japanese subjects.

"(2) The most important duties with which the Japanese police are charged are, first, to prevent the commission of crimes by Japanese, and, second, to find and prosecute Japanese criminals when crimes are committed.

In view of the geographical proximity of the two countries, it is natural that certain disorderly elements in Japan should move to China, and, taking advantage of the present conditions in that country, should there undertake unlawful activities. When these lawless persons are caught in the act of crime by the Chinese police, it is not difficult for that police force to deal with the case. The culprits are handed over as early as possible to the Japanese authorities for prosecution and trial. But when the criminals flee from the scene of their acts, it is in many cases hard to discover who committed the crimes and what were the causes and circumstances that led up to their commission. This is more difficult for the Chinese authorities, as they have no power to make domiciliary visits to the homes of foreigners who enjoy extraterritorial rights, or to obtain judicial testimony in due form from such foreigners.

"Without the full cooperation of the Japanese police, therefore, the punishment of crime is, in a great many cases, an impossibility, and those who are responsible for lawbreaking escape trial and punishment.

"This tendency is especially evident in Manchuria, in which region hundreds of thousands of Japanese are resident. In places where the Japanese police are stationed, there are far fewer criminal cases among Japanese than

Pages 986, 1004, 1006, 1012, 1014.

in places without Japanese police. Lawless elements constantly move to districts beyond the reach of Japanese police supervision.

"Apart from the theoretical side of the question it will thus be observed that the stationing of Japanese police in the interior of China has proved to be of much practical usefulness in the prevention of crimes among Japanese residents, without interfering with the daily life of Chinese or of other foreign nationals. The Japanese policing provides a protection for the Chinese communities which at present their own organization fails to provide.

"The Japanese delegation is in possession of knowledge and information as to the actual conditions prevailing in China and especially in Manchuria. However, it is unnecessary to go into details at the present stage."

2319C

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Pages 1058, 1064, 1066, 1070.

Committee on Pacific and Far Eastern Questions

Twelfth Meeting, Saturday, December 3, 1921, 11 A. M.
Columbus Room, Pan American Building.

Present.

UNITED STATES; Mr. Hughes, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.
BELGIUM: Baron de Cartier. Accompanied by Mr. Silvercruys, Mr. Jadot, Mr. Cattier.
BRITISH EMPIRE. Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden, (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lampson.
CHINA: Mr.SZe, Mr. Koo, Mr. Wang. Accompanied by Mr. Tyau, Mr. Chao, Mr. Zee.
FRANCE: Mr. Viviani, Mr. Sarraut, Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Massigli, Mr. Duchene, Mr. Garnier.
ITALY: Senator Schanzer, Senator Rolandi Ricci, Senator Albertini. Accompanied by Mr. Cora, Mr. Fileti.
JAPAN. Prince Tokugawa, Mr. Hanihara. Accompanied by Mr. Saburi, Mr. Kimura.
THE NETHERLANDS: Jonkheer van Karnebeek, Jonkheer Beelaerts van Blokland, Mr. Moresco. Accompanied by Jonkheer van Haersma de With, Mr. de Kat Angelino.
PORTUGAL: Viscount D'Alte, Captain Vasconcellos.
The Secretary General. Assisted by Mr. Pierrepont.
Interpreters, Mr. Camerlynck, Mr. Talamon .

MR. HANIHARA, on behalf of the Japanese Delegation, submitted a statement in writing, as follows:

"The leased territories held by Japan at present are Kiaochow and Kwantung Province, namely, Port Arthur and Dairen. It is characteristic of Japan's leased territories that she obtained them, not directly from China, but as successor to other Powers at considerable sacrifice in men and treasure. She succeeded Russia in the leasehold of Kwantung Province with the express consent of China, and she succeeded Germany in the leasehold of Kiaochow under the Treaty of Versailles.

"As to Kiaochow, the Japanese Government have already declared on several occasions that they would restore that leased territory to China. We are prepared to come to an agreement with China on this basis. In fact, there are now going on conversations between representatives of Japan and China regarding this question, initiated through the good offices of Mr. Hughes and Mr. Balfour, the result of which, it is hoped, will be a happy solution of the problem. Therefore, the question of the leased territory of Kiaochow is one which properly calls for separate treatment.

"The only leased territory, therefore, which remains to be discussed at the Conference, so far as Japan is concernd is Kwantung Province, namely, Port Arthur and Dairen. As to that territory, the Japanese delegates desire to make it clear that Japan has no intention at present to relinquish the important rights she has lawfully acquired and at no small sacrifice. The territory in question forms a part of Manchuria--a region where, by reason of its close propinquity to Japan's territory, more than anything else, she has vital interests in that which relates to her economic life and national safety. This fact was recognized and assurance was given by the American, British and French Governments at the time of the formation of the International Consortium, that these vital interests of Japan in the region in question shall be safeguarded.

"In the leased territory of Kwantung Province there reside no less than 65,000 Japanese, and the commercial and industrial interests they have established there are of such importance and magnitude to Japan that they are regarded as an essential part of her economic life.

"It is believed that this attitude of the Japanese Delegation toward the leased territory of Kwantung is not against the principle of the Resolution adopted on November 21st."

Pages 1058, 1064, 1066, 1070.

MR. HANIHARA for Japan had stated that, as had already been known, the matter of Shantung was being dealt with in the course of conversations outside of the Conference, and that he hoped for a happy result. On the other hand, he had pointed out the difference between the status of Japan's rights in Port Arthur and Dalny and those in Kiaochow, and had stated that Japan had no intention of relinquishing the rights acquired in Port Arthur and Dalny.

Mr. Balfour had illustrated the difference between the British leaseholds at Kowloon and Weihaiwei and, with regard to the latter, had shown a willingness on the part of Great Britain to relinquish her rights under conditions similar to those set forth by France, but had pointed out the importance of retaining Kowloon.

Continuing, the Chairman observed that in view of the definite statements by Japan with regard to the retention of her rights in Port Arthur and Dalny, and by Great Britain with regard to her inability to relinquish Kowloon, it was necessary to inquire whether the French proposal to return Kwangchowwan and the British offer to relinquish Weihaiwei might be considered without the proviso which required that all other leaseholds be relinquished. He desired to inquire whether consideration of the Shantung matter could be set aside and whether other leases could be treated on a separate basis, and whether in view of the position taken with regard to the maintenance of Japanese rights in Kwantung Province and British rights in Kowloon, France and Great Britain would make more definite statements.

Mr. Balfour replied that this was a very specific question which his former statement, had it been clearer, would have answered; that he had never intended to imply that any action Great Britain might take with regard to Weihaiwei would be determined or guided by the disposition of the Manchurian question; that he had not had Dalny in mind at all, but had been thinking of the Shantung peninsula, in which Weihaiwei is situated. He then declared that the British Government's policy was to make use of the surrender of Weihaiwei to assist in securing a settlement of the question of Shantung and that, if agreement could be reached on this question, the British Government would not hesitate to do their best to promote a general settlement by restoring Weihaiwei to the central Government of China.

2319E

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Committee on Pacific and Far Eastern Questions.
Twentieth Meeting, Wednesday, January 18, 1922, 11. A.M.
Columbus Room, Pan American Building

Pages: 1244, 1272, 1274

Present

UNITED STATES: Mr. Hughes, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.

BELGIUm: Baron de Cartier. Accompanied by Mr. Tilmont, Mr. de Warzee.

BRITISH EMPIRE: Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lampson, Sir H. Llewellyn Smith.

CHINA: Mr. Sze, Mr. Koo, Mr. Wang. Accompanied by Mr. Yen, Mr. King, Mr. Zee, Mr. Tyau.

FRANCE: Mr. Sarraut, Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Touzet, Mr. Ponsot.

ITALY: Senator Schanzer, Senator Albertini. Accompanied by Marquis Visconti-Venosta, Count Pagliano.

JAPAN: Admiral Baron Kato, Baron Shidehara, Mr. Hanihara. Accompanied by Mr. Saburi, Mr. Kimura, Mr. Saito.

THE NETHERLANDS: Jonkheer Beelaerts van Blokland, Jonkheer de Beaufort. Accompanied by Jonkheer van Starkenborgh, Mr. de Kat Angelino.

PORTUGAL: Viscount d'Alte, Captain Vasconcellos.

The Secretary General. Assisted by Mr. Cresson, Mr. Osborne, Mr. Wilson.

Interpreter: Mr. Camerlynck.

BARON SHIDEHARA said there was a question he wished to raise in connection with the matters discussed relating to the open door. He then made the following statement:

"The Japanese Delegation understands that one of the primary objects which the present Conference on Far Eastern questions has in view is to promote the general welfare of the Chinese people and, at the same time, of all nations interested in China. For the realization of that desirable end, nothing is of greater importance than the development and utilization of the unlimited natural resources of China.

"It is agreed on all sides that China is a country with immense potentialities. She is richly endowed by nature with arable soil, with mines and with raw materials of various kinds. But those natural resources are of little practical value, so long as they remain undeveloped and unutilized. In order to make full use of them, it seems essential that China shall open her own door to foreign capital and to foreign trade and enterprise.

"Touching on this subject, Mr. Sze, on behalf of the Chinese Delegation, made an important statement to the full Committee on November 16th, declaring that 'China wishes to make her vast natural resources available to all peoples who need them.' That statement evidently represents the wisdom and foresight of China, and the Japanese Delegation is confident that the principle which it enunciated will be carried out to its full extent.

"It is to be hoped that, in the application of that principle, China may be disposed to extend to foreigners, as far as possible, the opportunity of cooperation in the development and utilization of China's natural resources. Any spontaneous declaration by China of her policy in that direction will be received with much gratification by Japan and also, no doubt, by all other nations interested in China. Resolutions which have hitherto been adopted by this Committee have been uniformly guided by the spirit of self-denial and self-sacrifice on the part of foreign Powers in favor of China. The Japanese Delegation trusts that China, on her part, will not be unwilling to formulate a policy which will prove of considerable benefit no less to China herself than to all nations."

2319F

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12 1921
February 6 1922

Committee on Pacific and Far Eastern Questions
Twenty-Fourth Meeting, Monday, January 23, 1922, 11 A.M.
Columbus Room, Pan American Building

Pages 1368, 1394-1400.

Present

UNITED STATES: Mr. Hughes, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray, Mr. Poole.
BELGIUM: Baron de Cartier. Accompanied by Mr. le Tellier, Mr. Tilmont, Mr. de Warzee.
BRITISH EMPIRE. Mr. Balfour, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lampson, Mr. Bajpai, Sir H. Llewellyn Smith.
CHINA: Mr. Koo, Mr. Sze, Mr. Wang. Accompanied by Mr. Hawkling Yen, Mr. Zee, Mr. Koo, Mr. Tyau.
FRANCE; Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Touzet, Mr. Ponsot, Mr. Garnier.
ITALY: Senator Schanzer, Senator Albertini. Accompanied by Marquis Visconti-Venosta, Count Pagliano.
JAPAN: Admiral Baron Kato, Baron Shidehara, Mr. Hanihara. Accompanied by Mr. Matsudaira, Mr. Saburi, Mr. Kimura, Mr. Sawada.
THE NETHERLANDS: Jonkheer Beelaerts van Blokland, Jonkheer de Beaufort. Accompanied by Jonkheer van Starkenborgh, Mr. de Kat Angelino.
PORTUGAL: Viscount d'Alte, Captain Vasconcellos.
The Secretary General. Assisted by Mr. Cresson, Mr. Paul, Mr. Osborne.
Interpreter: Mr. Camerlynck.

Pages 1394:- 1395:

BARON SHIDEHARA said that, if the discussion on the Siberian problem was to be proceeded with, it might be of interest for the Committee to know exactly the intentions and aims of Japan in regard to Siberia, and, with the permission of the Chairman and of the Committee, he would make a concise statement in this respect.

He then read as follows:

"The Military expedition of Japan to Siberia was originally undertaken in common accord and in cooperation with the United States in 1918. It was primarily intended to render assistance to the Czecho-Slovak troops who in their homeward journey across Siberia from European Russia found themselves in grave and pressing danger at the hands of hostile forces under German command. The Japanese and American expeditionary forces, together with other Allied troops, fought their way from Vladivostok far into the region of the Amur and the Trans-Baikal Provinces to protect the railway lines which afforded the sole means of transportation of the Czecho-Slovak troops from the interior of Siberia to the port of Vladivostok. Difficulties which the Allied forces had to encounter in their operations in the severe cold winter of Siberia were immense.

"In January, 1920, the United States decided to terminate its military undertaking in Siberia, and ordered the withdrawal of its forces. For some time thereafter, Japanese troops continued alone to carry out the duty of guarding several points along the Trans-Siberian Railway in fulfillment of interallied arrangements, and of affording facilities to the returning Czecho-Slovaks.

"The last column of Czecho-Slovak troops safely embarked from Vladivostok in September, 1920. Ever since the, Japan has been looking forward to an early moment for the withdrawal of her troops from Siberia. The maintenance of such troops in a foreign land is for her a costly and thankless undertaking, and she will be only too happy to be relieved of such responsibility. In fact, the evacuation of the Trans-Baikal and the Amur Provinces was already completed in 1920. The only region which now remains to be evacuated is the southern portion of the Maritime Province around Vladivostock and Nikolsk.

Pages 1368, 1394-1400 cont'd.

Japan, as well as some of the Allies, began to give support to the Cossack chief. After a few months, such support by the other Powers was discontinued, but the Japanese were reluctant to abandon their friend, whose efforts in the Allied cause they had originally encouraged, and they maintained for some time their connection with Ataman Semenoff. They had, however, no intention whatever of interfering in the domestic affairs of Russia, and when it was found that the assistance rendered to the Ataman was likely to complicate the internal situation in Siberia, they terminated all relations with him and no support of any kind has since been extended to him by the Japanese authorities.

"The Japanese Government are now seriously considering plans which would justify them in carrying out their decision of the complete withdrawal of Japanese troops from the Maritime Province with reasonable precaution for the security of Japanese residents and of the Korean frontier regions. It is for this purpose that negotiations were opened some time ago at Darien between the Japanese representatives and the agents of the Chita Government.

"Those negotiations at Darien are in no way intended to secure for Japan any right or advantage of an exclusive nature. They have been solely actuated by a desire to adjust some of the more pressing questions with which Japan is confronted in relation to Siberia. They have essentially in view the conclusion of provisional commercial arrangements, the removal of the existing menace to the security of Japan and to the lives and property of Japanese residents in Eastern Siberia, the provision of guaranties for the freedom of lawful undertakings in that region, and the prohibition of Bolshevik propaganda over the Siberian border. Should adequate provisions be arranged on the line indicated, the Japanese Government will at once proceed to the complete withdrawal of Japanese troops from the Maritime Province.

"The occupation of certain points in the Russian Province of Sakhalin is wholly different both in nature and in origin, from the stationing of troops in the Maritime Province. History affords few instances similar to the incident of 1920 at Nikolaievsk, where more than seven hundred Japanese, including women and children, as well as the duly recognized Japanese Consul and his family and his official staff, were cruelly tortured and massacred. No nation worthy of respect will possibly remain forbearing under such a strain of provocation. Nor was it possible for the Japanese Government to disregard the just popular indignation aroused in Japan by the incident. Under the actual condition of things, Japan found no alternative but to occupy, as a measure of reprisal, certain points in the Russian Province of Sakhalin in which the outrage was committed, pending the establishment in Russia of a responsible authority with whom she can communicate in order to obtain due satisfaction.

"Nothing is further from the thought of the Japanese Government than to take advantage of the present helpless condition of Russia for prosecuting selfish designs. Japan recalls with deep gratitude and appreciation the brilliant role which Russia played in the interest of civilization during the earlier stage of the Great War. The Japanese people have shown and will continue to show every sympathetic interest in the efforts of patriotic Russians aspiring to the unity and rehabilitation of their country. The military occupation of the Russian Province of Sakhalin is only a temporary measure, and will naturally come to an end as soon as a satisfactory settlement of the question shall have been arranged with an orderly Russian Government.

"In conclusion, the Japanese Delegation is authorized to declare that it is the fixed and settled policy of Japan to respect the territorial integrity of Russia, and to observe the principle of nonintervention in the internal affairs of that country, as well as the principle of equal opportunity for the commerce and industry of all nations in every part of the Russian possessions.

Covers Info of recent nature I like to make an objection –
Per. must pay Int 1918-21 – Hist. framework of history
Jap. aggression – How in conf w/ prin – took place in
per. covered by indictment – no necessity for def to try to disprove it
If doc to be admitted – then it wd entitle to inquire into
Jap 1918-20 + Eng in Jap interest in Sov. Siberia.
In such a case we will have to submit such evidence now
in our possession dealing with crimes committed by the Jap
Moreover it must be taken into ~~on~~ the question
not use a instrument not speak of info of his own know.
nor someone else
As far we know Baron Shid is not an authority on History
or Internal ~~[illegible]~~ of Siberia and his opinion have
no value whatsoever –
therefore I object to admission
/ that other side of the story now our turn to tell our side.
Japan never aggressive against Russia it was always the other way
around –
want to make no issue – of they do not want to extend it into
Hist. Past / it will not be
W/ Baron Shid was spokesman for Japan on that occasion and
He must have had authority.
He must –
Only Q is whether –
admitted marry
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relevant to try g... we are aware w/ – were
It may be that this my justify evidence for rebuttal by govern
but does not shut out ____
"We've decided to admit doc –"
B/ We will not seek nor try to embarrass one of any allied
nations – but certain

2399

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Committee on Pacific and Far Eastern Questions
Twenty-Eighth Meeting, Tuesday, January 31, 1922, 5:10 p.m.
Columbus Room, Pan American Building

Present

Page: 1472

UNITED STATES: Mr. Hughes, Senator Lodge, Senator Underwood, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.
BELGIUM: Baron de Cartier. Accompanied by Mr. de Warzee.
BRITISH EMPIRE: Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Mr. Sastri (for India). Accompanied by Mr. Christie, Mr. Malkin, Mr. Lampson, Sir H. Llewellyn Smith, Mr. Bajpai.
CHINA: Mr. Xze, Mr. Koo, Mr. Chang. Accompanied by Mr. Hawkling Yen, Mr. Tyau, Mr. Zee, Mr. Koo.
FRANCE: Mr. Sarraut, Mr. Jusserand. Accojpanied by Mr. Denaint, Mr. Ponsot.
ITALY: Senator Schanzer, Senator Rolandi Ricci, Senator Albertini. Accompanied by Count Pagliano, Mr. Bruno-Averardi.
JAPAN: Admiral Baron Kato, Baron Shidehara, Mr. Hanihara. Accompanied by Mr. Saburi, Mr. Debuchi, Mr. Kimura, Mr. Sawada.
THE NETHERLANDS: Jonkheer Beelaerts van Blokland, Jonkheer de Beaufort. Accompanied by Jonkheer van Starkenborgh, Mr. de Kat Angelino.
PORTUGAL. Viscount d'Alte, Captain Vasconcellos.
The Secretary General. Assisted by Mr. Pierrepont, Mr. Cresson.
Interpreters: Mr. Camerlynck, Mr. Talamon.

Pages 1508 - 1512:

The Chairman then said that he understood that the next subject to be brought up was the matter which had been generally called the "Twenty-one Demands," and he believed an opportunity had been reserved for the Japanese Delegation to speak upon that subject.

Baron Shidehara read the following statement:

"At a previous session of this Committee, the Chinese Delegation presented a statement urging that the Sino-Japanese Treaties and Notes of 1915 be reconsidered and cancelled. The Japanese Delegation, while appreciating the difficult position of the Chinese Delegation, does not feel at liberty to concur in the procedure now resorted to by China with a view to cancellation of international engagements which she entered into as a free sovereign nation.

"It is presumed that the Chinese Delegation has no intention of calling in question the legal validity of the compacts of 1915, which were formally signed and sealed by the duly authorized representatives of the two Governments, and for which the exchange of ratifications was effected in conformity with established international usages. The insistence by China on the cancellation of those instruments would in itself indicate that she shares the view that the compacts actually remain in force and will continue to be effective, unless and until they are cancelled.

"It is evident that no nation can have given ready consent to cessions of its territorial or other rights of importance. If it should once be recognized that rights solemnly granted by treaty may be revoked at any time on the ground that they were conceded against the spontaneous will of the grantor, an exceedingly dangerous precedent will be established, with far-reaching consequences upon the stability of the existing international relations in Asia, in Europe and everywhere.

"The statement of the Chinese Delegation under review declares that China accepted the Japanese demands in 1915, hoping that a day would come when she should have the opportunity of bringing them up for reconsideration and cancellation. It is, however, difficult to understand the meaning of this assertion. It

Pages 1508-1512:

cannot be the intention of the Chinese Delegation to intimate that China may conclude a treaty, with any thought in mind of breaking it at the first opportunity.

"The Chinese Delegation maintains that the Treaties and Notes in question are derogatory to the principles adopted by the Conference with regard to China's sovereignty and independence. It has, however, been held by the Conference on more than one occasion that concessions made by China ex contractu, in the exercise of her own sovereign rights, cannot be regarded as inconsistent with her sovereignty and independence.

"It should also be pointed out that the term "Twenty-One demands," often used to denote the Treaties and Notes of 1915, is inaccurate and grossly misleading.

"It may give rise to an erroneous impression that the whole original proposals of Japan had been pressed by Japan and accepted in toto by China. As a matter of fact, not only "Group V" but also several other matters contained in Japan's first proposals were eliminated entirely or modified considerably, in deference to the wishes of the Chinese Government, when the final formula was presented to China for acceptance. Official records published by the two Governments relating to those negotiations will further show that the most important terms of the Treaties and Notes, as signed, had already been virtually agreed to by the Chinese negotiators before the delivery of the ultimatum, which then seemed to the Japanese Government the only way of bringing the protracted negotiations to a speedy close.

"The Japanese Delegation cannot bring itself to the conclusion that any useful purpose will be served by research and re-examination at this Conference of old grievances which one of the nations represented here may have against another. It will be more in line with the high aim of the Conference to look forward to the future with hope and with confidence.

"Having in view, however, the changes which have taken place in the situation since the conclusion of the Sino-Japanese Treaties and Notes of 1915, the Japanese Delegation is happy to avail itself of the present occasion to make the following declaration:

"1. Japan is ready to throw open to the joint activity of the International Financial Consortium recently organized, the right of option granted exclusively in favor of Japanese capital, with regard, first, to loans for the construction of railways in South Manchuria and Eastern Inner Mongolia, and, second, to loans to be secured on taxes in that region; it being understood that nothing in the present declaration shall be held to imply any modification or annulment of the understanding recorded in the officially announced notes and memoranda which were exchanged among the Governments of the countries represented in the Consortium and also among the national financial groups composing the Consortium, in relation to the scope of the joint activity of that organization.

"2. Japan has no intention of insisting on her preferential right under the Sino-Japanese arrangements in question concerning the engagement by China of Japanese advisers or instructors on political, financial, military or police matters in South Manchuria.

"3. Japan is further ready to withdraw the reservation which she made, in proceeding to the signature of the Sino-Japanese Treaties and Notes of 1915, to the effect that Group V of the original proposals of the Japanese Government would be postponed for furture negotiations.

"It would be needless to add that all matters relating to Shantung contained in those Treaties and Notes have now been definitely adjusted and disposed of.

"In coming to this decision, which I have had the honor to announce, Japan has been guided by a spirit of fairness and moderation, having always in view China's sovereign rights and the principle of equal opportunity."

Defense Document 200-D

Excerpts From
CONFERENCE ON THE LIMITATION OF ARMAMENT
WASHINGTON
November 12, 1921
February 6, 1922

Pages 1076, 1088-1098.

Committee on Pacific and Far Eastern Questions

Thirteenth Meeting, Wednesday, December 7, 1921, 11 A. M.

Columbus Room, Pan American Building

Present

UNITED STATES: Mr. Hughes, Senator Lodge, Mr. Root. Accompanied by Mr. Wright, Mr. MacMurray.

BELGIUM. Baron de Cartier. Accompanied by Mr. le Tellier, Mr. Cattier, Chevalier de Wouters.

BRITISH EMPIRE: Mr. Balfour, Lord Lee, Sir Auckland Geddes, Sir Robert Borden (for Canada), Senator Pearce (for Australia), Sir John Salmond (for New Zealand), Mr. Sastri (for India). Accompanied by Sir Maurice Hankey, Mr. Lampson.

CHINA: Mr. Sze, Mr. Koo, Mr. Wang, Accompanied by Mr. Chao, Mr. Zee.

FRANCE: Mr. Viviani, Mr. Sarraut, Mr. Jusserand. Accompanied by Mr. Kammerer, Mr. Massigli, Mr. Duchene, Mr. Garnier.

ITALY: Senator Schanzer, Senator Albertini. Accompanied by Marquis Visconti-Venosta, Mr. Cora, Mr. Giannini.

JAPAN: Admiral Baron Kato, Prince Tokugawa, Mr. Hanihara. Accompanied by Mr. Saburi, Mr. Saito, Mr. Kimura.

THE NETHERLANDS. Jonkheer van Karnebeek, Jonkheer Beelaerts van Blokland, Mr. Moresco. Accompanied by Jonkheer van Haersma de With, Mr. de Kat Angelino.

PORTUGAL: Viscount d'Alte, Captain Vasconcellos

The Secretary General. Assisted by Mr. Paul.

Interpreters: Mr. Camerlynck, Mr. Talamon.

The statement of Mr. Hanihara was as follows:

"It does not necessarily follow that because a certain principle is accepted, it should be applied in all cases immediately and without qualification. In proceeding to its practical application we must not lose sight of particular facts and circumstances that surround each individual case. While constantly keeping the accepted principle in view, we should go forward step by step toward its complete realization, in such a manner as will maintain due harmony with the actual situation prevailing in each instance.

"I should state in all frankness that the stationing of our troops and police in some parts of China is solely due to our instinct for self-protection. It is admittedly a costly and thankless undertaking to maintain our troops and police in a foreign land. We should only be too glad to be relieved of that responsibility, if the efficient system of protection and control over our nationals resident in China were in operation.

"In this connection, I can only repeat the significant fact that there exists a state of affairs in China, which, apart from the question of treaty rights, renders necessary the presence of foreign troops in the very capital of China.

"With reference to the Shantung Railway guards, China has declared her intention to send a suitable force of Chinese police for the protection of the Railway. She has, however, so far failed to send any such police force to whom the Japanese troops can actually hand over the duties.

"Turning to the subject of the South Manchurian Railway guards, Mr. Sze's observation on the interpretation of the Additional Agreement to the Treaty of 1905 seems to us hardly convincing. The fact pointed out by the Chinese Delegation that Russia has withdrawn her troops from Manchuria apparently refers to the condition of things created by the existing anomalous situation in Russia. It does not prove that Russia has definitely agreed to the withdrawal of her troops as is contemplated in the Sino-Japanese Agreement of 1905.

"That Agreement also provides that when tranquility shall have been re-established in Manchuria and when China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia. Referring to that provision, I would like to invite the attention of the Committee to the

actual conditions described in the written statement which I shall presently lay before you. (See Appendix I.)

"As for the contention that China should be given an opportunity of proving her ability to maintain peace and order in Manchuria, the reply is obvious: Japanese interests and Japanese security are matters of such importance that she (Japan) can not afford to take obvious risks. By taking such chances as are suggested we should do no good either to China or to ourselves. We should not pander to a sentimental idea at the risk of creating grave international difficulties in a region which has already been the source of a life-and-death struggle on the part of Japan, in a war which did more to preserve the integrity and independence of China than perhaps any other that has ever been fought.

"With regard to the stationing of Japanese troops at Hankow, I believe that I have made our position sufficiently clear at a previous meeting of the Committee, and I shall not attempt to repeat it. I would only add that in many cases of local disturbances in and around Hankow the menace to the security of foreign communities in general assumed so serious a proportion that those various communities organized volunteer corps for their self-protection, and that the Japanese garrison was called upon to extend active assistance and cooperation to the foreign volunteer corps.

"It may not be out of place to give here a short account of the deplorable condition of disorder and lawlessness in China proper. (See Appendix II.)

"In connection with the subject of Japanese troops stationed along the Chinese Eastern Railway, criticisms have been made by the Chinese Delegation on the continued presence of Japanese expeditionary forces in Siberia. The Japanese Delegation desires to reserve the discussion of this question for a suitable opportunity which will later on be afforded by the Conference. For the present, I shall content myself by pointing out that the stationing of Japanese troops along the Chinese Eastern Railway is due to the Interallied Agreement of 1919, in which China participated, and that those troops will be withdrawn immediately upon the evacuation of the Maritime Province by Japanese forces.

"Appendix I.

"Regarding the present situation in Manchuria, even in and around the South Manchurian Railway Zone, where peace and order are well maintained, the Chinese bandits have often made raids, having evaded the supervision of the Japanese railway guards.

"The facts above mentioned are clearly shown in the attached lists No. A and No. C.

"The condition of lawlessness and unrest prevailing in the interior of Manchuria far from the Railway Zone is beyond description. The attached list No. B shows the number of cases of attacks made on the Japanese by the Chinese bandits while the Japanese were traveling through those parts of Manchuria.

"The actual cases of attacks made by them have been far more than we have shown here, because in the attached list we have mentioned only the ones which were reported to the Japanese authorities.

"The number of cases of attacks made by them on the Koreans might be still greater. But most of the Koreans' cases are not reported to the Japanese authorities for fear of a retaliation by the bandits.

"The condition is worse in North Manchuria.

"In the region along the Chinese Eastern Railway where they have the Chinese railway guards we are informed that there were 50 cases of attacks made by the bandits during the months of April and May, 1921.

"The forces of the bandits numbered from 50 to 400 men in each case and they committed every kind of ravage.

"The outrages committed by the Chinese bandits in Chien-Tao last year well demonstrate the fact that lawlessness and disorder are prevailing in that part of Manchuria.

"In the worst case, the Chinese bandits made three attacks in the daytime on the city of Hungchung, near the Japanese border line, regardless of the fact that the Chinese troops were stationed in that city, and not only the Japanese Consulate was burned but also a number of the Japanese were massacred by them.

"No. A.

"Cases of attacks by Chinese bandits within the South Manchurian Railway Zone beyond the Kwangtung leased territory.

Year	Number of cases	Year	Number of Cases	Year	Number of Cases
1906	9	1912	33	1918	82
1907	32	1913	69	1919	106
1908	30	1914	64	1920	183
1909	46	1915	86		
1910	34	1916	71	TOTAL....	1,001
1911	57	1917	99		

"No. B.

"Cases of the Japanese attacked by the Chinese bandits while traveling in South Manchuria.

YEAR	No. of Cases		No. of Victims		Dead		Seriously Wounded		Slightly Wounded	
	Within Rlwy Zones	Out-side Rlwy Zones	Within Rlwy Zones	Outside Rlwy Zones	Within Rlwy Zones	Out-side Rlwy Zones	Within Rlwy Zones	Out-side Rlwy Zones	Within Rlwy Zones	Outside Rlwy Zones
913	7	13	7	21	1	1	0	3	0	3
914	11	13	14	19	3	0	2	6	1	4
915	11	32	15	42	0	0	6	2	4	1
916	15	43	16	53	3	3	4	8	7	5
917	19	49	25	58	5	3	5	9	11	2
918	17	35	13	41	2	4	6	10	3	5
919	35	36	44	51	10	12	9	8	5	6
920	32	24	41	30	3	3	5	12	3	3
tal	147	245	180	315	27	26	37	58	34	29

"No. C.

"Number of the Chinese criminals arrested within the South Manchurian Railway Zone by the Japanese authorities and handed over to the Chinese authorities.

Year	Thieves	Bandits	Burglars	Others	Total
1909	1,148	-	103	474	1,725
1910	1,093	15	70	534	1,712
1911	799	6	33	863	1,701
1912	959	16	39	678	1,692
1913	808	33	96	697	1,634
1914	1,033	55	64	729	1,881
1915	1,024	45	120	757	1,946
1916	1,003	54	111	510	1,678
1917	1,032	46	128	757	1,963
1918	1,328	63	116	917	2,424
1919	1,284	31	65	1,193	2,573
1920	1,671	14	134	1,211	3,030
Total...........	13,182	378	1,079	9,320	23,595

"Appendix II.

"The utterly unstable condition of China can be visioned at once from even a cursory review of the persistent and flagrant manner in which the bandits commit crimes everywhere in open daylight and the incessant disorders caused by military elements there. A peculiar significance attaches to the incidents cited below because they have taken place in China proper, and they arose largely from the non-payment of soldiers' wages and their hatred and grudge against the grafting officers, who too often fatten themselves at the expense of the privates. If the depredations and robbery committed by the defeated soldiers following the battle between the factions of the two Kuan Provinces (South China) and the uprising in Yunan and Kweichow and the battle of Shansi and in the uprisings in Manchuria and Mongolia and other border disturbances were taken into account, the number of such incidents would assume a tremendous scope. And it is no exaggeration at all to say that there scarcely passes a day when China is free from such political disorder. Even the major uprisings of this type which came to pass in the eleven months between October, 1920, and August, 1921, amounted to 33, as follows:

"1. Chungking, Szechuan Province (October 14, 1920). Skirmishes took place between two factions of Chinese troops in urban districts. Pillage was committed and one Englishman was killed. The British warship in port had to fire.

"2. Hochien, Chihli Province (October 31, 1920). Disturbances took place in the city, and 50 stores were attacked by soldiers.

"3. Kaoyang, Chihli Province (November 17, 1920). Disturbances continued six days, troops pillaged 30 villages. More than 100 persons were injured.

"4. Paoting, Chihli Province (November 23, 1920). Uprisings of soldiers.

"5. Hsuchang, Honan Province(November 10, 1920). As a result of disorder and pillage more than 40 persons were killed or injured, and more than 1,300 houses were attacked and pillaged. Damages amounted to several million taels.

"6. Kweiyan, Kweichow Province (November 10, 1920). Massacre was committed by the troops. From 80 to 90 persons were slaughtered.

"7. Pingkiang, Hunan Province (November 14, 1920). Disturbances between two different sections of the Chinese army took place, in which the commander of the army was murdered.

"8. Huangchow, Hupeh Province (November 18, 1920). Pillage threatened but barely prevented by a promise to distribute money among soldiers.

"9. Chunghsiang, Hupeh Province (November 22, 1920). Chinese troops pillaged almost all the stores in the city.

"10. Tiemen, Hupeh Province (November 24, 1920); Linhsiang, Hunan Province (November 25, 1920). Uprising of troops during which houses and stores were looted.

"11. Yanghsin, Hupeh Province (November 25, 1920); Fuchihkow, Hupeh Province (November 25, 1920). Chinese troops mutinied and attacked the Customs Office and stores.

"12. Ichang, Hupeh Province (November 29, 1920). Skirmishes took place in the city, causing fire; Chinese troops pillaged 14 Japanese stores. Other Japanese stores and storage of Japanese steamship company were burned down. The British America Company and several other foreign firms were all burned down.

"13. Tayeh, Hupeh Province (November 30, 1920). Disturbances were caused by troops, all the stores in the city sustaining heavy damages.

"14. Hsiangyang, Hupeh Province (December 1, 1920). Insurrection of soldiers.

"15. Shashih, Hupeh Province (December 10, 1920). Threatening situation reported on account of non-payment of soldiers' salaries.

"16. Kinchun, Hupeh Province (December 10, 1920). Soldiers forced merchants' guilds to make contributions.

"17. Changsha, Hunan Province (December 5, 1920). Uprising of Chinese troops during which the mist was looted, anarchic conditions continuing for three days.

"18. Yuehchow, Hunan Province (January 25, 1921). Wholesale pillage of stores in the city and railway traffic blocked for several days.

"19. Hsinyu, Kiangsi Province (January 20, 1921). Factional fights among soldiers accompanied by depradation of stores and houses.

"20. Paoting, Chihli Province (February 13, 1921). Mutiny of soldiers 3,000 houses and stores spoilated.

"21. Shenhsien, Chihli Province (February 21, 1921). Soldiers mutinied and robbed stores.

"22. Shashih, Hupeh Province (February 23, 1921). Mutiny of troops, because of non-payment for ten months. They set fire to the stores and pillaged

them. Damages amounted to more than ten million taels.

"23. Changteh, Honan Province (April 16, 1921). Serious disturbance caused by factional fights by troops.

"24. Chowchiakow, Honan Province (March 12, 1921). Soldiers caused trouble and disorder in the town.

"25. Hsinyang, Honan Province (May 31, 1921). Insurrection occurred with mutiny and pillage.

"26. Yichang, Hupeh Province (June 8, 1921). Soldiers joined by local bandits, committed ravage and incendiarism, seven or eight hundred lives lost.

"27. Wuchang, Hupeh province (June 8, 1921). Troops pillaged stores and destroyed the mint. Banks and all the principal firms and stores were burned down. The same soldiers, led by their commander, restored order in the town the following day.

"28. Fuchihkow, Hupeh Province (June 20, 1921). Troops caused trouble. Many were injured and much damage done to property.

"29. Wufu, Anhui Province (June 2, 1921). Disturbances caused by troops. Merchants' guilds forced to make pecuniary contribution.

"30. Nanchang, Kiangsi Province (latter part of June, 1921). Chinese troops pillaged the village; an officer was murdered.

"31. Hsiaokan, Hupeh Province (August 24, 1921). Chinese troops damaged railroads, railroad trucks, cut telephone wires, and committed pillage.

"32. Wuhsueh, Hupeh Province (August 15, 1921). Pillage by soldiers lasted for 24 days in and around the town.

"33. Wuchang, Hupeh Province (August 24, 1921). Insurrection of troops."

J320 A

DEF DOC # 237 The First Excerpt from "The Washington Conference 1921-1922 Treaties and Resolutions" Treaty Series No. 1 August 1922.

RESOLUTIONS ADOPTED BY THE CONFERENCE ON THE LIMITATION OF ARMAMENT AT WASHINGTON, 1921-1922

NO. 3. RESOLUTION REGARDING A BOARD OF REFERENCE FOR FAR EASTERN QUESTION.

The representatives of the Powers assembled at the present Conference at Washington, to wit;

The United States of America, Belgium, the British Empire, China, France, Italy, Japan, The Netherlands and Portugal:

Desiring to provide a procedure for dealing with questions that may arise in connection with the execution of the provisions of Articles III and V of the Treaty to be signed at Washington on February 6th, 1922, with reference to their general policy designed to stabilize conditions in the Far East, to safeguard the rights and interests of China, and to promote intercourse between China and the other Powers upon the basis of equality of opportunity;

Resolve that there shall be established in China a Board of Reference to which any questions arising in connection with the execution of the aforesaid Articles may be referred for investigation and report.

The Special Conference provided for in Article II of the Treaty to be signed at Washington on February 6th, 1922, with reference to the Chinese Customs Tariff, shall formulate, for the approval of the Powers concerned a detailed plan for the constitution of the Board.

Adopted by the Conference on the Limitation of Armament at the Sixth Plenary Session February 4th, 1922.

NO. 9. RESOLUTION REGARDING THE REDUCTION OF CHINESE MILITARY FORCES.

Whereas the Powers attending this Conference have been deeply impressed with the severe drain on the public revenue of China through the maintenance in various parts of the country, of military forces, excessive in number and controlled by the military chiefs of the provinces without coordination,

And whereas the continued maintenance of these forces appears to be mainly responsible for China's present unsettled political conditions,

And whereas it is felt that large and prompt reductions of these forces will not only advance the cause of China's political unity and economic development but will hasten her financial rehabilitation;

Therefore, without any intention to interfere in the internal problems of China, but animated by the sincere desire to see China develop and maintain for herself an effective and stable government alike in her own interest and in the general interest of trade;

And being inspired by the spirit of this Conference whose aim is to reduce, through the limitation of armament, the enormous disbursements which manifestly constitute the greater part of the encumbrance upon enterprise and national prosperity;

It is resolved: That this Conference express to China the earnest hope that immediate and effective steps may be taken by the Chinese Government to reduce the aforesaid military forces and expenditures.

Adopted by the Conference on the Limitation of Armament at the Fifth Plenary Session, February 1st, 1922.

Certificate concerning Authenticity of the Document

I HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby that the booklet hereto attached, consisting of 57 pages, written in Japanese and entitled "The Washington Conference Treaties and Resolutions" is one of the documents which were compiled and edited by the Japanese Government (the Foreign Office).

On this 9th day of December in 1946

at Tokyo

(Signed) HAYASHI, Kaoru (Seal)

I, ODO, Nagaharu, certify that the above man affixed his signature and seal thereto in the presence of this Witness.

On the same date

At the same place

Witness: (Signed) ODO, Nagaharu (Seal)

DEF. DOC. #40

(Trans. from the French by Defense Language Branch)

DECLARATION UPON WHICH FRANCE, GREAT BRITAIN, ITALY, JAPAN AND RUSSIA AGREE NOT TO CONCLUDE A SEPARATE PEACE

Signed in London in French
30 November 1915 (4th
year of Taisho)

Declaration upon Which France, Great Britain, Italy, Japan and Russia Agree not to Conclude a Separate Peace During the Course of the Present War.

The Italian Government having decided to adhere to the Declaration made in London on the 5th of September 1914 by the French, British and Russian Governments, a declaration to which the Japanese Government equally adhered dated the 19th of October 1915, the undersigned duly authorized by their respective governments, made the following declaration:

The French, British, Italian, Japanese and Russian Governments mutually agree not to conclude a separate peace during the course of the present war. The five Governments agree that when the occasion arises to discuss peace terms none of the allied powers will be able to lay down peace conditions without previous accord with each one of the other allies.
The undersigned in this faith have signed the present declaration and have placed their seals on it.

Made at London in quintuple original the 30th of November 1915.

/s/ K. INOUE

/s/ BENCKENDORFF

/s/ PAUL CAMBON

/s/ E. GREY

/s/ IMPERIALI

Def. Doc. # 40

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in Japanese consisting of 2 pages and entitled" Declaration of France, Geat Britain, Italy, Japan and Russia not to conclude seperate peace, November 30,1915." is an exact and true copy of an official translation of the Japanese Foreign Office.

Certified at Tokyo,
on this 15th day of February, 1947.

/s/ K. Hayashi
Signature of Official

Witness: /s/K. Urabe

TRANSLATION CERTIFICATE

I, William E. Clarke, of the Defense Language Branch, hereby certify that the foregoing translation (from the Franch) described in the above certificate is, to the best of my knowlege and belief, a correct translation and is as near as possible to the meaning of the original document.

/s/William E. Clarke
/s/ William E. Clarke

Tokyo, Japan

Date 20 Feburary 1947

 ANGLO-AMERICAN JOINT DECLARATION. 2322

Signed somewhere on the Atlantic, on a
certain day of August, 1941.
Announced on August 14, 1941.

The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

1. Their countries seek no aggrandizement, territorial or other.

2. They desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned.

3. They respect the rights of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.

4. They will endeavor, with due respect for their existing obligations, to further the enjoyment by all states, great or small, victor or vanquished, of access on equal terms to the trade and raw materials of the world which are needed for their economic prosperity.

5. They desire to bring about the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social

(page 1092--1091)

security.

6. After the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries and which will afford assurance that all men in all lands may live out their lives in freedom from fear and want.

7. Such peace should enable all men to travers the high seas and oceans without hindrance.

8. They believe that all nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten or may threaten aggression outside their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments.

Signed: Franklin D. Roosevelt.

Signed: Winston Churchill.

DEF DOC No. 159

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 2 pages and entitled "Anglo-American Joint Declaration."

is an exact and true copy of an official document of the Japanese Foreign Office,

Certified at Tokyo,

on this 23rd day of December, 1946.

(signed) K. HAYASHI
Signature of Official

Witness : (signed) Nagaharu ODO

Rej. Ident. only 3323

IX. LETTER, DATED DECEMBER 9th, 1939, FROM THE DELEGATE OF FINLAND TO THE SECRETARY-GENERAL

(Translation) Geneva, December 9, 1939

(From League of Nations Official Journal November-December 1939)

I beg to send you herewith the following document:

(1) Aide-memoire;

1. Aide-memoire

(Translation) The Frontiers of Finland

By the Treaties of Peace and Non-aggression, the Union of Soviet Socialist Republics expressly, and of its own free will, recognized the political frontiers of Finland. The territorial composition of Finland has, moreover, been fixed for centuries past. The western section of the frontier crossing the Isthmus of Karelia goes back to the year 1323; and the eastern section, to 1618. As regards the frontier running north from Lake Ladoga, the southern section (as far as Nurmes) goes back to 1618; and the northern section, to 1595. The modifications of the frontier on the Arctic coast took place in 1920, when, in accordance with a promise made in 1864, the U.S.S.R. ceded the Petsamo region to Finland in compensation for a territory which was then incorporated in Russia. This arrangement was also intended to compensate Finland for the loss of free access to the Arctic Ocean in 1826, when the territory

previously regarded as belonging jointly to Russia, Finland and Norway was partitioned between Russia and Norway. From 1809 to 191 during which period Finland was united to Russia as a Grand-Duchy enjoying complete internal autonomy, her frontiers with Russia were exactly delimited.

Negotiations between Finland and the Union of Soviet Socialist Republics

In the course of the negotiations in October-November 1939, to which the Government of the U.S.S.R. invited the Government of Finland on October 5th last, the U.S.S.R. made detailed proposals prejudicial to the territorial integrity of Finland.

The majority of the proposals of the U.S.S.R. were actuated by strategic considerations which it was attempted to justify by a desire to guarantee the security of Leningrad. In point of fact, these considerations had already been taken into account in the Treaty of Peace of Tartu, whereby the outer islands in the Gulf of Finland and the Island of Suursaari were demilitarised. The treaty further provided that certain fortifications on the Finnish side of the Isthmus of Karelia were to be destroyed and that freedom of military action on the eastern coast of the Gulf of Finland was to be subject to certain restrictions. Finland has scrupulously observed all her undertakings. Now the U.S.S.R. has made proposals regarding the cession of certain territories by Finland by grant of lease or by exchange. In order to reach an agreement with the U.S.S.R., Finland has adopted the most conciliatory

attitude possible. The limit of the concessions beyond which Finland has thought it impossible to go was determined by the two following considerations:

(1) Compliance with the considerations of security advance by the U.S.S.R. must not be allowed to prejudice Finland's security or her possibilities of defence;

(2) The policy of neutrality followed by Finland and recognized even by the U.S.S.R. must not be jeopardised.

The proposals to which the U.S.S.R. firmly adhered were for the cession of a naval base at the entrance to the Gulf of Finland and a modification of the frontier on the Isthmus of Karelia. They would have meant the renunciation of the above-mentioned principle

In the counter-proposals, whereby Finland endeavoured to discover new means of satisfying the demands of the U.S.S.R., ther was finally contemplated -- in addition to partial acceptance of t territorial demands of the U.S.S.R. on the coast of the Arctic Ocean -- the cession to the U.S.S.R. of five of the outer islands in the Gulf of Finland and the southern part of the Island of Suursaari, together with the removal of the line of demarcation t a distance of approximately 20-25 kilometres from the very ancient frontiers in the Isthmus of Karelia in the north-eastern part of t Gulf of Finland. The cession of these territories, which from the remotest times have been inhabited by a Finnish population, would have meant the renunciation of the principles of nationality

recognized by the founders of the U.S.S.R. Nevertheless, the Government of Finland was ready to make this heavy sacrifice, in order to meet the demands of her great neighbour.

There was a limit beyond which the Government of Finland considered it impossible to go in making concessions. The principl that its importance or the size of one of its towns entitles a State to require the cession of territory from a smaller State is unknown in the political life of the West. A large country is protected by its very size. To require a small State to renounce its means of defence is tantamount to destroying that State's liberty. By giving up its means of defence, the small State either falls under the domination of the great Power by which the demands were presented or becomes the battlefield of great Powers. The U.S.S.R. is not exposed to any danger of indirect aggression by a great Power through Finnish territory. The most effective way of guaranteeing it against such a danger for all time is to allow the Finnish people the possibility of ensuring -- as it is firmly determined to do -- the application of its policy of neutrality by effective defence designed to maintain the independence of its country, and not to deprive it of that possibility.

The negotiations conducted at Moscow were broken off by the U.S.S.R. on November 13th. In Finland, however, the hope was explicitly expressed that negotiations would be continued and conducted to a successful conclusion. The Soviet allegation that the "intransigent" attitude of Finland towards the territorial demands

of the U.S.S.R. was prompted by certain foreign Powers is devoid of all foundation. Indeed, the fundamental instinct of self-preservati obliges every State to organize its defence and independence on solid foundations. The same instinct of self-preservation also obliges the small States to hold aloof from the conflicts of the great Powers and scrupulously to maintain their neutrality The allegation that in the negotiations Finland gave evidence of intransigence and of a hostile attitude towards the U.S.S.R. is untrue, as Finland advanced no demands and preferred no threats against the U.S.S.R. Far from threatening, she was prepared to make to her neighbour concessions in the national and military spheres which should have afforded a sufficient guarantee for the security of Leningrad.

Even during the negotiations at Moscow, the air forces of th U.S.S.R. committed several violations of the territorial integrity of Finland. Between October 10th and November 14th some thirty such violations were recorded. Finland drew the attention of the U.S.S.R. to this fact through the diplomatic channel, but she was careful not to exaggerate its importance, so as to avoid tension in the relations of the two countries and also in order to facilitate the negotiations then in progress. After the negotiations were broken off, the U.S.S.R. embarked upon a systematic campaign of wireless and Press propaganda against Finland, but it was not until November 26th that the anti-Finnish measures began to take on a mor aggressive and cynical tone. This last phase continued until

November 30th, on which date the aggression of the U.S.S.R. again[illegible] Finland took place.

It was on the first-mentioned date -- that is, November 26 -- that the U.S.S.R. launched an accusation against Finland to th[illegible] effect that Finnish troops had opened fire with cannon on the Soviet troops lying on the other side of the frontier in the neighbourhood of the village of Mainila, in the Karelian Isthmus. The Government of the U.S.S.R. professed to conclude from this th[illegible] the concentration of Finnish troops in the vicinity of the fronti[illegible] threatened the city of Leningrad and constituted a hostile act against the U.S.S.R. It proposed that the Government of Finland should, without delay, withdraw its troops on the Isthmus of Karelia to a distance of 20-25 kilometres from the frontier to pre[illegible]clude the possibility, as it alleged, of the renewal of such pro[illegible]vocation.

Finland, being ready to prove her innocence and desiring t[illegible] avoid any possible misunderstanding, proposed, on November 27th a joint enquiry to elucidate the circumstances in which the alleged incident had taken place, and declared, inter alia, that there was no artillery in the immediate vicinity of the frontier. She further proposed negotiations with a view to the withdrawal of th[illegible] troops on both sides of the frontier. In reply, the Government of the U.S.S.R., on November 29th, unilaterally denounced the Treaty of Non-Aggression, in flagrant contradiction to the treaty's expre[illegible] provisions.

Finland then proposed the conciliation procedure laid down in the treaty, which was to be employed more particularly to ascertain whether the non-aggression obligation had been violated. Alternatively, she declared herself willing to submit the dispute to neutral arbitration, in order to furnish conclusive proof of her desire to reach agreement with the U.S.S.R. and to rebut the latter's allegations. Finland declared herself willing to come to an agreement with the U.S.S.R. for the withdrawal of her defence troops in the Isthmus of Karelia to such a distance from Leningrad that any possibility of a threat to the safety of that city would b eliminated.

Outbreak of Hostilities

But before the Minister of Finland in Moscow had an opportunity of transmitting Finland's reply to the Commissariat for Foreig Affairs, the U.S.S.R., on the evening of November 29th, broke off diplomatic relations. Nevertheless, the Finnish reply to the notification of the U.S.S.R. regarding the denunciation of the Non-aggression Treaty was handed to the Commissariat for Foreign Affair immediately after 12 o'clock on the night of November 29th-30th. The note should have fully convinced the Government of the U.S.S.R. of Finland's unwavering desire to reach an agreement regarding the movement of her troops in the Isthmus of Karelia away from the U.S.S.R.; but on November 30th, the latter nevertheless began its aggression against Finland.

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The wireless propaganda of the U.S.S.R. against Finland reached its climax on the evening of November 29th and during the following night, as Finland was, without foundation, accused of several violcations of the frontier, although, to avoid any possibility of incidents, the Finnish troops and frontier-guards had been withdrawn to a stated distance from the frontier, and therefore unquestionably remained throughout in Finnish territory, refraining from all military action. The Soviet troops, on the other hand, crossed the frontier near Pummanki, to the north-east of Petsamo, as early as the evening of November 29th and took prisoner three Finnish frontier-guards.

The above-mentioned Soviet allegations were denied by Finland the same evening, and the serious violation of the frontier was concisely reported. Little by little, however, it became clear that the U.S.S.R. had decided to open hostilities against Finland, though the latter could not expect them to begin so soon -- the following day in fact -- particularly as no declaration of war or even ultimatum had been sent. Still less was it to be imagined that the U.S.S.R. would open hostilities, even against the civil population.

On November 30th, Soviet aeroplanes appeared above Helsinki about 9 a.m. and bombarded the city and the neighbouring aerodrome. The attack was repeated the same day about 2:30 p.m., and on this occasion dozens of civilians, chiefly women and children were killed. The bombs destroyed several private houses and caused

numerous fires. The same day, Soviet aeroplanes also bombarded other towns, such as Viipuri, Turku, Lahti and Kotka, together with various places in the interior of the country -- e.g., Enso, a large State factory. The destruction and material damage caused by these bombardments chiefly affected the civil population. The bombardments did not even spare the buildings specially protected by Article 27 of the Convention forming part of the Fourth General Hague Convention of 1907 respecting the laws and customs of war on land. A church in Helsinki and a hospital in Enso were, for example, set on fire by bombs. Altogether, 85 persons, including 65 at Helsinki, were killed during the bombardments carried out on the first day. The following day there was a further bombardment of several towns and other centres of population; there were several dozen casualties and much damage was done. The sole purpose of these air attacks was, without doubt, to annihilate the civil population and cause material damage. It may perhaps be suggested that the bombs fell accidentally on objectives other than those aimed at. But low-flying aeroplanes were seen to turn the fire of their machine-guns directly against private houses, schools, and women and children rushing to take shelter.

The land and naval forces have shown the same cruelty and the same flagrant disregard for the elementary laws of warfare; they have spared neither women, children, nor even shipwrecked civilians.

Hostilities in general began on the morning of November 30th, when the troops of the U.S.S.R. crossed the frontier and attacked the Finnish troops at several points in the Karelian Isthmus and on the eastern frontier from Lake Ladoga to Petsamo. Hitherto, the Soviet troops have occupied part of Petsamo and certain other districts in the Karelian Isthmus and on the eastern frontier, the defence of which was abandoned for military reasons. Furthermore, a Soviet warship bombarded the Finnish coast in the neighbourhood of the Island of Russaro, but was obliged to withdraw after sustaining losses. Certain islands in the Gulf of Finland, which were demilitarised at the demand of the U.S.S.R. under the Treaty of Peace concluded at Tartu in 1920, have now been occupied by the armed forces of the U.S.S.R., which have taken advantage of the position. Hostilities are still proceeding throughout the length of the country's frontiers.

It is clear from the foregoing that the U.S.S.R. has unquestionably undertaken against Finland action within the meaning of Article II, paragraphs 2 and 3, of the International Convention for the Definition of the Aggressor, concluded in London on July 3r 1933, on the initiative of the U.S.S.R.; Finland acceded to the Convention in 1934. Hence the U.S.S.R., even in its own view shoul be regarded as an aggressor.

As early as the day following the opening of hostilities, th U.S.S.R. broadcast the intimation that it had set up a new "democratic" Government for Finland in the village of Terijoki in

Finnish territory in the Isthmus of Karelia, near the Finnish-Soviet frontier. This Government is composed of Finnish Communists who almost all fled to Russia twenty years ago and who had been guilty of high treason and rebellion, of which offences some of them have even been convicted by the courts. Such a body, set up by a foreign Power, Finland -- presumably, like any foreign State -- regards as devoid of all importance and entirely without standing. The legal Government of Finland is still in the capital of the country, notwithstanding the allegations of the U.S.S.R.

On the day on which the troops of the U.S.S.R. attacked the territory of Finland, the United States offered their good offices with a view to the pacific settlement of the dispute. This offer was arrogantly rejected by the U.S.S.R., whereas Finland, though the injured party, gratefully accepted it. Finland has even gone further in her efforts in favour of peace in the North, and general peace. Attempting to forget the great injustice she had suffered and her irreparable losses of both human lives and property, on December 4th she approached the Government of the U.S.S.R., through the Minister of Sweden in Moscow, with a proposal for the re-opening of negotiations. At the same time, she declared her willingness to make new proposals with a view to the satisfactory settlement of the questions pending between herself and the U.S.S.R. This proposal was also rejected by the latter, which disputed the Swedish Minister's right to represent the interests of Finland, and replied that it was only prepared to negotiate with the above

mentioned Government, which it had itself set up at the frontier of Finland.

The U.S.S.R. has thus clearly demonstrated its intention, regardless of everything, to continue its armed attack by every means until it has Finland at its mercy and can destroy both her independence and her existence, despite the fact that M. Molotov, Commissar for Foreign Affairs of the U.S.S.R., affirmed the contrary in a speech delivered in the course of the negotiations mentioned above.

Def. Doc. No. 559

Excerpts from book entitled "EVENTS LEADING UP TO WORLD WAR II", published by United States Government Printing Office, Washington: 1945

Relating to the Baltic States

From p. 218

September 28, 1939. Esthonia signed 10-year mutual assistance pact with Russia, giving latter material, air bases, and military rights. ("Being desirous of promoting the friendly relations which were established by the Treaty of Peace concluded on February 2, 1920, and which are founded upon independent political existence and non-interference in internal affairs of the other contracting party;

"recognizing that the Treaty of Peace of February 2, 1920 and the Pact of Non-aggression and Peaceful Settlement of Conflicts of May 4, 1932, continue as heretofore the firm foundation of their mutual relations;

"Being convinced that it is in the interests of both of the contracting parties to determine the exact terms of insuring their mutual security;.... Bulletin, Vol. I, No. 20, p. 543.)

From p. 219

October 5, 1939. Latvia signed 10-year mutual aid treaty (giving Russia naval and air bases on Baltic).....("for the purpose of developing the friendly relations created by the peace treaty of August 11, 1920, which were based on the recognitio of the independent statehood and non-interference in the internal affairs of the other party;...." Ibid., No. 20, p. 542; Latvia, p. 103)

Russia invited Finland to political discussion...(Finnish No. 10, p. 42: "Now that the international situation has altered on account of the war.")

From P. 220

October 10, 1939. Russia concluded 15-year mutual assistance pact with Lithuania for military and air bases to fortify Lithuanian-German frontier." (Ibid., No. 25, p. 705)

From p. 221

October 19, 1939. Poland protested to Lithuania the acceptance of territory ceded by Russia. ("...which does not belong to said Union" Bulletin, Vol. I, No. 17, p. 403.)

From p. 243

June 12, 1940. Russia accused Lithuania of military alliance against her. (Bulletin, LATVIA, p. 112.)

From pp. 244-45

June 15, 1940. Russian troops marched into Lithuania. (After acceptance of ultimatum by Lithuania, Times, June 16, 1940)

June 16, 1940. Russia delivered ultimatum to Latvia. ("...To achieve the honest and loyal execution of the Latvian-Soviet Pact of Mutual Assistance." Latvia, p. 107.)

June 17, 1940. Russia announced Esthonia and Latvia had agreed to free passage of Russian troops and to formation of new governments. (Following ultimatums. "On the basis of factual data at the disposal of the Soviet government, and also on the basis of an exchange of views lately held in Moscow between Chairman of the Council of People's Commissars of the U.S.S.R. Molotov and Chairman of the Council of Ministers Merkys, the Soviet government considers as an established fact that the Latvian government not only did not cancel the military alliance with Esthonia created prior to the conclusion of the Soviet-Latvian mutual-assistance pact and directed against the U.S.S.R., but extended it by drawing Lithuania also into this alliance, and by attempts to draw Finland into it also....Latvia jointly with the other Baltic States engaged in activizing and extending the military alliance, which was proved by such acts as convocation of two secret conferences of the three Baltic States in December 1939 and March 1940, for formal conclusion of an enlarged military alliance with Esthonia and Lithuania; intensification of connections of the General Staffs of Latvia, Esthonia and Lithuania effected in secret from the U.S.S.R. and the founding in February 1940, of a special publication of the Baltic military entente, Revue Baltique, issued in the English, French and German languages....The government considers that such a situation cannot be tolerated any longer." Ibid., June 17, 1940, p. 6. Cf. Latvia, p. 122.)

From p. 251

July 21, 1940. Esthonia, Latvia, Lithuania asked incorporation into Russia. (By resolution of newly elected Communist-dominated parliaments which proclaimed them Soviet republics. Times, July 22, 1940, p. 1.)

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Def. Doc. No. 560

Excerpts from book entitled "EVENTS LEADING UP TO WORLD WAR II", published by United States Government Printing Office, Washington: 1945

Relating to Poland

From pp. 216-17

September 17, 1939. Russia invaded Poland from the East..."Events arising out of the Polish-German War has revealed the internal insolvency and obvious impotence of the Polish State. Polish ruling circles have suffered bankruptcy.... Warsaw as the Polish state no longer exists. No one knows the whereabouts of the Polish Government. The population of Poland have been abandoned by their ill-starred leaders to their fate. The Polish State and its government have virtually ceased to exist. In view of this state of affairs, treaties concluded between the Soviet Union and Poland have ceased to operate. A situation has arisen in Poland which demands of the Soviet Government especial concern for the security of its state. Poland has become a fertile field for any accidental and unexpected contingency that may create a menace to the Soviet Union....Nor can it be demanded of the Soviet Government that it remain indifferent to the fate of its blood brothers, the Ukrainians and Byelo-Russians (White Russians) inhabiting Poland, who even formerly were without rights and who now have been abandoned entirely to their fate. The Soviet Government deems it its sacred duty to extend the hand of assistance to its brother Ukrainians and brother Byelo-Russians inhabiting Poland". (Molotov, quoted in Times Sept. 18, 1939, p. 5.)

September 18, 1939. German and Polish troops agreed provisionally on partition of Poland at Brest-Litovsk. (Two armies met as campaign approached end. Times, Sept. 19, 1939, p. 1.)

From p. 218

September 28, 1939. Germany and Russia partitioned Poland in border and friendship treaty. ("The German Reich Government and the Government of Soviet Russia, after the disintegration of the former Polish state, consider it their task to restore in this region law and order and to insure nationals living there an existence corresponding to their national character." Times, Sept. 29, 1939, p. 1.)

From p. 223

November 3, 1939. Russia incorporated Polish Western Ukraine and Western White Russia. ("...owing to collapse of the Polish State and the successful operations of our Red Army..." Times, Nov. 7, 1939, p. 5.)

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Def. Doc. No. 561

Excerpts from book entitled "EVENTS LEADING UP TO WORLD WAR II", published by United States Government Printing Office, Washington: 1945

Relating to Rumania

From p. 247

June 26, 1940. Russian ultimatum to Rumania. ("In 1918, taking advantage of Russia's military weakness, Rumania forcibly wrested from the Soviet Union part of its territory--Bessarabia--and thus broke the age-old unity of Bessarabia, populated chiefly by Ukrainians, with the Ukrainian Soviet Republic.

"The Soviet Union never reconciled itself to the forcible wresting of Bessarabia, which the U.S.S.R. Government more than once openly declared for the whole world to hear.

"Now, when the military weakness of the U.S.S.R. has become a thing of the past, while the present international situation demands the speediest solution of outstanding issues inherited from the past in order to lay at last the foundations of a durable peace between countries, the Soviet Union considers it necessary and timely in the interests of the restoration of justice to take up jointly with Rumania the immediate settlement of the question of the restoration of Bessarabia to the Soviet Union.

"The Government of the U.S.S.R. considers that the question of the restoration of Bessarabia is organically bound with the question of transfer to the Soviet Union of that part of Bukovina of which the population in its overwhelming majority is bound to the Soviet Ukraine by the unity of historic destinies as well as by unity of language and national composition." Times, June 29, 1940, p. 8. Cf. June 21, supra.)

From p. 248

June 28, 1940. Rumania transferred Bessarabia and Northern Bukovina to Russia. ("To preserve the possibility of avoiding serious consequences which would result from the application of force and the outbreak of hostilities in this part of Europe,..." Times, June 29, 1940, p. 8.)

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for what ever probative value it has —

Def. Doc. No. 516

Excerpt from The New York Times, 19 December 1941

Portugal Bids the Allies Quit Timor;
They Say 'No' as Axis Warns Lisbon

By DANIEL T. BRIGHAM
By Telephone to THE NEW YORK TIMES

BERNE, Switzerland, Dec. 19-- Portugal demands that Britain and the Netherlands withdraw their occupation forces from Portugese Timor immediately, Premier and Foreign Minister Antonio de Oliveira Salazar told a special session of the National Assembl in Lisbon today.

(In London a spokesman asserted that "we won't budge", The United Press reported.)

Dr. Salazar acknowledged that the island, which lies between Australia and the Netherlands Indies, was of "greatest importance to the defense of Australia", but asserted that a Japanese attack there could not be regarded as "probable".

Pending the Allied reply to the Portuguese protest, the Premier said, the government is studying "the necessity of increasing the small garrison on the island".

Immediately after the closing of the special session, Dr. Salazar, in a mysterious move attributed to Axis pressure, ordered the Portuguese Ambassador in Madrid to inform Foreign Minister Serrano Suner of the steps the Lisbon government had decided to take. Some diplomats here believed this evening that Portugal had taken the first step toward lining up with the Axis.

omitted

In opening his speech the Premier told Parliament that "I a not here to make a speech, but to put before the National Assembl an exposition, a simple exposition, of the facts." He continued:

"Wednesday morning two armed contingents that appear to have been of Australian and Netherland nationality debarked forcibly at Deli, invoking as their reason the defense of the colony from an imminent Japanese aggression. (In Batavia it was said the occupation was carried out Thursday.) I pass over in silence certain campaigns carried on in the world press during recent weeks on the subject of Timor and on the subject of Portuguese foreign policy--ridiculous and interested campaigns in which the presence of fourteen Japanese on the island was taken as the pretext for fears of Japanese infiltration.

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"On Dec. 4 last the British Foreign Secretary, in a conversation with the Portuguese Ambassador to London, mentioned the strategical position of Timor, which is essential to the defense of Australia and on the subject of which the British General Staff has been obliged to preoccupy itself. The British Government, he said, had three questions to ask. These were:

"1. What would be the attitude of the Portuguese Government in case of a Japanese attack on Timor?

"2. Would the Portuguese Government be disposed to accept British aid if the island was attacked?

"3. If the answer is in the affirmative, would there not be advantage in studying now a plan for joint occupation?

"It is our conviction that a Japanese attack against the Portuguese possession of Timor can under no circumstances be considered as probable.

"However, as a prudent measure of foresight and owing to the existence of our alliance with Great Britain, the government did not hesitate to answer in the following manner: First, we would resist with force any Japanese aggression against Timor--as we would against any other Portuguese possession or against any aggressor; second, given our intention to resist, we would not only accept British aid, we would expect it under the treaty of alliance, the more so since there exists no reason why the Japanese should attack our possession, and the attack, should it come, would come only as a result of our alliance with Great Britain or as a prelude to subsequent attacks against British possessions.

"On Dec. 7 the British Government acknowledged receipt of this communication in the warmest terms, and, after consultation with the Australian Government, suggested that a Portuguese officer be sent immediately to Singapore to confer with the British Command there."

Says Offer was Accepted

The Premier and Foreign Minister--and Minister of War--told his listeners that his government had accepted this offer and had sent the Governor of Timor instructions to this effect:

"The aid to be studied is in the same measure as that which is due to the Portuguese under the treaty this country has with the British. This will come in the form of British and Netherlands troops under British command. The hypothesis to be envisaged is solely that of a Japanese aggression against Timor. This accord does not come into effect merely on the basis of simple menace or fears thereof, more or less well founded. The collabo-

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ration of foreign troops is not reciprocal except that through Japanese attack on our possessions we have already lost our neutrality, and that, finally, all foreign troops will be withdrawn once their presence is no longer required."

British and Netherland representations, however, became increasingly insistent, the Premier went on, as Allied fears of a Japanese attack increased. But while the British Ambassador in Lisbon was trying to convince the Portuguese Government of the necessity of immediate measures, those forces were being debarked on the island of Timor "and those troops did not land with the object of negotiation, but to call upon the Governor to grant immediate permission."

"Naturally the modest police garrison on the island could do nothing to resist," Dr. Salazar said.

The Premier added that "the colony remains calm" and that "we are at present studying the means of increasing the garrison there as the simplest manner of bringing peace back to that island exposed as it is to the convulsions of war."

A formal note of protest demanding that the Allies immediate withdraw from Timor was being prepared in the Foreign Office late tonight. It is to be handed to the British Ambassador early tomorrow.

Axis Diplomats Active

Axis representatives, including the Japanese Charge d'Affai called at the Lisbon Foreign Office during the afternoon to present the attitude of their governments. The Axis attitude left little to the imagination.

The Rome press adopted the line that "a passive attitude by Lisbon at this juncture could be interpreted only as confirming the existence of an entente between Portugal and Britain on future war policy." "Such a conclusion can have but one consequence," it was said. "The repercussions of this 'favoring of the British initiatives' would rebound on the vast and complex Portuguese colonial system."

Berlin comment was similar, though somewhat more subtle. It stressed that the Reich had noted that "on previous occasions in the not so distant past Portuguese neutrality has shown considerable tolerance for British pretensions and desires."

The note of warning could scarcely be overlooked. Leaving nothing to the imagination, however, as soon as Spain's declaration of "non-belligerency" in the Pacific was known, the Axis representatives called again at the Foreign Office in Lisbon--they are reported to have been calling four to five times daily

during the last four days--to inform the Portuguese of this move, while simultaneously the Axis rumor factories throughout Europe began turning on inspired smokescreens.

Rumors of troop concentrations on the southern French frontiers began pouring over the wires to "neutral" sources with such emphasis being laid on their implications toward "Portuguese protection" that seasoned observers "consulted the stars" and looked toward Morocco, for it is there, according to information leaking out of Vichy this evening, that the Vichy government expects the next move. Portugal is regarded as only a "secondary objective."

With the British fleet occupied in the Mediterranean, with the Libyan campaign, with the Americans not yet ready and already with their hands full in the Pacific, the Axis reasons, Portugal can be conquered with a telephone call provided that sufficient troops appear at sufficient places along her eastern frontiers at the right time.

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C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 4 pages and entitled "PORTUGAL BIDS THE ALLIES QUIT TIMOR; THEY SAY 'NO' AS AXIS WARNS LISBON" is an exact and true copy of an article in "NEW YORK TIMES" dated December 19, 1941 in the custody of Japanese Foreign Office.

Certified at Tokyo,

on this 24th day of February 1947

/s/ K. Hayashi
Signature of Official

Witness: /s/ T. Sato

Def. Doc. No. 517

Excerpt from The New York Times, 11 April 1941

S 331 Identification only
Whose?

Agreement Whereby United States Becomes Protector of Greenland

AGREEMENT RELATING TO
THE DEFENSE OF
GREENLAND

Whereas:

1--After the invasion and occupation of Denmark on April 9, 1940, by foreign military forces, the United Greenland Councils at their meeting at Godhavn on May 3, 1940, adopted in the name of the people of Greenland a resolution reiterating their oath of allegiance to King Christian X of Denmark and expressing the hope that, for as long as Greenland remains cut off from the mother country, the Government of the United States of America will continue to hold in mind the exposed position of the Danish flag in Greenland of the native Greenland and Danish population and of established public order; and

2--The governments of all of the American republics have agreed that the status of regions in the Western Hemisphere belonging to European powers is a subject of deep concern to the American nations, and that the course of military events in Europe and the changes resulting from them may create the grave danger that European territorial possessions in America may be converted into strategic centers of aggression against nations of the American continent; and

3--Defense of Greenland against attack by a non-American power is essential to the preservation of the peace and security of the American continent and is a subject of vital concern to the United States of America and also to the Kingdom of Denmark; and

4--Although the sovereignty of Denmark over Greenland is fully recognized, the present circumstances for the time being prevent the government in Denmark from exercising its powers in respect of Greenland. Therefore,

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The undersigned, to wit: Cordell Hull, Secretary of State of the United States of America, acting on behalf of the Government of the United States of America, and Henrik de Kauffmann, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Denmark at Washington, acting on behalf of His Majesty the King of Denmark in his capacity as sovereign of Greenland, whose authorities in Greenland have concurred herein, have agreed as follows:

Article I

The Government of the United States of America reiterates its recognition of and respect for the sovereignty of the Kingdom of Denmark over Greenland. Recognizing that as a result of the present European war there is a danger that Greenland may be converted into a point of aggression against nations of the American continent, the Government of the United States of America, having in mind its obligations under the Act of Habana signed on July 30, 1940, accepts the responsibility of assisting Greenland in the maintenance of its present status.

Article II

It is agreed that the Government of the United States of America shall have the right to construct, maintain and operate such landing fields, seaplane facilities and radio and meteorological installations as may be necessary for the accomplishment of the purposes set forth in Article I.

Article III

The grants of the rights specified in Article II shall also include the right to improve and deepen harbors and anchorages and the approaches thereto, to install aids to navigation by air and by water, and to construct roads, communication services, fortifications, repair and storage facilities, and housing for personnel, and generally, the right to do any and all things necessary to insure the efficient operation, maintenance and protection of such defense facilities as may be established.

Article IV

The landing fields seaplane, harbor and other defense facilities that may be constructed and operated by the Government of the United States of America under Articles II and III will be made available to the airplanes and vessels of all the American nations for purposes connected with the common defense of the Western Hemisphere.

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Article V

It is agreed that the Government of the United States of America shall have the right to lease for such period of time as this agreement may be in force such areas of land and water as may be necessary for the construction, operation and protection of the defense facilities specified in Articles II and III.

In locating the aforesaid defense areas, the fullest consideration consistent with military necessity shall be given to the welfare, health and economic needs of the native population of Greenland.

It is agreed, however, that since the paramount objective sought is the early attainment of an adequate defense establishment in Greenland, the utilization of any area deemed by the Government of the United States of America to be needed for this purpose shall not be delayed pending the reaching of an agreement upon the precise terms of a formal lease.

A description of such areas, by metes and bounds, and a statement of the purpose for which they are needed shall in each case be communicated to the Danish authorities in Greenland as soon as practicable, and the negotiation of a formal lease shall be undertaken within a reasonable period of time thereafter.

Article VI

The Kingdom of Denmark retains sovereignty over the defense areas mentioned in the preceding articles.

So long as this agreement shall remain in force, the Government of the United States of America shall have exclusive jurisdiction over such defense area in Greenland and over military and civilian personnel of the United States, and their families, as well as over all other persons within such areas except Danish citizens and native Greenlanders, it being understood, however, that the Government of the United States may turn over to the Danish authorities in Greenland for trial and punishment any person committing an offense within a defense area, if the Government of the United States shall decide not to exercise jurisdiction in such case.

The Danish authorities in Greenland will take adequate measures to insure the prosecution and punishment in case of conviction of all Danish citizens, native Greenlanders and other persons who may be turned over to them by the authorities of the United States for offenses committed within the said defense areas.

Article VII

It is agreed that the Government of the United States of America shall have the right to establish and maintain postal facilities and commissary stores to be used solely by military and civilian personnel of the United States, and their families, maintained in Greenland in connection with the Greenland establishment. If requested by the Danish authorities in Greenland, arrangements will be made to enable persons other than those mentioned to purchase necessary supplies at such commissary stores as may be established.

Article VIII

All materials, supplies and equipment for the construction, use and operation of the defense establishment and for the personal needs of military and civilian personnel of the United States, and their families, shall be permitted entry into Greenland free of customs duties, excise taxes or other charges, and the said personnel, and their families, shall also be exempt from all forms of taxation, assessments or other levies by the Danish authorities in Greenland.

Article IX

The Government of the United States of America will respect all legitimate interests in Greenland as well as all the laws, regulations and customs pertaining to the native population and the internal administration of Greenland. In exercising the rights derived from this agreement the Government of the United States will give sympathetic consideration to all representations made by the Danish authorities in Greenland with respect to the welfare of the inhabitants of Greenland.

Article X

This agreement shall remain in force until it is agreed that the present dangers to the peace and security of the American Continent have passed. At that time the modification or termination of the agreement will be the subject of consultation between the Government of the United States of America and the Government of Denmark.

After due consultation has taken place, each party shall have the right to give the other party notice of its intention to terminate the agreement, and it is hereby agreed, that at the expiration of twelve months after such notice shall have been received by either party from the other this agreement shall cease to be in force.

Signed at Washington in duplicate, in the English and Danish languages, both texts having equal force, this 9th day of April, nineteen hundred and forty-one.

CORDELL HULL,
Secretary of State of the United States of America.

HENRIK DE KAUFFMANN,
Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Denmark at Washington.

Letters Exchanged

Hull to Danish Minister

Secretary Hull's letter to Minister de Kauffmann read:

April 7, 1941

Sir:

I have the honor to refer to the informal conversations which you have had with officers of the Department of State during which the concern of the Government of the United States was expressed over the effect of recent military developments, particularly affecting Greenland, upon the maintenance of the peace and security of the United States and the rest of the American Continent.

You are also aware of the interest of the Government of the United States in maintaining unimpaired the safety of Greenland and the sovereignty of Denmark over that island.

My government has continuously had in mind the desire expressed by the United Greenland councils at their meeting at Godhavn on May 3, 1940, that the Government of the United States of America would continue to hold in mind the exposed position of the Danish flag in Greenland and of the native Greenland and Danish population of the island.

My government has taken note of the unusual situation in which Greenland now finds itself. The Kingdom of Denmark is at present under occupation by a foreign army. The Government of the United States has condemned that invasion as a violation of Danish sovereign rights, and had repeatedly expressed its friendly concern and its most earnest hope for the complete and speedy liberation of Denmark.

Although the Government of the United States fully recognizes the sovereignty of the Kingdom of Denmark over Greenland, it is unhappily clear that the Government in Denmark is not in a position to exercise sovereign power over Greenland so long as the present military occupation continues.

Greenland is within the area embraced by the Monroe Doctrine and by the Act of Havana, with which you are familiar, and its defense against attack by a non-American power is plainly essential to the preservation of the peace and security of the American

Continent, and of the traditional policies of this Government respecting the Western Hemisphere.

My government has consequently proposed measures for the adequate defense of Greenland consistent with the obligations of the United States under the Act of Havana signed on July 30, 1940. In doing so it is animated by sentiments of the completest friendliness for Denmark, and believes that by taking these steps it is safeguarding the eventual reestablishment of the normal relationship between Greenland and the Kingdom of Denmark.

I have the honor to enclose a draft of the proposed agreement relating to the defense of Greenland, which I believe embodies the ideas agreed upon in the course of our various conversations.

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

Cordell Hull.

Reply of Danish Minister

April 9, 1941

Sir:

I have received your note of the seventh instant concerning the defense of Greenland together with a draft of a proposed agreement regarding the same subject.

It is with appreciation that I note your renewed assurance that, although the present circumstances prevent the government in Denmark for the time being from exercising its powers in respect of Greenland, your government fully recognizes the sovereignty of the Kingdom of Denmark over the island.

At the same time I wish to convey to you my feelings of gratitude for the expression of friendly concern of your government and its earnest hope for the complete and speedy liberation of Denmark.

I share your view that the proposed agreement, arrived at after an open and friendly exchange of views, is, under the singularly unusual circumstances, the best measure to assure both Greenland's present safety and the future of the island under Danish sovereignty.

Furthermore, I am of the opinion that the terms of the agreement protect, as far as possible, the interests of the native

population of Greenland, whose welfare traditionally has been the paramount aim of Denmark's policy in Greenland.

I, therefore, shall accept and sign the agreement proposed, acting on behalf of His Majesty, the King of Denmark, in his capacity of sovereign over Greenland, whose authorities in Greenland have concurred herein.

I avail myself of this opportunity to renew to you, Mr. Secretary of State, the assurances of my highest consideration.

Henrik Kauffmann.

Def. Doc. No. 517

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 8 pages and entitled "AGREEMENT WHEREBY UNITED STATES BECOMES PROTECTOR OF GREENLAND" is an exact and true copy of an article in "NEW YORK TIMES" dated April 11, 1941, in the custody of Japanese Foreign Office.

Certified at Tokyo,
on this 22nd day of February 1947.

/s/ K. Hayashi
Signature of Official

Witness: /s/ H. Suzuki

2332A

Def. Doc. No. 562

Excerpts from book entitled "EVENTS LEADING UP TO WORLD WAR II", published by United States Government Printing Office, Washington: 1945

Relating to Greenland

From p. 278

April 12, 1941. Denmark repudiated agreement of April 9.
("...without authorization from here, and contrary to the constitution,..." Bulletin, Vol. IV, No. 95, p. 471.)

J 333
Id. Only

Def. Doc. No. 518

Excerpt from The New York Times, 9 July 1941

I am transmitting herewith for the information of the Congress a message I received from the Prime Minister of Iceland on July I and the reply I addressed on the same day to the Prime Minister of Iceland in response to this message.

In accordance with the understanding so reached, forces of the United States Navy have today arrived in Iceland in order to supplement, and eventually to replace, the British forces which have until now been stationed in Iceland in order to insure the adequate defense of that country.

As I stated in my message to the Congress of September 3 last regarding the acquisition of certain naval and air bases from Great Britain in exchange for certain over-age destroyers, considerations of safety from overseas attack are fundamental.

The United States cannot permit the occupation by Germany of strategic outposts in the Atlantic to be used as air or naval bases for eventual attack against the Western Hemisphere. We have no desire to see any change in the present sovereignty of those regions.

Assurance that such outposts in our defense frontier remain in friendly hands is the very foundation of our national security and of the national security of every one of the independent nations of the New World.

For the same reason substantial forces of the United States have now been sent to the bases acquired last year from Great Britain in Trinidad and in British Guiana, in the south, in order to forestall any pincers movement undertaken by Germany against the Western Hemisphere. It is essential that Germany should not be able successfully to employ such tactics through sudden seizure of strategic points in the South Atlantic and in the North Atlantic.

~~atom Bomb~~ Three-Dimensional Threat

The occupation of Iceland by Germany would constitute a serious threat in three dimensions:

The threat against Greenland and the northern portion of the North American continent, including the islands which lie off it.

re arti Stimson artic on atom

The threat against all shipping in the ~~North~~ Atlantic. (NT)

CC Choice of weapon by allies can have no bearing on the charges of waging + initiating war W/except as for the crime when dropping of the bomb could not have obliterated any charges already made charging conspiracy up to time of 8/15/45

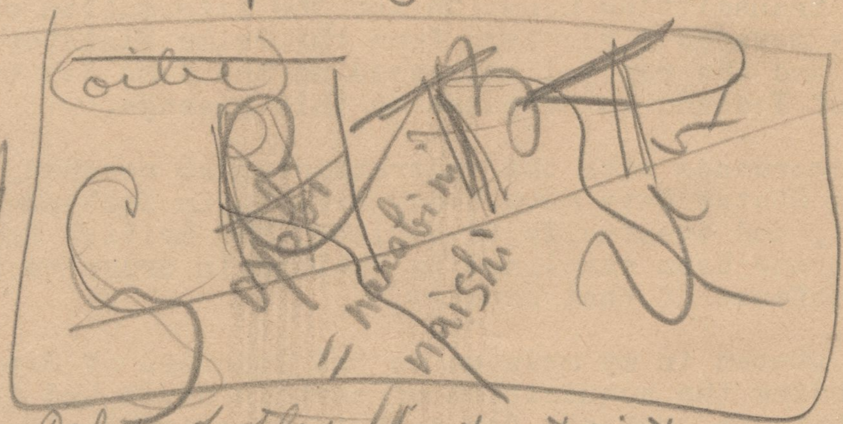
CC no one has ever suggested that there is a law of war forbidding the use of the atom weapon. But if there were it could provide no excuse for crimes against POW – So no nec. for consid Stimson opinion

2

B/ Hague convent forbids certain weapons

W/ assuming but without deciding that the use of atom bomb const. war crime what effect do you think that will have on —

B/ Right of retaliation (crimes charged) not only preced but followed.



B/

Re Hague Conv. in respect of other parties to it.
If we can concede that certain leaders of Japan violated certain prov of Hague — should find ourselves in same dilemma of deciding whether this convention has one or two meanings. Re this doc — Trib only draw conclusion that the Hague Conv of 1907 #4 is obsolete — obsolescent —

R C which Prov's learned friend is talking about

W/

x It might be (argued that the) ~~justified that the~~ dropping of the 2 bombs justified things done by Japan after the dropping of bomb — what about before — Govt are relying only obsolescence of Hague Conv.

B/ Events after — plainly retaliatory —

W/ that is over a brief 3 weeks

B/ those three weeks might be brought convict one of these defendants my recoll. is that voluminous evidence was submitted — Manila for instance.

(nervous over this future conduct)

Def. Doc. 518

The threat against the steady flow of munitions to Britain--which is a matter of broad policy clearly approved by the Congress.

It is, therefore, imperative that the approaches between the Americas and those strategic outposts, the safety of which this country regards as essential to its national security and which it must therefore defend, shall remain open and free from all hostile activity or threat thereof.

As Commander-in-Chief I have consequently issued orders to the Navy that all necessary steps be taken to insure the safety of communications in the approaches between Iceland and the United States, as well as on the seas between the United States and all other strategic outposts.

This government will insure the adequate defense of Iceland with full recognition of the independence of Iceland as a sovereign state.

In my message to the Prime Minister of Iceland I have given the people of Iceland the assurance that the American forces sent there would in no way interfere with the internal and domestic affairs of that country, and that immediately upon the termination of the present international emergency all American forces will be at once withdrawn, leaving the people of Iceland and their government in full and sovereign control of their own territory.

Prime Minister's Message

In a conversation of June 24, the British Minister explained that British forces in Iceland are required elsewhere. At the same time he stressed the immense importance of adequate defense of Iceland. He also called my attention to the declaration of the President of the United States to the effect that he must take all necessary measures to insure the safety of the Western Hemisphere--one of the President's measures is to assist in the defense of Iceland--and that the President is therefore prepared to send here immediately United States troops to supplement and eventually to replace the British force here. But that he does not consider that he can take this course except at the invitation of the Iceland Government.

After careful consideration of all circumstances the Iceland Government, in view of the present state of affairs, admit that this measure is in accordance with the interest of Iceland, and therefore are ready to entrust the protection of Iceland to United States on the following conditions:

1. United States promise to withdraw all their military forces land, air and sea from Iceland immediately on conclusion of present war.

2. United States further promise to recognize the absolute independence and sovereignty of Iceland and to exercise their best efforts with those Powers which will negotiate the peace treaty at the conclusion of the present war in order that such treaty shall likewise recognize the absolute independence and sovereignty of Iceland.

3. United States promise not to interfere with Government of Iceland neither while their armed forces remain in this country nor afterward.

Picked Troops Requested

4. United States promise to organize the defense of the country in such a way as to insure the greatest possible safety for the inhabitants themselves and to assure that they suffer minimum disturbance from military activities; these activities being carried out in consultation with Iceland authorities as far as possible. Also because of small population of Iceland and consequent danger to nation from presence of a numerous army, great care must be taken that only picked troops are sent here. Military authorities should be also instructed to keep in mind that Icelanders have been unarmed for centuries and are entirely unaccustomed to military discipline, and conduct of troops toward the inhabitants of the country should be ordered accordingly.

5. United States undertake defense of the country without expense to Iceland and promise compensation for all damage occasioned to the inhabitants by their military activities.

6. United States promise to further interests of Iceland in every way in their power, including that of supplying the country with sufficient necessities, of securing necessary shipping to and from the country and of making in other respects favorable commercial and trade agreements with it.

7. Iceland Government expects that declaration made by President in this connection will be in agreement with these promises on part of Iceland, and Government would much appreciate its being given the opportunity of being cognizant with word of this declaration before it is published.

8. On part of Iceland, it is considered obvious that if United States undertake defense of the country it must be strong enough to meet every eventuality and particularly in the beginning it is expected that as far as possible effort will be made to prevent any special danger in connection with change-over. Iceland

Government lays special stress on there being sufficient airplanes for defensive purposes wherever they are required and they can be used as soon as decision is made for United States to undertake the defense of the country.

This decision is made on the part of Iceland as an absolutely free and sovereign state and it is considered as a matter of course that United States will from the beginning recognize this legal status of the country, both states immediately exchanging diplomatic representatives.

The President's Reply

I have received your message in which you have informed me that after careful consideration of all the circumstances the Iceland Government, in view of the present state of affairs, admits that the sending to Iceland of United States troops to supplement and eventually to replace the present British forces there would be in accordance with the interests of Iceland and that, therefore, the Iceland Government is ready to entrust the protection of Iceland to the United States on the following considerations:

(At this point the message repeated verbatim the eight conditions set forth in the message of the Prime Minister.)

You further state that this decision is made on the part of Iceland as an absolutely free and sovereign State and that it is considered as a matter of course that the United States will from the beginning recognize the legal status of Iceland, both States immediately exchanging diplomatic representatives.

I take pleasure in confirming to you hereby that the conditions set forth in your communication now under acknowledgement are fully acceptable to the Government of the United States and that these conditions will be observed in the relations between the United States and Iceland. I may further say that it will give me pleasure to request of the Congress its agreement in order that diplomatic representatives may be exchanged between our two countries.

It is the announced policy of the Government of the United States to undertake to join with the other nations of the Western Hemisphere in the defense of the New World against any attempt of aggression. In the opinion of this Government, it is imperative that the integrity and independence of Iceland should be preserved because of the fact that any occupation of Iceland by a power whose only too clearly apparent plans for world conquest include the domination of the peoples of the New World would at once directly menace the security of the entire Western Hemisphere.

Praise for Iceland

It is for that reason that in response to your message, the Government of the United States will send immediately troops to supplement and eventually to replace the British forces now there.

The steps so taken by the Government of the United States are taken in full recognition of the sovereignty and independence of Iceland and with the clear understanding that American milita[illegible] or naval forces sent to Iceland will in no wise interfere in the slightest degree with the internal and domestic affairs of the Icelandic people; and with the further understanding that immediately upon the termination of the present international emergency, all such military and naval forces will be at once withdrawn, leaving the people of Iceland and their Government in full control of their own territory.

The people of Iceland hold a proud position among the democracies of the world, with a historic tradition of freedom and individual liberty which is more than a thousand years old. It is, therefore, all the more appropriate that in response to your message, the Government of the United States, while undertaking this defensive measure for the preservation of the independence and security of the democracies of the New World should at the same time be afforded the privilege of cooperating in this manner with our Government in the defense of the historic democracy of Iceland.

I am communicating this message, for their information, to the governments of all of the other nations of the Western Hemisphere.

~~Def. Doc. # 516~~

Def. Doc. 518

CERTIFICATE

Statement of Source and Authenticity

I, HAYASHI, Kaoru, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 5 pages and entitled "MESSAGE TO CONGRESS" is an exact and true copy of an article in "NEW YORK TIMES" dated July 9, 1941, in the custody of Japanese Foreign Office.

Certified at Tokyo, on this 21st day of February 1947.

/s/ K. Hayashi
Signature of Official

Witness: /s/ H. Suzuki

See Pro
re Japanese Posit re "Heads of States" as War Criminals.
Term 19 335

Def. Doc. #353

[From "Report Presented To The Preliminary Peace Conference by the Commission on The Responsibility of The Authors of The War and on Enforcement of Penalties", March 29, 1919]

ANNEX II

am + Jap.

Memorandum of Reservations presented by the Representatives of the United States to the Report of the Commission on Responsibilities, April 4, 1919.

The American members of the Commission on Responsibilities, in presenting their reservations to the report of the Commission, declare that they are as earnestly desirous as the other members of the Commission that those persons responsible for causing the Great War and those responsible for violations of the laws and customs of war should be punished for their crimes, moral and legal. The differences which have arisen between them and their colleagues lie in the means of accomplishing this common desire. The American members therefore submit to the Conference on the Preliminaries of Peace a memorandum of the reasons for their dissent from the report of the Commission and from certain provisions for insertion in Treaties with enemy countries, as stated in Annex IV, and suggestions as to the course of action which they consider should be adopted in dealing with the subjects upon which the Commission on Responsibilities was directed to report.

Preliminary to a consideration of the points at issue and the irreconcilable differences which have developed and which make this dissenting report necessary, we desire to express our high appreciation of the conciliatory and considerate spirit manifested by our colleagues throughout the many and protracted sessions of the Commission. From the first of these, held on February 3, 1919, there was an earnest purpose shown to compose the differences which existed, to find a formula acceptable to all, and to render, if possible, a unanimous report. That this purpose failed was not because of want of effort on the part of any member of the Commission. It failed because, after all the proposed means of adjustment had been tested with frank and open minds, no practicable way could be found to harmonise the differences without an abandonment of principles which were fundamental. This the representatives of the United States could not do and they could not expect it of others.

In the early meetings of the Commission and the three Sub-Commissions appointed to consider various phases of the subject submitted to the Commission, the American members declared that there were two classes of responsibilities, those of a legal nature and those of a moral nature, that legal offenses were justiciable and liable to trial and punishment by appropriate tribunals, but that moral offenses, however iniquitous and infamous and however terrible in their results, were beyond the reach of judicial procedure, and subject only to moral sanctions.

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While this principle seems to have been adopted by the Commission in the report so far as the responsibility for the authorship of the war is concerned, the Commission appeared unwilling to apply it in the case of indirect responsibility for violations of the laws and customs of war committed after the outbreak of the war and during its course. It is respectfully submitted that this inconsistency was due in large measure to a determination to punish certain persons, high in authority, particularly the heads of enemy states, even though heads of states were not hitherto legally responsible for the atrocious acts committed by subordinate authorities. To such an inconsistency the American members of the Commission were unwilling to assent, and from the time it developed that this was the unchangeable determination of certain members of the Commission they doubted the possibility of a unanimous report. Nevertheless, they continued their efforts on behalf of the adoption of a consistent basis of principle, appreciating the desirability of unanimity if it could be attained. That their efforts were futile they deeply regret.

With the manifest purpose of trying and punishing those persons to whom reference has been made, it was proposed to create a high tribunal with an international character, and to bring before it those who had been marked as responsible, not only for directly ordering illegal acts of war, but for having abstained from preventing such illegal acts.

Appreciating the importance of a judicial proceeding of this nature, as well as its novelty, the American representatives laid before the Commission a memorandum upon the constitution and procedure of a tribunal of an international character which, in their opinion, should be formed by the union of existing national military tribunals or commissions of admitted competence in the premises. And in view of the fact that "customs" as well as "laws" were to be considered, they filed another memorandum, attached hereto, as to the principles which should, in their opinion, guide the Commission in considering and reporting on this subject.

The practice proposed in the memorandum as to the military commissions was in part accepted, but the purpose of constituting a high tribunal for the trial of persons exercising sovereign rights was persisted in, and the abstention from preventing violations of the laws and customs of war and of humanity was insisted upon. It was frankly stated that the purpose was to bring before this tribunal the ex-Kaiser of Germany, and that the jurisdiction of the tribunals must be broad enough to include him even if he had not directly ordered the violations.

To the unprecedented proposal of creating an international criminal tribunal and to the doctrine of negative criminality the American members refused to give their assent.

On January 25, 1919, the Conference on the Preliminaries of Peace in plenary session recommended the appointment of a Commission to examine and to report to the Conference upon the following five points:—

1. The responsibility of the authors of the war.
2. The facts as to the violations of the laws and customs of war committed by the forces of the German Empire and its allies, on land, on sea, and in the air during the present war.
3. The degree of responsibility for these crimes attaching to particular members of the enemy forces, including members of the General Staffs, and other individuals, however highly placed.
4. The constitution and procedure of a tribunal appropriate for the trial of these offences.
5. Any other matters cognate or ancillary to the above points which may arise in the course of the inquiry, and which the Commission finds it useful and relevant to take into consideration.

I.

The conclusions reached by the Commission as to the responsibility of the authors of the war, with which the representatives of the United States agree, are thus stated:—

> The war was premeditated by the Central Powers, together with their Allies, Turkey and Bulgaria, and was the result of acts deliberately committed in order to make it unavoidable.
>
> Germany, in agreement with Austria-Hungary, deliberately worked to defeat all the many conciliatory proposals made by the Entente Powers and their repeated efforts to avoid war.

The American representatives are happy to declare that they not only concur in these conclusions, but also in the process of reasoning by which they are reached and justified. However, in addition to the evidence adduced by the Commission, based for the most part upon official memoranda issued by the various governments in justification of their respective attitudes towards the Serbian question and the war which resulted because of the deliberate determination of Austria-Hungary and Germany to crush that gallant little country which blocked the way to the Dardanelles and to the realization of their larger ambitions, the American representatives call attention to four documents, three of which have been made known by his Excellency Milenko R. Vesnitch, Serbian Minister at Paris. Of the three, the first is reproduced for the first time, and two of the others were only published during the sessions of the Commission.

The first of these documents is a report of Von Wiesner, the Austro-Hungarian agent sent to Serajevo to investigate the assassination at that place on June 28, 1914, of the Archduke Francis Ferdinand, heir to the Austro-Hungarian throne, and the Duchess of Hohenberg, his morganatic wife.

The material portion of this report, in the form of a telegram, is as follows:

Defense Document No. 353

Herr von Wiesner, to the Foreign Ministry, Vienna

Serajevo, July 13, 1914, 1.10 p.m.

Cognizance on the part of the Serbian Government, participation in the murderous assault, or in its preparation, and supplying the weapons, proved by nothing, nor even to be suspected. On the contrary there are indications which cause this to be rejected.

The second is likewise a telegram, dated Berlin, July 25, 1914, from Count Szoegency, Austro-Hungarian Ambassador at Berlin, to the Minister of Foreign Affairs at Vienna, and reads as follows:

Here it is generally taken for granted that in case of a possible refusal on the part of Serbia, our immediate declaration of war will be coincident with military operations.

Delay in beginning military operations is here considered as a great danger because of the intervention of other Powers.

We are urgently advised to proceed at once and to confront the world with a fait accompli.

The third, likewise a telegram in cipher, marked "strictly confidential," and dated Berlin, July 27, 1914, two days after the Serbian reply to the Austro Hungarian ultimatum and the day before the Austro-Hungarian declaration of war upon that devoted kingdom, was from the Austro-Hungarian Ambassador at Berlin to the Minister of Foreign Affairs at Vienna. The material portion of this document is as follows:

"The Secretary of State informed me very definitely and in the strictest confidence that in the near future possible proposals for mediation on the part of England would be brought to Your Excellency's knowledge by the German Government.

"The German Government gives its most binding assurance that it does not in any way associate itself with the proposals; on the contrary, it is absolutely opposed to their consideration and only transmits them in compliance with the English request."

Of the English propositions, to which reference is made in the above telegram, the following may be quoted, which, under date July 30, 1914, Sir Edward Grey, Secretary of State for Foreign Affairs, telegraphed to Sir Edward Goschen, British Ambassador at Berlin:

"If the peace of Europe can be preserved, and the present crisis safely passed, my own endeavour will be to promote some arrangement to which Germany could be a party, by which she could be assured that no aggressive or hostile policy would be pursued against her or her allies by France, Russia, and ourselves, jointly or separately."

While comment upon these telegrams would only tend to weaken

their force and effect, it may nevertheless be observed that the last of them was dated two days before the declaration of war by Germany against Russia, which might have been prevented, had not Germany, flushed with the hope of certain victory and of the fruits of conquest, determined to force the war.

The report of the Commission treats separately the violation of the neutrality of Belgium and of Luxemburg, and reaches the conclusion, in which the American representatives concur, that the neutrality of both of these countries was deliverately violated. The American representatives believe, however, that it is not enough to state or to hold with the Commission that "the war was premeditated by the Central Powers," that "Germany, in agreement with Austria-Hungary, deliberately worked to defeat all the many conciliatory proposals made by the Entente Powers and their repeated efforts to avoid war," and to declare that the neutrality of Belgium, guaranteed by the treaty of the 19th of April, 1839, and that of Luxemburg, guaranteed by the treaty of the 11th of May, 1867, were deliberately violated by Germany and Austria-Hungary. They are of the opinion that these acts should be condemned in no uncertain terms and that their perpetrators should be held up to the execration of mankind.

II.

The second question submitted by the Conference to the Commission requires an investigation of and report upon "the facts as to breaches of the laws and customs of war committed by the forces of the German Empire and their Allies, on land, on sea, and in the air, during the present war." It has been deemed advisable to quote again the exact language of the submission in that it is at once the authority for and the limitation of the investigation and report to be made by the Commission. Facts were to be gathered, but these facts were to be not of a general but of a very specific kind, and were to relate to the violations or "breaches of the laws and customs of war." The duty of the Commission was, therefore, to determine whether the facts found were violations of the laws and customs of war. It was not asked whether these facts were violations of the laws or of the principles of humanity. Nevertheless, the report of the Commission does not, as in the opinion of the American representatives it should, confine itself to the ascertainment of the facts and to their violation of the laws and customs of war, but, going beyond the terms of the mandate, declares that the facts found and acts committed were in violation of the laws and of the elementary principles of humanity. The laws and customs of war are a standard certain, to be found in books of authority and in the practice of nations. The laws and principles of humanity vary with the individual, which, if for no other reason, should exclude them from consideration in a court of justice, especially one charged with the administration of criminal law. The American representatives, therefore, objected to the references to the laws and principles of humanity, to be found in the report, in what they believed was meant to be a judicial proceeding, as, in their opinion, the facts found were to be violations or breaches of the laws and customs of war, and the

persons singled out for trial and punishment for acts committed during the war were only to be those persons guilty of acts which should have been committed in violation of the laws and customs of war. With this reservation as to the invocation of the principles of humanity, the American representatives are in substantial accord with the conclusions reached by the Commission on this head that:

1. The war was carried on by the Central Empires, together with their Allies, Turkey and Bulgaria, by barbarous or illegitimate methods in violation of the established laws and customs of war and the elementary principles of humanity.

2. A Commission should be created for the purpose of collecting and classifying systematically all the information already had or to be obtained, in order to prepare as complete a list of facts as possible concerning the violations of the laws and customs of war committed by the forces of the Germany Empire and its allies, on land, on sea, and in the air, in the course of the present war.

However, in view of the recommendation that a Commission be appointed to collect further information, the American representatives believe that they should content themselves with a mere expression of concurrence as to the statements contained in the report upon which these conclusions are based.

III.

The third question submitted to the Commission on Responsibilities requires an expression of opinion concerning "the degree of responsibility for these offences attaching to particular members of the enemy forces, including members of the General Staffs, and other individuals, however highly placed." The conclusions which the Commission reached, and which is stated in the report, is to the effect that "all persons belonging to enemy countries, without distinction of rank, including chiefs of states, who have been guilty of offences against the laws and customs of war or the laws of humanity, are liable to criminal prosecution." The American representatives are unable to agree with this conclusion, insofar as it subjects to criminal, and, therefore, to legal prosecution, persons accused of offences against "the laws of humanity," and insofar as it subjects chiefs of states to a degree of responsibility hitherto unknown to municipal or international law, for which no precedents are to be found in the modern practice of nations.

Omitting for the present the question of criminal liability for offences againt the laws of humanity, which will be considered in connection with the law to be administered in the national tribunals and the high court, whose constitution is recommended by the Commission, and likewise reserving for discussion in connection with the high court the question of the liability of a chief of state to

criminal prosecution, a reference may properly be made in this place to the masterly and hitherto unanswered opinion of Chief Justice Marshall, in the case of the Schooner Exchange v. McFaddon and Others (7 Cranch, 116), decided by the Supreme Court of the United States in 1812, in which the reasons are given for the exemption of the sovereign and of the sovereign agent of a state from judicial process. This does not mean that the head of the state, whether he be called emperor, king, or chief executive, is not responsible for breaches of the law, but that he is responsible not to the judicial but to the political authority of his country. His act may and does bind his country and render it responsible for the acts which he has committed in its name and its behalf, or under cover of its authority; but he is, and it is submitted that he should be, only responsible to his country, as otherwise to hold would be to subject to foreign countries, a chief executive, thus withdrawing him from the laws of his country, even its organic law , to which he owes obedience, and subordinating him to foreign jurisdictions to which neither he nor his country owes allegiance or obedience, thus denying the very conception of sovereignty.

But the law to which the head of the state is responsible is the law of his country, not the law of a foreign country or group of countries; the tribunal to which he is responsible is the tribunal of his country, not of a foreign country or group of countries, and the punishment to be inflicted is the punishment prescribed by the law in force at the time of the commission of the act, not a punishment created after the commission of the act.

These observations the American representatives believe to be applicable to a head of a state actually in office and engaged in the performance of his duties. They do not apply to a head of a state who has abdicated or has been repudiated by his people. Proceedings against him might be wise or unwise, but in any event they would be against an individual out of office and not against an individual in office and thus in effect against the state.

The American representatives also believe that the above observations apply to liability of the head of a state for violations of positive law in the strict and legal sense of the term. They are not intended to apply to what may be called political offences and to political sanctions.

These are matters for statesmen, nor for judges, and it is for them to determine whether or not the violators of the treaties guaranteeing the neutrality of Belgium and of Luxemburg should be subjected to a political sanction.

However, as questions of this kind seem to be beyond the mandate of the Conference, the American representatives consider it unnecessary to enter upon their discussion.

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IV

The fourth question calls for an investigation of and a report upon "the constitution and procedure of a tribunal appropriate for the trial of these offences." Apparently the Conference had in mind the violations of the laws and customs of war, inasmuch as the Commission is required by the third submission to report upon "the degree of responsibility for these offences attaching to particular members of the enemy forces, including members of the General Staffs and other individuals, however highly placed." The fourth point relates to the constitution and procedure of a tribunal appropriate for the investigation of these crimes, and to the trial and punishment of the persons accused of their commission, should they be found guilty. The Commission seems to have been of the opinion that the tribunal referred to in the fourth point was to deal with the crimes specified in the second and third submissions, not with the responsibility of the authors of the war, as appears from the following statement taken from the report:

On the whole case, including both the acts which brought about the war and those which accompanied its inception, particularly the violation of the neutrality of Luxemburg and of Belgium, the Commission is of the opinion that it would be right for the Peace Conference, in a matter so unprecedented, to adopt special measures and even to create a special organ in order to deal as they deserve with the authors of such acts.

This section of the report, however, deals not only with the laws and customs of war - improperly adding "and of the laws of humanity" - but also with the "acts which provoked the war and accompanied its inception," which either in whole or in part would appear to fall more appropriately under the first submission relating to the "responsibility of the authors of the war."

Of the acts which provoked the War and accompanied its inception, the Commission, with special reference to the violation of the neutrality of Luxemburg and of Belgium, says; "We therefore do not advise that the acts which provoked the war should be charged against their authors and made the subject of proceedings before a tribunal." And a little later in the same section the report continues: "The Commission is nevertheless of opinion that no criminal charge can be made against the responsible authorities or individuals, and notably the ex-Kaiser, on the special head of these breaches of neutrality, but the gravity of these gross outrages upon the law of nations and international good faith is such that the Commission thinks they should be the subject of a formal condemnation by the Conference." The American representatives are in thorough accord with these views, which are thus formally stated in the first two of the four conclusions under this heading:

The acts which brought about the war should not be charged against their authors or made the subject of proceedings before a tribunal.

On the special head of the breaches of the neutrality of Luxemburg and Belgium, the gravity of these outrages upon the principles of the law of nations and upon international good faith is such that they should be made the subject of a formal condemnation by the Conference.

If the report had stopped here, the American representatives would be able to concur in the conclusions under this heading and the reasoning by which they were justified, for hitherto the authors of war, however unjust it may be in the forum of morals, have not been brought before a court of justice upon a criminal charge for trial and punishment. The report specifically states: (1) that "a war of aggression may not be considered as an act directly contrary to positive law, or one which can be successfully brought before a tribunal such as the Commission is authorized to consider under its terms of reference"; the Commission refused to advise (2) "that the acts which provoked the war should be charged against their authors and made the subject of proceedings before a tribunal"; it further holds (3) that "no criminal charge can be made against the responsible authorities or individuals, and notably the ex-Kaiser, on the special head of these breaches of neutrality." The American representatives, accepting each of these statements as sound and unanswerable, are nevertheless unable to agree with the third of the conclusions based upon them:

On the whole case, including both the acts which brought about the war and those which accompanied its inception, particularly the violation of the neutrality of Belgium and Luxemburg, it would be right for the Peace Conference, in a matter so unprecedented, to adopt special measures, and even to create a special organ in order to deal as they deserve with the authors of such acts.

The American representatives believe that this conclusion is inconsistent both with the reasoning of the section and with the first and second conclusions, and that "in a matter so unprecedented," to quote the exact language of the third conclusion, they are relieved from comment and criticism. However, they observe that, if the acts in question are criminal in the sense that they are punishable under law, they do not understand why the report should not advise that these acts be punished in accordance with the terms of the law. If, on the other hand, there is no law making them crimes or affixing a penalty for their commission, they are moral, not legal, crimes, and the American representatives fail to see the advisability or indeed the appropriateness of creating a special organ to deal with the authors of such acts. In any event, the organ in question should not be a judicial tribunal.

In order to meet the evident desire of the Commission that a special organ be created, without however doing violence to their own scruples in the premises, the American representatives proposed –

The Commission on Responsibilities recommends that:

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1. A Commission of Inquiry be established to consider generally the relative culpability of the authors of the war and also the question of their culpability as to the violations of the laws and customs of war committed during its course.

2. The Commission of Inquiry to consist of two members of the five following Powers: United States of America, British Empire, France, Italy, and Japan; and one member from each of the five following Powers: Belgium, Greece, Portugal, Roumania, and Serbia.

3. The enemy be required to place their archives at the disposal of the Commission, which shall forthwith enter upon its duties and report jointly and separately to their respective governments on the 11th November, 1919, or as soon thereafter as practicable.

The Commission, however, failed to adopt this proposal.

The fourth and final conclusion under this heading declares it to be "desirable that for the future penal sanctions should be provided for such grave outrages against the elementary principles of international law." With this conclusion the American representatives find themselves to be in substantial accord. They believe that any nation going to war assumes a grave responsibility, and that a nation engaging in a war of aggression commits a crime. They hold that the neutrality of nations should be observed, especially when it is guaranteed by a treaty to which the nations violating it are parties, and that the plighted word and the good faith of nations should be faithfully observed in this as in all other respects. At the same time, given the difficulty of determining whether an act is in reality one of aggression or of defence, and given also the difficulty of framing penal sanctions, where the consequences are so great or may be so great as to be incalculable, they hesitate as to the feasibility of this conclusion, from which, however, they are unwilling formally to dissent.

With the portion of the report devoted to the "constitution and procedure of a tribunal appropriate for the trial of these offences," the American representatives are unable to agree, and their views differ so fundamentally and so radically from those of the Commission that they found themselves obliged to oppose the views of their colleagues in the Commission and to dissent from the statement of those views recorded in the report. The American representatives, however, agree with the introductory paragraph of this section, in which it is stated that "every belligerent has, according to international law, the power and authority to try the individuals alleged to be guilty of the crimes" constituting violations of the laws and customs of war, "if such persons have been taken prisoners or have otherwise fallen into its power." The American representatives are

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likewise in thorough accord with the further provisions that "each belligerent has, or has power to set up, pursuant to its own legislation, an appropriate tribunal military or civil, for the trial of such cases." Thé American representatives concur in the view that "these courts would be able to try the incriminated persons according to their own procedure." and also in the conclusion that "much complication and consequent delay would be avoid which would arise if all such cases were to be brought before a single tribunal," supposing that the single tribunal could and should be created. In fact, these statements are not only in accord with but are based upon the memorandum submitted by the American representatives, advocating the utilization of the military commission or tribunals either existing or which could be created in each of the belligerent countries, with jurisdiction to pass upon offences against the laws and customs of war committed by the respective enemies.

This memorandum already referred to in an earlier paragraph is as follows:

1. That the military authorities, being charged with the interpretation of the laws and customs of war, possess jurisdiction to determine and punish violations thereof;

2. That the military jurisdiction for the trial of persons accused of violations of the laws and customs of war and for the punishment of persons found guilty of such offences is exercised by military tribunals;

3. That the jurisdiction of a military tribunal over a person accused of the violation of a law or custom of war is acquired when the offence was committed on the territory of the nation creating the military tribunal or when the person or property injured by the offence is of the same nationality as the military tribunal.

4. That the law and procedure to be applied and followed in determining and punishing violations of the laws and customs of war are the law and the procedure for determining and punishing such violations established by the military law of the country against which the offence is committed; and

5. That in case of acts violating the laws and customs of war involving more than one country, the military tribunals of the countries affected may be united, thus forming an international tribunal for the trial and punishment of persons charged with the commission of such offences.

In a matter of such importance affecting not one but many countries and calculated to influence their future conduct, the American representatives believed that the nations should use the

machinery at hand, which had been tried and found competent, with a law and a procedure framed and therefore known in advance, rather than to create an international tribunal with a criminal jurisdiction for which there is no precedent, precept, practice, or procedure. They further believed that, if an act violating the laws and customs of war committed by the enemy affected more than one country, a tribunal could be formed of the countries affected by uniting the national commissions or courts thereof, in which event the tribunal would be formed by the mere assemblage of the members, bringing with them the law to be applied, namely, the laws and customs of war, and the procedure, namely, the procedure of the national commissions or courts. The American representatives had especially in mind the case of Henry Wirz, commandant of the Confederate prison at Andersonville, Georgia, during the war between the States, who, after that war, was tried by a military commission, sitting in the city of Washington, for crimes contrary to the laws and customs of war, convicted thereof, sentenced to be executed, and actually executed on the 11th November, 1865.

While the American representatives would have preferred a national military commission or court in each country, for which the Wirz case furnished ample precedent, they were willing to concede that it might be advisable to have a commission of representatives of the competent national tribunals to pass upon the charges, as stated in the report:

(a) Against persons belonging to enemy countries who have committed outrages against a number of civilians and soldiers of several Allied nations, such as outrages committed in prison camps where prisoners of war of several nations were congregated or the crime of forced labor in mines were prisoners of more than one nationality were forced to work.

(b) Against persons of authority, belonging to enemy countries, whose orders were executed not only in one area or on one battle front, but whose orders affected the conduct towards several of the Allied armies.

The American representatives are, however, unable to agree that a mixed commission thus composed should, in the language of the report, entertain charges:

(c) Against all authorities, civil or military, belonging to enemy countries, however high their position may have been, without distinction of rank, including the heads of states, who ordered, or, with knowledge thereof and with power to intervene, abstained from preventing or taking measures to prevent, putting an end to or repressing, violations of the laws or customs of war, it being understood that no such abstention shall constitute a defence for the actual perpetrators.

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In an earlier stage of the general report, indeed, until its final revision, such persons were declared liable because they "abstained from preventing, putting an end to, or repressing, violations of the laws or customs of war." To this criterion of liability the American representatives were unalterably opposed. It is one thing to punish a person who committed, or, possessing the authority, ordered others to commit an act constituting a crime; it is quite another thing to punish a person who failed to prevent, to put an end to, or to repress violations of the laws or customs of war. In one case the individual acts or orders others to act, and in so doing commits a positive offence. In the other he is to be punished for the acts of others without proof being given that he knew of the commission of the acts in question or that, knowing them, he could have prevented their commission. To establish responsibility in such cases it is elementary that the individual sought to be punished should have knowledge of the commission of the acts of a criminal nature and that he should have possessed the power as well as the authority to prevent, to put an end to, or repress them. Neither knowledge of commission nor ability to prevent is alone sufficient. The duty or obligation to act is essential. They must exist in conjunction, and a standard of liability which does not include them all is to be rejected. The difficulty in the matter of abstention was felt by the Commission, as to make abstention punishable might tend to exonerate the person actually committing the act. Therefore the standard of liability to which the American representatives objected was modified in the last sessions of the Commission, and the much less objectionable text, as stated above, was adopted and substituted for the earlier and wholly inadmissible one.

There remain, however, two reasons, which, if others were lacking, would prevent the American representatives from consenting to the tribunal recommended by the Commission. The first of these is the uncertainty of the law to be administered, in that liability is made to depend not only upon violations of the laws and customs of war, but also upon violations "of the laws of humanity." The second of these reasons is that heads of states are included within the civil and military authorities of the enemy countries to be tried and punished for violations of the laws and customs of war and of the laws of humanity. The American representatives believe that the Commission has exceeded its mandate in extending liability to violations of the laws of humanity, inasmuch as the facts to be examined are solely violations of the laws and customs of war. They also believe that the Comission erred in seeking to subject heads of states to trial and punishment b a tribunal to whose jurisdiction they were not subject when the alleged offences were committed.

As pointed out by the American representatives on more than one occasion, war was and is by its very nature inhuman, but acts consistent with the laws and customs of war, although these acts are inhuman, are nevertheless not the object of punishment by a court of justice. A judicial tribunal only deals with existing law and only administers

existing law, leaving to another forum infractions of the moral law and actions contrary to the laws and principles of humanity. A further objection lies in the fact that the laws and principles of humanity are not certain, varying with time, place, and circumstance, and according, it may be, to the conscience of the individual judge. There is no fixed and universal standard of humanity. The law of humanity, or the principle of humanity, is much like equity, whereof John Selden, as wise and cautious as he was learned, aptly said:

> Equity is a roguish thing. For Law we have a measure, know what to trust to; Equity is according to the conscience of him that is Chancellor, and as that is larger or narrower, so is Equity. 'Tis all one as if they should make the standard for the measure we call a "foot" a Chancellor's foot; what an uncertain measure would this be ! One Chancellor has a long foot, another a short foot, a third an indifferent foot. 'Tis the same thing in the Chancellor's conscience.

While recognizing that offences against the laws and customs of war might be tried before and the perpetrators punished by national tribunals, the Commission was of the opinion that the graver charges and those involving more than one country should be tried before an international body, to be called the High Tribunal, which "shall be composed of three persons appointed by each of the following governments: The United States of America, the British Empire, France, Italy, and Japan, and one person appointed by each of the following governments: Belgium, Greece, Poland, Portugal, Roumania, Serbia, and Czecho-Slovakia"; the members of this tribunal to be selected by each country "from among the members of their national courts or tribunals, civil or military, and now in existence or erected as indicated above." The law to be applied is declared by the Commission to be "the principles of the law of nations as they result from the usages established among civilized peoples, from the laws of humanity and from the dictates of public conscience." The punishment to be inflicted is that which may be imposed "for such an offence or offences by any court in any country represented on the tribunal or in the country of the convicted person." The cases selected for trial are to be determined and the prosecutions directed by "a prosecuting commission" composed of a representative of the United States of America, the British Empire, France, Italy, and Japan, to be assisted by a representative of one of the other governments, presumably a party to the creation of the court or represented in it.

The American representatives felt very strongly that too great attention could not be devoted to the creation of an international criminal court for the trial of individuals, for which a precedent is lacking, and which appears to be unknown in the practice of nations. They were of the opinion that an act could not be a crime in the legal sense of the word, unless it were made so by law, and that the commission of an act declared to be a crime by law could not be punished unless the law prescribed the penalty to be inflicted. They

were perhaps more conscious than their colleagues of the difficulties involved, inasmuch as this question was one that had arisen in the American Union composed of States, and where it had been held in the leading case of United States v. Hudson (7 Cranch, 32), decided by the Supreme Court of the United States in 1812, that "the legislative authority of the Union must first make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction of the offence." What is true of the American States must be true of this looser union which we call the Society of Nations. The American representatives know of no international statue of convention making a violation of the laws and customs of war - not to speak of the laws or principles of humanity - an international crime, affixing a punishment to it, and declaring the court which has jurisdiction over the offence. They felt, however, that the difficulty, however great, was not insurmountable, inasmuch as the various states have declared certain acts violating the laws and customs of war to be crimes, affixing punishments to their commission, and providing military courts or commissions within the respective states possessing jurisdiction over such offence. They were advised that each of the Allied and Associated States could create such a tribunal, if it had not already done so. Here then was at hand a series of existing tribunal or tribunals that could lawfully be called into existence in each of the Allied or Associated countries by the exercise of their sovereign powers, appropriate for the trial and punishment within their respective juriddictions of persons of enemy nationality, who during the war committed acts contrary to the laws and customs of war, insofar as such acts affected the persons or property of their subjects or citizens, whether such acts were committed within portions of their territory occupied by the enemy or by the enemy within its own jurisdiction.

The American representatives therefore proposed that acts affecting the persons or property of one of the Allied or Associated Governments should be tried by a military tribunal of that country; that acts involving more than one country, such as treatment by Germany of prisoners contrary to the usages and customs of war, could be tried by a tribunal either made up of the competent tribunals of the countries affected or of a commission thereof possessing their authority. In this way existing national tribunals or national commissions which could legally be called into being would be utilized, and not only the law and the penalty would be already declared, but the procedure would be settled.

It seemed elementary to the American representatives that a country could not take part in the trial and punishment of a violation of the laws and customs of war committed by Germany and her Allies before the particular country in question had become a party to the war against Germany and her Allies; that consequently the United States could not institute a military tribunal within its own jurisdiction to pass upon violations of the laws and customs of war,

unless such violations were committed upon American persons or American property, and that the United States could not properly take part in the trial and punishment of persons accused of violations of the laws and customs of war committed by the military or civil authorities of Bulgaria or Turkey.

Under these conditions and with these limitations the American representatives considered that the United States might be a party to a high tribunal, which they would have preferred to call, because of its composition, the Mixed or United Tribunal or Commission. They were averse to the creation of a new tribunal, of a new law, of a new penalty, which would be ex post facto in nature, and thus contrary to an express clause of the Constitution of the United States and in conflict with the law and practice of civilized communities. They believed, however, that the United States could co-operate to this extent by the utilization of existing tribunals, existing laws, and existing penalties. However, the possibility of co-operating was frustrated by the insistence on the part of the majority that criminal liability should, in excess of the mandate of the Conference, attach to the laws and principles of humanity, in addition to the laws and customs of war, and that the jurisdiction of the high court should be specifically extended to "the heads of states."

In regard to the latter point, it will be obsefved that the American representatives did not deny the responsibility of the heads of states for acts which they may have committed in violation of law, including, insofar as their country is concerned, the laws and customs of war, but they held that heads of states are, as agent of the people, in whom the sovereignty of any states resides, responsible to the people for the illegal acts which they may have committed, and that they are not and that they should not be made responsible to any other sovereignty.

The American representatives assumed, in debating this question, that from a legal point of view the people of every independent country are possessed of sovereignty, and that that sovereignty is not held in that sense by rulers; that the sovereignty which is thus possessed can summon before it any person, not matter how high his estate, and call upon him to render an account of his official stewardship; that the essence of sovereignty consists in the fact that it is not responsible to any foreign sovereignty; that in the exercise of sovereign powers which have been conferred upon him by the people, a monarch or head of state acts as their agent; that he is only responsible to them; and that he is responsible to no other people or group of people in the world.

The American representatives admitted that from the moral point of view the head of a state, be he termed emperor, king, or chief executive, is responsible to mankind, but that from the legal point

of view they expressed themselves as unable to see how any member of the Commission could claim that the head of a state exercising sovereign rights is responsible to any but those who have confided those rights to him by consent expressed or implied.

The majority of the Commission, however, was not influenced by the legal argument. They appeared to be fixed in their determination to try and punish by judicial process the "ex-Kaiser" of Germany. That there might be no doubt about their meaning, they insisted that the jurisdiction of the high tribunal whose constitution they recommended should include the heads of states, and they therefore inserted a provision to this effect in express words in the clause dealing with the jurisdiction of the tribunal.

In view of their objections to the uncertain law to be applied, varying according to the conception of the members of the high court, as to the laws and principles of humanity, and in view also of their objections to the extent of the proposed jurisdiction of that tribunal, the American representatives were constrained to decline to be a party to its creation. Necessarily they declined the proffer on behalf of the Commission that the United States should take part in the proceedings before that tribunal, or to have the United States represented in the prosecuting commission charged with the "duty of selecting the cases for trial before the tribunal and of directing and conducting prosecutions before it." They therefore refrained from taking further part either in the discussion of the constitution or of the procedure of the tribunal.

It was an ungracious task for the American representatives to oppose the views of their colleagues in the matter of the trial and punishment of heads of states, when they believed as sincerely and as profoundly as any other member that the particular heads of states in question were morally guilty, even if they were not punishable before an international tribunal, such as the one proposed, for the acts which they themselves had committed or with whose commission by others they could be justly taxed. It was a matter of great regret to the American representatives that they found themselves subjected to criticism, owing to their objection to declaring the laws and principles of humanity as a standard whereby the acts of their enemies should be measured and punished by a judicial tribunal. Their abhorrence for the acts of the heads of states of enemy countries is no less genuine and deep than that of their colleagues, and their conception of the laws and principles of humanity is, they believe, not less enlightened than that of their colleagues. They considered that they were dealing solely with violations of the laws and customs of war, and that they were engaged under the mandate of the conference in creating a tribunal in which violations of the laws and customs of war should be tried and punished. They therefore confined themselves to law in its legal sense, believing that in so doing they

accorded with the mandate of submission, and that to have permitted sentiment or popular indignation to affect their judgment would have been violative of their duty as members of the Commission on Responsibilities.

They submit their views, rejected by the Commission, to the Conference, in full confidence that it is only through the administration of law, enacted and known before it is violated, that justice may ultimately prevail internationally, as it actually does between individuals in all civilized nations.

MEMORANDUM ON THE PRINCIPLES WHICH SHOULD DETERMINE INHUMAN AND IMPROPER ACTS OF WAR

To determine the principles which should be the standard of justice in measuring the charge of inhuman or atrocious conduct during the prosecution of a war, the following propositions should be considered:

1. Slaying and maiming men in accordance with generally accepted rules of war are from their nature cruel and contrary to the modern conception of humanity.

2. The methods of destruction of life and property in conformity with the accepted rules of war are admitted by civilized nations to be justifiable and no charge of cruelty, inhumanity, or impropriety lies against a party employing such methods.

3. The principle underlying the accepted rules of war is the necessity of exercising physical force to protect national safety or to maintain national rights.

4. Reprehensible cruelty is a matter of degree which cannot be justly determined by a fixed line of distinction, but one which fluctuates in accordance with the facts in each case, but the manifest departure from accepted rules and customs of war imposes upon the one so departing the burden of justifying his conduct, as he is prima facie guilty of a criminal act.

5. The test of guilt in the perpetration of an act, which would be inhuman or otherwise reprehensible under normal conditions, is the necessity of that act to the protection of national safety or national rights measured chiefly by actual military advantage.

6. The assertion by the perpetrator of an act that it is necessary for military reasons does not exonerate him from guilt if the facts and circumstances present reasonably strong grounds for establishing the needlessness of the act or for believing that the assertion is not made in good faith.

7. While an act may be essentially reprehensible and the perpetrator entirely unwarranted in assuming it to be necessary from a military point of view, he must not be condemned as wilfully violating the laws and customs of war or the principles of humanity unless it can be shown that the act was wanton and without reasonable excuse.

8. A wanton act which causes needless suffering (and this includes such causes of suffering as destruction of property, deprivation of necessaries of life, enforced labor, etc.) is cruel and criminal. The full measure of guilt attaches to a party who without adequate reason perpetrates a needless act of cruelty. Such an act is a crime against civilization, which is without palliation.

9. It would appear, therefore, in determining the criminality of an act, that there should be considered the wantonness or malice of the perpetrator, the needlessness of the act from a military point of view, the perpetration of a justifiable act in a needlessly harsh or cruel manner, and the improper motive which inspired it.

ROBERT LANSING

JAMES BROWN SCOTT.

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ANNEX III.

Reservations by the Japanese Delegation.

The Japanese Delegates on the Commission on Responsibilities are convinced that many crimes have been committed by the enemy in the course of the present war in violation of the fundamental principles of international law, and recognize that the principal responsibility rests upon individual enemies in high places. They are consequently of opinion that, in order to re-establish for the future the force of the principles thus infringed, it is important to discover practical means for the punishment of the persons responsible for such violations.

A question may be raised whether it can be admitted as a principle of the law of nations that a high tribunal constituted by belligerents can, after a war is over, try an individual belonging to the opposite side, who may be presumed to be guilty of a crime against the laws and customs of war. It may further be asked whether international law recognizes a penal law as applicable to those who are guilty.

In any event, it seems to us important to consider the consequences which would be created in the history of international law by the prosecution for breaches of the laws and customs of war of enemy heads of states before a tribunal constituted by the opposite party.

Our scruples become still greater when it is a question of indicting before a tribunal thus constituted highly placed enemies on the sole ground that they abstained from preventing, putting an end to, or repressing acts in violation of the laws and customs of war, as is provided in clause (c) of section (b) of Chapter IV.

It is to be observed that to satisfy public opinion of the justice of the decision of the appropriate tribunal, it would be better to rely upon a strict interpretation of the principles of penal liability, and consequently not to make cases of abstention the basis of such responsibility.

In these circumstances the Japanese Delegates thought it possible to adhere, in the course of the discussions in the Commission, to a test which would eliminate from clause (c) of section (b) of Chapter IV both the words "including the heads of states," and the provision covering cases of abstention, but they feel some hesitation in supporting the amended form which admits a criminal liability where the accused, with knowledge and with power to intervene, abstained from preventing or taking measures to prevent, putting an end to, or repressing acts in violation of the laws and customs of war.

The Japanese Delegates desire to make clear that, subject to the above reservations, they are disposed to consider with the greatest care every suggestion calculated to bring about unanimity in the Commission.

M. ADATCI.
S. TACHI.

April 4, 1919

C E R T I F I C A T E

Statement of Source and Authenticity

I, HAYASHI, KAORU, Chief of the Archives Section, Japanese Foreign Office, hereby certify that the document hereto attached in English consisting of 20 pages and entitled "Report presented to the Preliminary Peace Conference by the Commission on the Responsibility of the Authors of the War and on Enforcement of Penalties" is an exact and true copy of an excerpt of an official document of the Japanese Foreign Office.

Certified at Tokyo,
on this 17th day of February 1947.

(signed) K. HAYASHI
Signature of Official

Witness: (signed) K. URABE

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A-BOMB DECISION

"Step Was America's Least Abhorrent Choice. . .
It Also Made It Wholly Clear We Must Never
Have Another War"

(Nippon Times Magazine, February 20, 1947)

In his own words, former Secretary of War Henry L. Stimson tells the inside firsthand story of how the United States reached its momentous decision to use the atomic bomb against Japan. Mr. Stimson, who was more closely associated with the development and final decision to use the Atomic weapon than any other member of the Roosevelt and Truman cabinets, discloses that the bombs dropped on Japan were the only two then completed by the United States. This article is condensed by special permission from the original which was published in the February issue of Harper's Magazine.

It was the Fall of 1941 that the question of atomic energy was first brought directly to my attention. At that time President Roosevelt appointed a committee consisting of Vice President Wallace, General Marshall, Dr. Vannevar Bush, Dr. James B. Conant, and myself to advise the President on questions of policy relating to the study of nuclear fission.

For nearly four years thereafter I was directly connected with all major decisions of policy on the development and use of atomic energy, and from May 1, 1943, until my resignation as Secretary of War on September 21, 1945, I was directly responsible to the President for the administration of the entire undertaking . .

At the same time I was the President's senior adviser on the military employment of atomic energy.

The policy adopted and steadily pursued by President Roosevelt and his advisers was a simple one. It was to spare no effort in securing the earliest possible successful development of an atomic weapon. The reason for this policy was equally simple. The original experimental achievement of atomic fission had occurred in Germany in 1938, and it was known that the Germans had continued their experiments.

To Shorten Warfare

In 1941 and 1942 they were believed to be ahead of us, and it was vital that they should not be the first to bring atomic weapons into the field of battle. Furthermore, if we should be the first to develop the weapon, we should have the great new instrument for shortening the war and minimizing destruction.

At no time, from 1941 to 1945, did I ever hear it suggested by the President or by any other responsible member of the government, that atomic energy should not be used in the war.

All of us of course understood the terrible responsibility involved in our attempt to unlock the doors to such a devastating weapon; President Roosevelt particularly spoke to me many times of his own awareness of the catastrophic potentialities of our work.

But we were at war, and the work must be done, I therefore emphasized that it was our common objective throughout the war, to be the first to produce an atomic weapon and use it . . .

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On March 15, 1945, I had my last talk with President Roosevelt. My diary record of this conversation gives a fairly clear picture of the state of our thinking at that time . . .

"I went over with him the two schools of thought that exi[st] in respect to the future control after the war of this project, [in] case it is successful, one of them being the secret close-in attempted control of the project by those who control it now, and the other being the international control based upon freedom both of science and of access. I told him that those things must be settled before the first projectile is used and that he must be ready with a statement to come out to the people on it just as soon as that is done. He agreed to that . . ."

I did not see Franklin Roosevelt again. (Roosevelt died April 12th).

Sees President Truman

The next time I went to the White House to discuss atomic energy was April 25, 1945, and I went to explain the nature of the problem to a man whose only previous knowledge of our activities was that of a Senator who had loyally accepted our assurance that the matter must be kept a secret from him.

Now he was President and Commander-in-Chief, and the final responsibility in this as in so many other matters must be his. President Truman accepted this responsibility with the same fine spirit that Senator Truman had shown before in accepting our refusal to inform him.

I discussed with him the whole history of the project. We had with us General Groves, who explained in detail the progress which had been made and the probable future course of the work. I also discussed with President Truman the broader aspects of the subject, and the memorandum which I used in this discussion is again a fair sample of the state of our thinking at the time.

Memorandum Discussed With President Truman

April 25, 1945

1. Within four months we shall in all probability have completed the most terrible weapon ever known in human history, one bomb of which could destroy a whole city.

2. Although we have shared its development with the U. K. (Great Britain), physically the U. S. is at present in the position of controlling the resources with which to construct and use it and no other nation could reach this position for some years.

3. Nevertheless it is practically certain that we could not remain in this position indefinitely.

A. Various segments of its discovery and production are widely known among many scientists in many countries, although few scientists are now acquainted with the whole process which we have developed.

B. Although its construction under present methods requires great scientific and industrial effort and raw materials, which are temporarily mainly within the possession and knowledge of U.S. and U.K., it is extremely probable that much easier and cheaper methods of production will be discovered

by scientists in the future, together with the use of materials of much wider distribution. As a result, it is extremely probable that the fu ure will make it possible for atomic bombs to be constructed by smaller nations or even groups, or at least by a larger nation in a much shorter time.

4. As a result, it is indicated that the future may see a time when such a weapon may be constructed in secret and used suddenly and effectively with devestating power by a wilful nation or group against an unsuspecting nation or group of much greater size and material power. With its aid even a very powerful unsuspecting nation might be conquered within a very few days by a very much smaller one . . .

5. The world in its present state of moral advancement compared with its technical development would be eventually at the mercy of such a weapon. In other words, modern civilization might be completely destroyed.

6. To approach any world peace organization of any pattern now likely to be considered, without an appreciation by the leaders of our country of the power of this new weapon, would seem to be unrealistic. No system of control heretofore considered would be adequate to control this menace. Both inside any particular country, and between the nations of the world, the control of this weapon will undoubtedly be a matter of the greatest difficulty and would involve such thorough-going rights of inspection and internal controls as we have never heretofore contemplated.

7. Furthermore, in the list of our present position with reference to this weapon, the question of sharing it with other nations and if so shared, upon what terms, becomes a primary question of our foreign relations. Also our leadership in the war and in the development of this weapon had placed a certain moral responsibility upon us which we cannot shirk without very serious responsibility for any disaster to civilization which it would further.

8. On the other hand, if the problem of the proper use of this weapon can be solved, we would have the opportunity to bring the world into a pattern in which the peace of the world and our civilization can be saved.

The next step in our preparations was the appointment . . of the interim committee, charged with advising the President the various questions raised by our apparently imminent success in developing an atomic weapon. I was its chairman . . .

Use of Bomb Decided

On June 1, after its discussions with the scientific panel, the interim committee unanimously adopted the following recommendations:

(1) The bomb should be used against Japan as soon as possible.

(2) It should be used on a dual target -- that is, a military installation or war plant surrounded by or adjacent to houses and other buildings most susceptible to damage, and

(3) It should be used without prior warning of the nature of the weapon.

One member of the committee, Mr. (Ralph A.) Bard, Under-Secretary of the Navy, later changed his view and dissented from recommendation.

In reaching these conclusions the interim committee carefully considered such alternatives as a detailed advance warning or a demonstration in some inhabited area. Both of these suggestions were discarded as impractical.

They were not regarded as likely to be effective in compelling a surrender of Japan, and both of them involved serious risks. Even the New Mexico test would not give final proof that any given bomb was certain to explode when dropped from an airplane.

Quite apart from the generally unfamiliar nature of atomic explosives, there was the whole problem of exploding a bomb at a predetermined height in the air by a complicated mechanism which could not be tested in the static test of New Mexico.

Nothing would have been more damaging to our effort to obtain surrender than a warning or a demonstration followed by a dud -- and this was real possibility. Furthermore, we had no bombs to waste. It was vital that a sufficient effect be quickly obtained with the few we had . . .

The principal political, social and military objective of the United States in the summer of 1945 was the prompt and complete surrender of Japan. Only the complete destruction of her military power could open the way to lasting peace.

Japan, in July 1945, had been seriously weakened by our increasingly violent attacks. It was known to us that she had gone so far as to make tentative proposals to the Soviet government, hoping to use the Russians as mediators in a negotiated peace.

These vague proposals contemplated the retention by Japan of important conquered areas and were therefore not considered seriously. There was as yet no indication of any weakening in the Japanese determination to fight rather than accept unconditional surrender. If she should persist in her fight to the end, she had still a great military force.

Might Resist to End

As we understood it in July, there was a very strong possibility that the Japanese government might determine upon resistance to the end, in all the areas of the Far East under its control . . .

We were planning an intensified sea and air blockade, and greatly intensified strategic air bombing through the Summer and early Fall, to be followed on November 1 by an invasion of the Southern island of Kyushu.

This would be followed in turn by an invasion of the main island of Honshu in the Spring of 1946. The total U.S. military and naval force involved in this grand design was of the order of 5,000,000 men; if all those indirectly concerned are included, it was larger still.

We estimated that if we should be forced to carry this plan to its conclusion, the major fighting would not end until the latter part of 1946, at the earliest.

I was informed that such operations might be expected to cost over a million casualties, to American forces alone. Additional large losses might be expected among our Allies, and, of

course if our campaign were successful and if we could judge by previous experience, enemy casualties would be much larger than our own.

With these considerations in mind, I wrote a memorandum for the President, on July 2, which I believe fairly represent the thinking of the American Government as if finally took shape in action.

This memorandum was prepared after discussion and general agreement with Joseph C. Grew, acting Secretary of State, and Secretary of the Navy Forrestal, and when I discussed it with the President, he expressed his general approval . . .

The adoption of the policy outlined in the memorandum of July 2 was a decision of high politics; once it was accepted by the President the position of the atomic bomb in our planni became quite clear.

I find that I stated in my diary as early as July 19, that "the last chance warning . . must be given before an actual landing of the ground forces in Japan, and fortunately the plans provide for enough time to bring in the sanctions to our warning in the shape of heavy ordinary bombing attack and an attack of S-1. S-1 was a code name for the atomic bomb.

Warning From Potsdam

There was much discussion in Washington about the timing of the warning to Japan. The controlling factor in the end wa the date already set for the Potsdam meeting of the Big Three It was President Truman's decision that such a warning should be solemnly issued by the U.S and the U.K. (Great Britain) from this meeting. With the concurrence of the head of the Chinese government, so that it would be plain that all of Japan's principal enemies were in entire unity.

This was done in the Potsdam ultimatum of July 26, which very closely followed the memorandum of July 2, with the exception that it made no mention of the Japanese Emperor.

On July 28, the Premier of Japan, SUZUKI, rejected the Potsdam ultimatum by announcing that it was "unworthy of public notice." In the face of this rejection we could only proceed to demonstrate that the ultimatum had meant exactly what it said . . .

Because of the importance of the atomic mission against Japan, the detailed plans were brought to me by the military staff for approval.

With President Truman's warm support I struck off the list of suggested targets the city of Kyoto. Although it wa a target of considerable military importance, it had been the ancient capital of Japan and was a shrine of Japanese art and culture. We determined that it should be spared.

I approved four other targets including the cities of Hiroshima and Nagasaki.

Hiroshima was bombed on August 6, and Nagasaki on August 9.

We waited for a result. We waited one day.

A-Bomb Is Effective

Many accounts have been written about the Japanese surrender. After a prolonged Japanese Cabinet session in which

the deadlock was broken by the Emperor himself, the offer to surrender was made on August 10 . . .

Our great objective was thus achieved, and all the evidence I have seen indicates that the controlling factor in the final Japanese decision to accept our terms of surrender was the atomic bomb.

The two atomic bombs which we had dropped were the only ones we had ready, and our rate of production at the time was very small.

Had the war continued until the projected invasion on November 1, additional fire raids of B-29's would have been more destructive of life and property than the very limited number of atomic raids which we could have executed in the same period.

But the atomic bomb was more than a weapon of terrible destruction; it was a psychological weapon.

So far as the Japanese could know, our ability to execute atomic attacks, if necessary by many planes at a time, was unlimited.

As Dr. Earl Compton has said: "It was not one atomic bomb, or two, which brought surrender, it was the experience of what an atomic bomb will actually do to a community, plus the dread of many more, that was effective . . ."

As I read over what I have written, I am aware that much of it, in this year of peace, may have a harsh and unfeeling sound It would perhaps be possible to say the same things and say them more gently. But I do not think it would be wise.

As I look back over the five years of my service as Secretary of War, I see too many stern and heartrending decisions to be willing to pretend that war is anything else than what it is.

The face of war is the face of death; death is an inevitable part of every order that a wartime leader gives. The decision to use the atomic bomb was a decision that brought death to over a hundred thousand Japanese.

No explanation can change that fact and I do not wish to gloss it over. But this deliberate, premeditated destruction was our least abhorrent choice.

The destruction of Hiroshima and Nagasaki put an end to the Japanese war.

It stopped the fire raids, and the strangling blockade, it ended the ghastly specter of a clash of great land armies.

In this last great action of the second world war we were given final proof that war is death.

War in the twentieth century has grown more barbarous, more destructive, more debased in all its aspects. Now, with the release of atomic energy, man's ability to destroy himself is very nearly complete.

The bombs dropped on Hiroshima and Nagasaki ended a war. They also made it wholly clear that we must never have another war.

This is the lesson men and leaders everywhere must learn, and I believe that when they learn it they will find a way to lasting peace.

There is no other choice.

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What Lansing + Scott not relevant but what U N did

W/ "Practice of state is not to found in what M Lansing said." X