taken cognizance with satisfaction of the contents of the British note of February 1, 1924, in which the British Government recognizes *de jure* the Government of the Union of Soviet Socialist Republics, whose authority extends throughout all the territories of the former Russian Empire, with the exception of those which have been severed with the consent of the Soviet Government and in which independent States have been constituted. . . .

My Government has learned with pleasure of the appointment of Mr. Hodgson as British *Chargé d'Affaires* in Moscow, and has instructed me to inform your Excellency that, pending the appointment of an Ambassador, I have been given the status of *Chargé d'Affaires* of the Union of Soviet Socialist Republics at the Court of St. James.

On February 12, 1924, the Prime Minister in reply to a question said, "His Majesty's Government, as my hon. Friend is doubtless aware, granted *de jure* recognition to the Soviet Government on 1st of February."

GEORGE GRAFTON WILSON

### THE EFFECT OF PROHIBITION REPEAL UPON THE LIQUOR TREATIES

It has been suggested currently in the columns of the press and elsewhere that the so-called liquor treaties, more accurately described as conventions concluded between the United States and other Powers for prevention of smuggling of intoxicating liquors,[1] may have lapsed with the repeal of Amendment XVIII to the Constitution of the United States. The suggestion must be quite uninspired, for it is clear enough that repeal has had no such effect.

In the first place, as Chief Justice Taft observed, in construing the convention with Great Britain in the case of Ford *v.* United States, "no particular laws by title or date were referred to in the treaty but only the purpose and effect of them."[2] Indeed those who drafted the treaties would appear to

[1] Conventions for prevention of smuggling of intoxicating liquors are now in force between the United States and Great Britain, signed Jan. 23, 1924 (43 U. S. Stat. L. 1761); Norway, signed May 24, 1924 (43 *ibid.*, 1772); Denmark, signed May 29, 1924 (43 *ibid.*, 1809); Germany, signed May 19, 1924 (43 *ibid.*, 1815); Sweden, signed May 22, 1924 (43 *ibid.*, 1830); Italy, signed June 3, 1924 (43 *ibid.*, 1844); Panama, signed June 6, 1924 (43 *ibid.*, 1875); Netherlands, signed Aug. 21, 1924 (44 *ibid.*, 2013); Cuba, signed March 4, 1926 (44 *ibid.*, 2395); Spain, signed Feb. 10, 1926 (44 *ibid.*, 2465); France, signed June 30, 1924 (45 *ibid.*, 2403); Belgium, signed Dec. 9, 1925 (45 *ibid.*, 2456); Greece, signed Apr. 25, 1928 (45 *ibid.*, 2736); Japan, signed May 31, 1928 (46 *ibid.*, 2446); Poland, signed June 19, 1930 (46 *ibid.*, 2773); and Chile, signed May 27, 1930 (46 *ibid.*, 2852). Most of these conventions are also printed in the Supplements to this JOURNAL, Vol. 18 (1924), pp. 127, 186, 197; Vol. 19 (1925), pp. 6, 8, 9, 113, 115; Vol. 21 (1927), pp. 72, 116; Vol. 22 (1928), p. 167; and Vol. 23 (1929), p. 61.

The text quoted in this comment is that of the convention with Great Britain. In so far as the articles relevant to this comment are concerned, the several conventions are drafted in substantially identical terms. See this JOURNAL, Vol. 20 (1926), p. 340. See also this JOURNAL, Vol. 20 (1926), pp. 111, 444; Vol. 21 (1927), p. 505; and Vol. 27 (1933), p. 305.

[2] 273 U. S. 593, 618; Annual Digest, 1925–1926, Case No. 110; commented on in this JOURNAL, Vol. 21 (1927), p. 505.

have studiously avoided reference to any particular laws. The preamble recites that the contracting parties are "desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages." In defining the scope of permissible visit, search, and seizure outside the limits of territorial waters, the second article refers only to the importation of alcoholic beverages "into the United States, its territories or possessions in violation of the laws there in force," and to offenses against "the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages." The third article, exempting from penalty or forfeiture in consequence of the carriage of alcoholic liquors "listed as sea stores or cargo destined for a foreign port," refers only to "the laws of the United States." There are no other references to laws of the United States in connection with which there might be difficulties to avoid. As Chief Justice Taft concluded, in delivering the opinion in Ford *v.* United States, "any law, the enforcement of and punishment under which will specifically prevent smuggling of liquor, should be regarded as embraced by the treaty." [3]

In the second place, the repeal of Amendment XVIII by no means leaves the United States without laws "on the subject of alcoholic beverages" which are likely to cause international difficulties of the kind contemplated by the liquor conventions. Amendment XVIII, now repealed, declared that "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited." The amendment proposed to the states on February 20, 1933, and now Amendment XXI to the Constitution of the United States, reads as follows:

> Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.
>
> Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Thus, in returning the control of the liquor traffic to the states, Amendment XXI specifically empowers the national government to support the states in the enforcement of their laws governing intoxicating liquors. Of the states situated at the maritime frontier, three have prohibition by state constitutional provision, an important group of southern states retain prohibition by state statute, and the rest either have adopted or are in process of adopting some form of state liquor control legislation. It will probably be found, when the situation has been further clarified by the adoption of additional control legislation, state and federal, that some form of treaty régime is desirable as a means of "avoiding any difficulties which might arise . . . in

[3] 273 U. S. 593, 619.

connection with the laws in force in the United States on the subject of alcoholic beverages."

Finally, the liquor treaties provide in explicit terms for lapse or termination, leaving nothing to inference. Each of the conventions concludes with an article which incorporates the following provision:

> In the event that either of the high contracting parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present treaty the said treaty shall automatically lapse, and, on such lapse or whenever this treaty shall cease to be in force, each high contracting party shall enjoy all the rights which it would have possessed had this treaty not been concluded.

This provision was incorporated primarily as a safeguard against the possibility, suggested by the opinion of the United States Supreme Court in the case of Cunard Steamship Company *v.* Mellon,[4] that the concession made by the United States in exempting from penalty or forfeiture on account of the carriage of alcoholic liquors "listed as sea stores or cargo destined for a foreign port" might be declared unconstitutional. Even giving the provision its broadest possible interpretation, however, it is difficult to see how the substitution of the system of liquor control contemplated in Amendment XXI for the system inaugurated under Amendment XVIII could be regarded as "judicial decision or legislative action" preventing either of the high contracting parties "from giving full effect" to the provisions of the treaty.

In addition to the above, each convention contains the following article with respect to duration, modification, and lapse:

> This treaty shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.
>
> Three months before the expiration of the said period of one year, either of the high contracting parties may give notice of its desire to propose modifications in the terms of the treaty.
>
> If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the treaty shall lapse.
>
> If no notice is given on either side of the desire to propose modifications, the treaty shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the treaty, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the treaty shall lapse.

It is possible that the substitution in the United States of a new system of liquor control for the old may lead to the proposal of modifications in one or more of the liquor conventions; and that failure to agree upon such modifications before the expiration of the term stipulated may result in the lapse of one or more of the conventions. However, there is at present no such eventu-

[4] 262 U. S. 100; this JOURNAL, Vol. 17 (1923), p. 563; Annual Digest, 1923–1924, Case No. 57; commented on in this JOURNAL, Vol. 17 (1923), p. 504.

ality in prospect. It is hardly to be expected that smuggling under foreign flags will disappear completely under the new order. Certainly foreign states will wish continuing assurance of uniform and predictable treatment for their vessels carrying liquors "listed as sea stores or cargo destined for a foreign port." It is not at all unlikely, therefore, that the liquor conventions may be found of continuing mutual advantage even under the new dispensation.

EDWIN D. DICKINSON

### REVISING OUR NATIONALITY LAWS

On June 6, 1906, the House Committee on Foreign Affairs reported to the House their opinion that it would be desirable to have a study made by the Department of State regarding any changes in or additions to existing legislation covering citizenship of the United States, expatriation, and protection of citizens abroad, which seemed to be desirable. Secretary of State Root acted upon this suggestion by appointing a committee or board consisting of Mr. James Brown Scott, then Solicitor for the Department, Mr. David Jayne Hill, then Minister to the Netherlands, and Mr. Gaillard Hunt, then Chief of the Department's Passport Bureau. The 538 pages of the admirably annotated report prepared by these three persons were published as House Document No. 326 of the Second Session of the 59th Congress, and many of the specific recommendations which were there proposed became law through the passage of the Act of March 2, 1907.

Since that time there have been passed a number of acts having to do with the same subjects. The legislation does not seem to have been inspired by the modern vogue for long-range planning. On the status of married women alone we have had the Cable Act of September 22, 1922, two separate acts of July 3, 1930, and the act of March 3, 1931. Some of the existing difficulties were pointed out by the State Department's expert on nationality questions, Mr. Richard W. Flournoy, Jr., Assistant Legal Adviser, Department of State, in an able address before the Federal Bar Association in Washington on February 15, 1932. He concluded his address by saying:

> The question arises whether it would not be desirable to call a halt to piece-meal nationality legislation, and submit the whole subject, including proposals contained in pending bills, to a committee composed of representatives of the interested branches of the government, with a view to careful study and the drafting of a comprehensive, well rounded and understandable code, for consideration by the appropriate committees of Congress.[1]

This plan has been followed. On June 23, 1928, the Secretary of State had designated three officials of the Department of State to study and to make recommendations for revision of the nationality laws. This committee submitted a report on March 29, 1929, but no action was taken upon it until by Executive Order No. 6115, dated April 25, 1933, President Roosevelt desig-

[1] Department of State Press Releases, Feb. 20, 1932, Weekly Issue No. 125, p. 178.