

Nations in employing the term "understandings of international law" contemplated its recognition by some legislative action on the part of the members of the League. It is greatly to be regretted, however, that it was not explicit in its meaning and did not clearly assert the sanctity and the vigor of that great body of international law already in existence as the true foundation of the Covenant of the League of Nations.

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THE PROVISIONS OF THE TREATY OF PEACE DISPOSING OF GERMAN RIGHTS
AND INTERESTS OUTSIDE EUROPE

To understand the various parts of a treaty, one must bear in mind the theory which guided in the negotiation of the whole.

This theory cannot be found expressed in the text of the Treaty of Versailles. It must be gathered rather from the preliminaries and the context and inferred from the provisions.

I assume, without argument, that the basic theory of the treaty is self-defense. Reparation for the past and protection for the future; these two principles are combined to weaken the German military power and to render it innocuous.

The process is harsh, undoubtedly, the result crushing, and some latitude is given for better treatment upon good behavior and loyal acceptance of the conditions within the League of Nations. Moreover, the power for reparation may well have been limited because of conditions deemed essential for protection. This is killing the goose which lays the golden eggs.

With these principles in mind, let us briefly examine that portion of the treaty which disposes of German rights and interests outside of Europe, with the exception of Shantung, which is discussed by another writer.¹

Under this heading are included: first, German colonies, and second those states where Germany had secured special rights or privileges, China, Siam, Liberia and Morocco, to which Egypt should be added.

Part IV, Section I, Article 119, reads thus: "Germany renounces

¹ See *supra*, p. 687.

in favor of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.”

Why should Germany be shorn of all her colonies? The answer is twofold: because she proved herself both cruel, selfish, and inefficient as an administrator; and because the future safety of those who were dictating the terms was thought to demand that Germany should be deprived of the power to build up colonial stations for naval war upon commerce, and colonial recruiting stations for the training of hordes of black forces available in future aggressive plans.

But who should possess these colonies if Germany did not? To discover this one must turn to the 22d Article of the Covenant of the League of Nations, which sets up the curious and novel Mandatory system. The first paragraph recites that

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical position of the territory, its economic conditions, and other similar circumstances.

The article goes on to distinguish between those peoples which are sufficiently advanced to require merely advice and protection until they can stand alone, and those which must remain quite dependent upon the Mandatory Power, being guarded by it from abuses like the slave trade and from traffic in arms and liquor, the military training of the natives for other than police purposes being barred, and commercial opportunities being common to all League members. Still other peoples are mentioned, like those of the South Pacific Islands, which can best be administered as integral parts of the Mandatory and under its laws. The kind of administration is to be defined by the Council of the League and an annual report made to it.

This is not the place to inquire if this Mandatory system will not

result in a protectorate and if a protectorate in turn will not be converted into possession? But we may venture to ask how a dispute is to be settled if two Powers desire to be Mandatory of the same people, if, for instance, the same Pacific Islands are wanted by both Japan and the United States?

To resume, German renunciation is to be complete in favor of that state which is charged with administrative authority over the Germanic colonies; all state and crown property passes; the former German inhabitants may be repatriated or allowed to reside, hold property and work, under conditions; no share of the German debt attaches, nor shall the products of the colonies be discriminated against.

Public works contracts held by German nationals in its ceded colonies must be transferred to the Mandatory upon demand, the individuals thus ousted to be indemnified by Germany, but this may be credited on her reparation debt.

Damages suffered by French subjects in the Camaroons between 1900 and 1914 are to be compensated, and all treaty rights relating to Equatorial Africa are renounced. And, finally, the Mandatory is entitled to give its native inhabitants diplomatic protection.

The settlement is minute, complete, drastic. Whether it is also workable, time alone can tell. No reference is made to native self-determination, their right to choose a protector, which Mr. Lloyd George advocated in one of his addresses. The Council, which is the mainspring of the League, is given large and arbitrary powers and much must depend upon its composition.

Having disposed of the German colonies, the treaty turns to those countries where Germany had acquired special rights and privileges, which she is also condemned to lose.

CHINA.—Under the treaty China stands to gain from Germany the rights and indemnities resulting from the Boxer settlement; all property of the German Government in the concessions of Tientsin, Hankow or elsewhere; however, consular and diplomatic residences are not included. The ancient astronomical instruments carried away from Peking in 1900-1901 are to be returned at German expense; the leases from China under which the German concessions at Tientsin and Hankow are held are to be abrogated; these areas are to be then opened to international trade; all claims against China for the internment of German nationals and their repatriation are waived; claims

growing out of the capture of German ships and the seizure of German property are renounced; some slight further renunciations in favor of Great Britain and France close the chapter.

SIAM and LIBERIA.—These little states were technical belligerents and thus come in for their share of gain at German expense. German treaties, carrying rights and privileges with both, are terminated. German Government property in Siam, except consular or legation premises, is ceded to that state and the extraterritorial rights which Germany had enjoyed in Siam are surrendered. The right to nominate a German receiver of customs in Liberia is renounced. Both states are protected against possible claims arising from their treatment of German ships and nationals during the war. As for debts and property owned by Germans in both states, they are to be treated in accordance with the so-called Economic Clauses expressed at great length in Part X of the main treaty. This, in brief, establishes a clearing-house in which debts, contracts and property rights are to be liquidated and balanced.

MOROCCO.—By this section Germany loses all benefit of the Treaty of Algeiras; all arrangements with the Sherifian Empire are abrogated; the French Protectorate in Morocco is accepted.

EGYPT.—The British Protectorate proclaimed over Egypt in 1914 is recognized by Germany and her rights under the Capitulations renounced. British consular courts are given jurisdiction over German property and nationals until “an Egyptian law of judicial organization establishing courts of universal jurisdiction comes into force.” Germany consents that Turkey’s rights under the convention of 1888, relating to the free navigation of the Suez Canal, shall be transferred to Great Britain.

Such are the provisions of the Treaty of Versailles as affecting these extra-European belligerents. They strip Germany of all those rights and privileges which had been extorted in the course of the Empire’s growth. No room is left, so far as the foresight of the negotiators could suggest, for claims and pressure and intrigue. The haughty preferential attitude of the old Germany changes to distinct inferiority. The dreams of colonial empire are gone.

These reflections are in harmony with the idea of a defensive treaty with which this discussion started. But there is another and serious aspect of the surrender of her colonies by Germany which the economist rather than the publicist must consider. For every bit of

the raw material and colonial produce which enters into German manufacturing or German consumption, she must hereafter be dependent upon non-German sources. This is a heavy blow to her commercial prosperity, and likely to result in wide-reaching emigration to South American and other states. The future consequences of such constrained colonization form an interesting subject of speculation.

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SOME OF THE FINANCIAL CLAUSES OF THE PEACE TREATY WITH
GERMANY

Part IX of the Treaty of Peace concluded at Versailles June 28, 1919, embodies the so-called "Financial Clauses," embracing Articles 248 to 263, both inclusive. These clauses appear to deal primarily with four general sets of problems: first, the cost of reparation incurred by the Allied and Associated Powers; secondly, the effect of the cession of Germany territory upon the public debts of the grantor; thirdly, the nature and treatment of property passing by cession; and fourthly, the preservation and acquisition by Germany, and transfer to the Allied and Associated Powers, of moneys and certain other assets. Other important matters are also dealt with, such as, for example, the confirmation of the surrender of all material surrendered to those Powers pursuant to the terms of the armistice of November 11, 1918, and later armistice agreements, and the credits to be allowed therefrom (Article 250). There is also acknowledged (in Article 252) the right of each of those Powers to dispose of enemy assets and property within its jurisdiction at the date of the coming into force of the treaty. There is a declaration saving from prejudice, through the operation of previous provisions, mortgages of German public or private origin, in favor of the Allied and Associated Powers or their nationals, and perfected before the war (Article 253).

The principle that a first charge upon the assets and revenues of the German Empire and its constituent States is to be the cost of reparation and all other costs arising under the treaty or other agreements supplementary to it, is acknowledged and applied with care (Articles 248, 249, 251).