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A HISTORY OF THE
PEACE CONFERENCE
OF PARIS

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A HISTORY OF THE
PEACE CONFERENCE
OF PARIS

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H. W. V. TEMPERLEY

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VOL. II

THE SETTLEMENT WITH GERMANY

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CONTENTS OF VOL. II

THE SETTLEMENT WITH GERMANY

INTRODUCTION

NEGOTIATIONS AND EVENTS PRECEDING THE SIGNATURE OF THE TREATY

	PAGE
1. Introductory	1
2. The German Counter-proposals of the 29th May	2
3. German Views on the Territorial Clauses	3
4. German Proposals for the Polish Frontier	4
5. German View of Reparation	5
6. General Conclusions	6
7. Interval between German Observations and Allied Reply, 29th May to 16th June	6
8. The Reply of the Allied and Associated Powers, 16th June	7
9. The Territorial Clauses	8
10. Allied View of Penal Clauses and Reparation	9
11. Internal Communications of Germany	10
12. Labour and Guarantees	10
13. The Covering Letter	11
14. General Considerations on the Peace Terms	12
15. The Germans sign the Peace Treaty, 17th-28th June	17

CHAPTER I

GENERAL AND INTERNATIONAL CLAUSES

PART I. THE LEAGUE OF NATIONS

GENERAL INDICATIONS

1. Introduction	21
2. Three Practical Causes of the Desire for a League	21
3. Arbitration in relation to the League	23
4. Schemes of a League previous to the Peace Conference	24
5. The Commission of Nineteen	25
6. The Resolutions of the 25th January	26
7. The Draft Covenant of the 14th February	27
8. The Revised Covenant of the 28th April	28
9. Difficulties inherent in the Covenant.	29

PART II. INTERNATIONAL LABOUR AT THE CONFERENCE

1. Origin of the Commission for International Labour Legislation	32
2. Relation to the 'Internationale'	33
3. Programme of the Socialist Convention	33
4. The 'Labour Charter' of the International Federation of Trade Unions	34

	PAGE
5. Previous International Government Congresses on Labour Legislation	35
6. The Constitution of a Labour Parliament; British and American Attitude	36
7. The Attitude of Japan	37
8. Relation of the Labour Parliament to the League of Nations	38
PART III. REPARATION AND ECONOMIC ASPECTS	
GENERAL INDICATIONS	
1. Introduction	40
2. The Three Main Questions	41
3. The Right to recover the whole Costs of the War; Precedents from History	41
4. The Position as affected by the Armistice Negotiations and the 'Fourteen Points'	42
5. The Allied Claims as contained in the Treaty	45
6. The Doctrine of 'Indirect Damage'	47
7. Economic Problem: effect of indemnity payments on Allied interests	47
8. Germany's Capacity to pay	49
9. Germany's Foreign Trade in 1913; Alterations produced by the War	50
10. The Scheme of Reparation	52
11. Difficulties of the Reparation Proposals	53
12. A Parallel with the French Indemnity in 1871	54
13. Concessions to Germany	55
14. Political Aspects of the Reparation Question	56
15. Summary	58
PART IV. FINANCE AND REPARATION	
I. INTRODUCTORY	
1. The Position of the Financial Delegations	60
2. The Nature of their Work	60
3. Financial Problems of the immediate Present	61
4. The Treaty Clauses	61
5. The Financial Implications of other Treaty Clauses	62
6. Personnel	63
7. Procedure. (a) Immediate Problems; the German Finance Committee; the Neutral Financiers' Committee	63
(b) Financial Terms	64
(c) Financial Policy throughout the Treaty	64
8. Methods of Interpretation	64
II. FINANCE	
1. The Financial Clauses. Article 248, Priorities	66
2. Order of Priority. (a) Special Debts to be met from Special Assets	68
(b) Restitution	68
(c) Cost of Food and Raw Materials	69
(d) Other Necessary Payments	70
(e) Cost of Armies of Occupation	71
(f) Reparation	71
(g) Other Treaty Obligations	71
(h) Obligations not specifically ranked	72
3. Particular Provisions. Pre-war Debt, Details	72

CONTENTS

ix

PAGE

III. THE REPARATION CHAPTER

1.	Moral Responsibility of Germany, but Limited Financial Responsibility	73
2.	Methods of limiting Financial Responsibility	74
3.	General Limitation as to Time	74
4.	Belgian War Debt	75
5.	Categories of Damage	75
6.	(a) Damage by Germany's Allies	76
	(b) Indirect Damage	76
	(c) Damage to Civilians	76
7.	Impossibility of confident Interpretation	77
8.	The Determination of Claims	77
9.	Method of discharging the Debt	79
10.	Argument of Mr. David Hunter Miller	79
11.	Who determines how payment is to be made ? (a) Until 1st May 1921	81
	(b) After the 1st May 1921	81
	(c) Bonds as Security	82
12.	The Amount of Reparation to be Paid by 1921	82
13.	Credits to the Reparation Account	83
14.	Ships	84
15.	Coal	85
16.	Dyestuffs	85
17.	Other Goods and Services	85
18.	Estimate of the Balance Sheet up to 1st May 1921	86
19.	Reparation after 1921	86
20.	The Powers of the Reparation Commission	87
21.	Limits on the Discretion of the Commission	88
22.	Sanctions	88
23.	Summary of Conclusions	90

PART V. INTERNATIONAL COMMUNICATIONS POLICY EMBODIED IN THE TREATY

1.	Comparison with Congress of Vienna	92
2.	Nature of Problems to be Solved	93
3.	Formation of Ports, Waterways and Railways Commission	94
4.	Composition of Commission	95
5.	Early Procedure of Commission, Consideration of General Conventions	96
6.	Diversion from General Conventions to Articles of Preliminary Treaty of Peace	97
7.	Adjustment of Conflicting Views	97
8.	Submission of First and Second Reports	98
9.	Temporary Employment of Expressions 'A' and 'B' States	98
10.	Consideration by Supreme Council of Articles in German Treaty, the German Observations, and the Allied Reply	99
11.	Kiel Canal	100
12.	Transportation Aspects of Frontier Questions	100
13.	Co-ordination with Supreme Economic Council	101
14.	Suggestion to maintain Uniform Text in all Treaties	101
15.	Austrian and Hungarian Treaties	101
16.	Sudbahn	102
17.	Reply to Austrian Observations, important Modifications as compared with German Treaty	102
18.	Reply to Bulgarian Observations	103
19.	Hungary	103

	PAGE
20. Discussion of General Conventions resumed	104
21. General Tendencies affecting Future Developments as regards General Conventions	105
RÉSUMÉ OF SOME OF THE SPECIAL PROVISIONS	
22. Articles affecting International Rivers	107
23. Equitable Readjustments resulting from Territorial Changes	109
24. Freedom of transit to the Adriatic	109
25. Hydraulic Régimes, Telegraphs, Telephones, Electricity	109
26. Railway Tariffs to Adriatic Ports	110
27. Railway Running Powers for Czecho-Slovakia	110
28. Transitory Facilities for Transport	110
29. Revision of Transitory Stipulations. Future Reciprocity	110
30. Revision of Articles referring to a Permanent Administrative Régime	111
31. Disputes referred to League of Nations	111
32. Revision to conform to future General Conventions	111
33. Transit and Communications in War	111
34. Judgment on Result	112

CHAPTER II: SECTION I

THE PRINCIPLES—APPLIED TO GERMANY

PART I. THE MILITARY OCCUPATION OF GERMANY

1. The Campaign of 1918	113
2. Objects of the Armistice of 11th November	114
3. Effect of the Armistice	114
4. Germany during the Peace Negotiations	115
5. The German Attitude to the Peace Treaty	116
6. German hopes of evading the Terms of the Treaty	116
7. The Allied Advance into Western Germany after the Armistice	118
8. Military Administration of the Occupied Territories	119
9. Civilian versus Military Administration	120
10. The Inter-Allied Rhineland Commission	120
11. General Considerations	121

PART II. THE MILITARY TERMS

A. GENERAL CONSIDERATIONS

1. Armistice of 11th November 1918	124
2. Assembly of the Peace Conference in Paris	124
3. French point of view with regard to Guarantees	125
4. Attitude of the Allies regarding Guarantees	126
5. Principles of the Military Terms	127
6. Compulsory versus Voluntary Service	127

B. THE MILITARY TERMS IN DETAIL

7. The First Draft of the Military Terms	129
8. The Adoption of the Voluntary Service System	129
9. Strength of the new German Army	129
10. Presentation of the Treaty and German Counter-Proposals	130
11. Personnel, Recruiting, and Military Training	131
12. Armament, Munitions, and Material	134
13. General Effect of the Military, Naval, and Air Terms. Dis- mantling of Fortifications	136

CONTENTS

xi

	PAGE
C. EXECUTION OF THE TERMS OF THE TREATY	
14. Inter-Allied Commissions of Control	136
15. Prospects of future Peace	137

CHAPTER II: SECTION II

THE PRINCIPLES—APPLIED TO GERMANY (*continued*)

PART III. THE NAVAL CLAUSES—TERMS

1. Terms of the Armistice	141
2. Execution of the Terms	142
3. Essential Conditions of Peace	143
4. League of Nations and Freedom of the Seas	145
5. Disposal of German War Vessels	147
6. Naval Terms of Peace	149
7. The Scapa Flow Incident and its Consequences	152
8. Decision as to Distribution of German Navy, December 1919	156
9. Conclusion	157

CHAPTER III

THE TERRITORIAL SETTLEMENT IN EUROPE

THE SETTLEMENT OF THE WESTERN FRONTIERS OF GERMANY

I. ALSACE-LORRAINE

1. Historical Sketch of French Administration up to 1871	159
2. Bismarck's views on Alsace-Lorraine	160
3. The Protest at Bordeaux ; Contemporary Opinion in Europe	162
4. Character of the German Administration	163
5. Effect of German Administration on the Inhabitants, 1871-1914.	164
6. Alsace-Lorraine during the War	166
7. Strategic and Economic effects of recovery of the Provinces by France	167
8. Effect on the Alsatians and Lorrainers	170
9. Conclusion	172

APPENDIX

I. Statistics of Emigration from Alsace-Lorraine, 1875-1910	174
II. Statistics relating to Language and Population	175

II. THE TERRITORY OF THE SAAR BASIN

1. Introductory, Course of Treaty Negotiations	176
2. French Claims in the Treaty based on Reparation not Annexation	178
3. German Sovereignty in Abeyance, the League of Nations	180
4. The new Constitution	181
5. Justice of the Solution	183

	PAGE
III. THE GRAND DUCHY OF LUXEMBURG	
1. History to the War 1839-1914	184
2. The War	185
3. Plebiscite—wishes of the Luxemburgers	186
4. Strategic Importance of Luxembourg	188
5. Difficulties in the way of Neutrality	188
IV. BELGIUM	
Introductory	189
1. International Position of Belgium	190
2. Luxemburg	190
3. Relations with Germany	190
4. Relations with the Netherlands	192
5. Summary	196
CHAPTER IV	
THE TERRITORIAL SETTLEMENT IN EUROPE (<i>continued</i>)	
NORTHERN AND EASTERN FRONTIERS OF GERMANY	
PART I. THE SCHLESWIG QUESTION	
1. The origin of the problem	197
2. The Peace of Prague	198
3. The Kiel Canal	199
4. The Little Belt	201
5. The question of a defensive frontier	201
6. The Problem before the Peace Conference	202
7. The Peace Settlement	203
8. Conditions of the Plebiscite	205
9. The Result of the Plebiscite	205
PART II. MEANING, STRATEGIC AND OTHERWISE, OF THE LOSS TO GERMANY OF POLISH TERRITORY	
INTRODUCTORY	
Sketch of Territories concerned	207
I. STRATEGICAL EFFECT ON GERMANY OF THE POLISH SETTLEMENT	
1. The General Settlement of the Ceded Territories ; the Peace Settlement and the Austro-German Solution of 1915	208
2. Strategical Aspects of the Plebiscite in the Allenstein and Marienwerder Areas	210
3. Strategical Aspect of the Plebiscite in Upper Silesia	211
II. ECONOMIC EFFECT ON GERMANY OF THE POLISH SETTLEMENT	
1. Economic importance of the Territories definitely Ceded	212
2. Economic importance of the Allenstein and Marienwerder Plebiscite Areas	213
3. Economic importance of the Upper Silesian Plebiscite Area	213
4. Danzig	214
Tables illustrating Population of the former German Empire ceded to Poland or forming Plebiscite Areas	214

CHAPTER V

THE TERRITORIAL SETTLEMENT IN AFRICA

THE DISTRIBUTION OF GERMANY'S COLONIES

	PAGE
1. The Expansion of Europe	216
2. Factors in the German Colonial Movement	217
3. German Colonial Policy	217
4. General Description of the Colonies	218
5. Native Policy	219
6. The Situation in 1914	220
7. Attitude towards the Natives	221
8. Native Sentiment during the War	221
9. German East Africa	222
10. The Allied Conquest of the German Colonies, 1914-18	223
11. The Bases of the Colonial Settlement	226
12. Self-determination	227
13. Attitude of Germany	228
14. The Colonial Clauses of the Treaty : General Provisions	229
15. Special Provisions	231
16. The Origins of the Mandatory System	231
17. Action of the Peace Conference	233
18. Article 22, The Three Classes of Mandates	234
19. The Basic Principle of the System	236
20. The Terms of the Mandates : Class C	237
21. Class B Type : Cameroons, Togoland, German East Africa	238
22. The Actual Situation	239
23. The Basis of Allocation	240
24. The Decision of the Supreme Council	241
25. Togoland and the Cameroons, Class B "	241
26. The Belgian Mandate	242
27. Portuguese Claims	243
28. Conclusion	244

CHAPTER VI

THE LEGAL BASIS OF INTERNATIONAL RELATIONS PRIOR TO THE RE-ESTABLISHMENT OF PEACE BY TREATIES

(continued from Chapter IX, Vol. I)

PARTS VII-VIII. THE PRE-ARMISTICE AGREEMENTS, THE ARMISTICE CONVENTIONS, AND THE DRAFT TREATIES OF PEACE 245

PART IX. THE PRE-ARMISTICE AGREEMENT, THE ARMISTICE CONVENTION, AND THE DRAFT TREATY OF PEACE WITH GERMANY

INTERPRETATION : THE CONFLICT OF VIEWS AT THE PEACE CONFERENCE

§ I. The Pre-Armistice Agreement as the Basis of the Draft Treaty of Peace	246
§ II. The Interpretation of the Pre-Armistice Agreement	250

PART X. CERTAIN BASIC PRINCIPLES OF THE PRE-ARMISTICE AGREEMENT

THE DIVERGENT INTERPRETATIONS

§ I.	Democracy as opposed to the Arbitrary Power of Autocracy and Militarism	255
§ II.	Right as opposed to Might	256
§ III.	Justice as opposed to Injustice	260
§ IV.	Nationality as opposed to Barter by Sovereignty	264
§ V.	Self-Determination of Peoples as opposed to Barter	266
§ VI.	Equality as opposed to Inequality of States	269

PART XI. THE PRINCIPLES OF THE PRE-ARMISTICE AGREEMENT AS APPLIED TO THE SETTLEMENT BY THE PARTIES

§ I.	The Covenant of the League of Nations	270
§ II.	Boundaries of Germany and Political Clauses for Europe	274
	i. Belgium	275
	ii. Luxemburg	277
	iii. Saar Basin	277
	iv. Alsace-Lorraine	280
	v. German-Austria	282
	vi. Poland and the Eastern Frontiers of Germany	283
§ III.	German Rights and Interests Outside Germany	295
§ IV.	Military, Naval, and Aerial Clauses	302
§ V.	Penalties	304
§ VI.	Reparation	308
§ VII.	Financial Clauses	313
§ VIII.	Economic Clauses	318
	i. Commercial Policy	318
	ii. Treaties	322
	iii. Treatment of Private Rights	327
§ IX.	Ports, Waterways and Railways	333
§ X.	Labour	334
§ XI.	Guarantees	336
§ XII.	Miscellaneous Provisions : Maritime Law	339

PART XII. SURVEY OF THE PRINCIPLES APPLIED TO THE PEACE SETTLEMENT WITH GERMANY BY THE PARTIES

§ I.	The Pre-Armistice Agreement	341
§ II.	The Armistice Convention	341
§ III.	The Nature of the Peace Settlement	344
§ IV.	International Law, International Relations, and the League of Nations	348
§ V.	General Principles of the Peace Settlement	357
§ VI.	Territorial and Political Terms and Principles	381
§ VII.	German Rights and Interests outside Germany : Principles	393
§ VIII.	Military, Naval, and Aerial Terms and Principles	395
§ IX.	Penalties	396
§ X.	Reparation	397
§ XI.	Financial Terms and Principles	404
§ XII.	Economic Terms and Principles	405

CONTENTS

XV

	PAGE
§ XIII. Ports, Waterways and Railways	408
§ XIV. Labour	409
§ XV. Guarantees	410
§ XVI. Miscellaneous Provisions : Maritime Law	410

PART XIII. THE WORLD-WIDE SCOPE OF THE PEACE SETTLEMENT WITH GERMANY

CLASSIFICATION OF THE PRINCIPLES APPLIED BY THE PARTIES	410
§ I. Nations	411
§ II. International Relations	413
§ III. Private Rights of Nationals	416

PART XIV. THE TREATY OF PEACE WITH GERMANY

THE FULFILMENT OF THE PRE-ARMISTICE AGREEMENT	418
---	-----

PART XV. THE RE-ESTABLISHMENT OF THE WORLD'S PEACE BY TREATIES	419
--	-----

CHAPTER VII

THE NEW GERMANY

1. Preliminary	420
2. The End of the Old Regime, 9th November 1918	421
3. After the Armistice : Constitutionalists and Spartacists, November-December	423
4. The Struggle with the Spartacists, December 1918-15th January 1919	427
5. The Election Campaign and the Parties	430
6. German Attitude towards the Entente "	433
7. Economic Situation, November 1918-March 1919	435
8. Government Legislative Policy, March	437
9. Communistic and Spartacist movements in the smaller German States, December-March	438
10. Attitude towards Poland and peace terms	439
11. General attitude towards the peace terms	443
12. The Entente modifies the conditions of peace	445
13. Ministerial Crisis and Decision to Sign, 20th-24th June	446
14. Economic Difficulties of the Peace Treaty	448
15. The new Constitution. Terms	450
16. Comments on the Constitution.	454
17. The Workers' Councils	455
18. Other Problems of the German Government	460
19. The New Defence Force	461
20. Financial Position and Policy of the Government	463
21. Foreign Trade	469
22. General Conclusions	473
23. The Future of Germany	475

INDEX	480
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TITLES OF CHAPTERS

	PAGE
INTRODUCTION: Negotiations and Events preceding Signature of Treaty	1
CHAPTER I. GENERAL AND INTERNATIONAL CLAUSES	
Part I. The League of Nations	21
Part II. International Labour at Conference	32
Part III. Reparation and Economic Aspects	40
Part IV. Finance and Reparation	60
Part V. International Communications Policy embodied in Treaty	92
CHAPTER II. THE PRINCIPLES APPLIED TO GERMANY	
Part I. The Military Occupation of Germany	113
Part II. The Military Terms	124
Part III. The Naval Clauses	141
CHAPTER III. SETTLEMENT OF WESTERN FRONTIERS OF GERMANY	
Part I. Alsace-Lorraine	159
Part II. Territory of Saar Basin	176
Part III. Grand Duchy of Luxemburg	184
Part IV. Belgium	189
CHAPTER IV. SETTLEMENT OF NORTHERN AND EASTERN FRONTIERS OF GERMANY	
Part I. Schleswig Question	197
Part II. Meaning Strategic and Otherwise of Loss to Germany of Polish Territory	207
CHAPTER V. TERRITORIAL SETTLEMENT IN AFRICA.	216
CHAPTER VI. LEGAL BASIS OF INTERNATIONAL RELATIONS PRIOR TO RE-ESTABLISHMENT OF PEACE BY TREATIES.	245
CHAPTER VII. THE NEW GERMANY	420
SKETCH MAPS	
	<i>To face page</i>
I. The new boundaries of Germany	8
II. Map illustrating occupation and evacuation of Germany.	122
III. Map illustrating Lorraine (and the Saar valley)	170
IV. Map illustrating boundaries of the Territory of the Saar valley	178
V. Maps illustrating Schleswig-Holstein : (i) political, (ii) racial	206
VI. General Map of Western frontiers of Poland and Eastern frontiers of Germany	208
VII. Boundaries of East Prussia and Danzig	214

NOTE.—The history of the Treaty in this Volume is not carried beyond the 10th January, 1920, when ratifications were exchanged, unless otherwise specifically stated.

THE SETTLEMENT WITH GERMANY

INTRODUCTION

NEGOTIATIONS AND EVENTS PRECEDING THE SIGNATURE OF THE TREATY

1. *Introductory.* No account of the Peace Treaty could be complete without some indication of the objections raised by the German Government to the Draft Peace Treaty, of the brisk paper warfare which ensued, of the concessions made and the concessions refused, and of the final scene in the Galerie des Glaces. The sixth chapter of this volume contains a detailed study of these matters from a legal point of view. Here it must suffice to indicate the general political bearing of a few of the more important aspects.

On the 20th April the Germans, replying to the invitation to attend the Conference, stated that, as verbal discussion of the terms would not be allowed, they would send only two secretaries to receive the document. The Four at once intimated that it was essential to have Plenipotentiaries, who must be prepared to sign, and not messengers whose function was simply to transmit, the Treaty. The Allied Military Advisers also began to prepare plans to enforce peace on Germany, in case of her refusal to sign. On the 21st the Germans agreed to send six Delegates, and on the 30th they arrived headed by Count Brockdorff-Rantzau. On the 7th May the Draft Peace Treaty was presented to the Germans in a Plenary Session by M. Clemenceau. The session was remarkable for two incidents; one distinguished spectator noted the atmosphere of tense and concentrated hatred, and every one observed that the Germans of course sat while Clemenceau spoke, but that, when Brockdorff-Rantzau replied, he found it unnecessary to rise from his seat. The style of his address was not more conciliatory and his references to the 'Fourteen

Points' would have carried more weight, if they had come from one whose demeanour was more suggestive of the new era. In short the attitude of Brockdorff-Rantzau damaged the legend that Germany was a regenerated and repentant democracy.

•On the 29th May the German counter-proposals, which amounted to 443 pages, reached the Council of Four. Meanwhile the Germans had published in German and also in English the full Treaty, of which only portions or summaries were available in the Entente countries. On the 10th June Brockdorff-Rantzau declared to a journalist that Germany would never sign such a Treaty. He at least did not sign it, but he was wrong about Germany.

2. *The German Counter-proposals of the 29th May.*¹ It must be admitted that the time allowed did not permit of much more than a general outline of objections and of counter-proposals. But, even making all allowances, the German counter-proposals were not always well drawn. For instance, they quoted largely from the 'Fourteen Points' and from other addresses of President Wilson up to the date of the Armistice. These were all relevant enough, and indeed formed the legal basis of the Armistice which they claimed that Germany accepted expressly and exclusively. But they cited also the speeches of other Allied statesmen, which had only moral and political weight, while the lengthy quotations, which they made from Mr. Wilson's long ago published work on 'The State' and from a speech delivered by Mr. Asquith (26th September 1917), when out of office, had no practical value except for propagandist purposes. Thus their endeavour to prove that the Allies had not fulfilled the 'Fourteen Points' was marred by their blunders. Their strongest argument did not lie in their quotations², even when these were relevant or when they bore a legal or definite character. Their most important contention was that the new German constitution conformed to the strictest principles of democracy and that the German 'League of Nations' scheme gave stronger guarantees for limitation of armaments than did the Covenant

¹ They were drawn up at Berlin on the 27th and reached the Four on the 29th.

² Many of the quotations were inaccurate, but not usually in such a way as to distort their real meaning.

embodied in the Treaty. They urged that these facts had been overlooked by the Allies and in the Treaty. 'It is impossible to imagine what more stringent political conditions could have been imposed on an Imperialist Government.' After standing thus on the defence the German Delegation passed to the offensive. 'In the Peace document laid before us a moribund conception of the world, imperialistic and capitalistic in tendency, celebrates . . . its last horrible triumph.'

3. *German Views on the Territorial Clauses.* Dealing with the territorial proposals they commented in general terms as follows. 'Their basis is indifferently now . . . an immemorial historical right, now . . . ethnographic ownership, now the consideration of economic interests . . . In every case the decision is against Germany.' But the Germans laid themselves open to the very charge of inconsistency, which they condemned. Thus over the Saar Valley they 'refuse to carry out any reparation as a punishment'. Again, 'Only with Upper Silesia can Germany fulfil the obligations arising from the war but without it never. On this basis, if on no other, Germany could not acquiesce in the cession of Upper Silesia.' In the case of Alsace-Lorraine also they based their argument on the great importance of 'the economic connexion with Germany . . . since 1871'. It thus appears that, when it suited the German convenience, the economic argument blotted out that of the wishes or consent of the population concerned. They were ready to accept a plebiscite in Alsace-Lorraine, which they had agreed to forgo in the Armistice, provided it was taken by neutrals and after the conclusion of peace. But they would have no plebiscite in Moresnet or Malmedy or in Upper Silesia, and they refused to accept the arrangements with regard to Luxemburg or Danzig. There was little coherence in these views but their argument was better and more consistent, when they pointed out that the new Schleswig plebiscite boundary fixed in the Draft Treaty, was 'drawn through purely German districts and goes beyond the wishes of Denmark'. Subject to a redrawing of the line according to ethnic boundaries they were prepared to accept the Schleswig plebiscite in principle.

Under the head of the League of Nations they demanded that that body should consist of technical bodies and impartial courts. They demanded also that Germany should immediately

enter the League with equal rights, that commerce, trade, and agriculture should be equal between nations, and that the nationals of one member-State of the League should be on an equality with those of another as regards taxation and imposts. These last demands were very far-reaching and the concession of them would have been much to the German advantage. As for armaments, the Germans demanded a general reduction and limitation within two years, up to which time special arrangements could be made for Germany. Finally they demanded that negotiations should be carried on by word of mouth, and in justification for this, as for everything else, asserted that there are 'natural rights of nations as well as natural rights of man', and 'inborn rights of men and peoples'.

4. *German Proposals for the Polish Frontier.* It was in dealing with Poland, however, that it became apparent that the German mentality had changed little. The German Government stated that 'it had friendly relations with Poland'; but it betrayed no friendly feelings. Every possible concession to Poland was refused, every possible territorial claim denied, every possible attempt made to depreciate Polish civilization and capacity. The German Government rejected the 'proposed rape of Danzig', opposed the cession of Memel and denied the Lithuanian character of its inhabitants. It stated that East Prussia had been part of Germany for 300 years, and that no one wanted to part from her 'except foreign agitators'. It stressed the 'economic, cultural and social significance' of German work in West Prussia, and declared that the frontier as drawn there was against ethnic justice, quoting President Wilson's book on 'The State' to prove that the town of Netze was Prussian, though now assigned to Poland. The cession of Upper Silesia to Poland would mean 'industrial decay' for 'conditions of life, sanitary regulations, and social amelioration' were incomparably better in Upper Silesia 'than in the adjacent kingdom of Poland, where legislation for the benefit of the working classes has but scarcely begun'. In every other part of their reply the same hatred of Poland emerges. Thus they refused to cede railway stock to Poland under Art. 370-1 'since Germany has taken no railway material from Congress Poland.' Even in the Labour section they seized the opportunity to point to States 'like the future

Poland (which) possess no or insufficient qualification for the welfare of workers'.¹

As regards the clauses relating to Russia and the Baltic States they put up a strong resistance. They declared they had renounced the Brest-Litovsk Treaties and had not ratified the Treaty of Bucharest. They could not do more, and they refused to recognize new States like Esthonia, Latvia, and the like.

Turning to German colonies they took occasion to point out that they were 'acquired justifiably and developed', and that Germany claimed to govern Colonies 'as one of the great civilized races' (Kultur Volk). 'The retention by Germany of her Colonies is, however, equally based on the interests of the coloured population of these territories.' She demanded therefore a mandate for the Colonies. As regards Kiaochow they were willing to renounce German claims though they demanded, here as elsewhere, indemnification for public property in general. They also pointed out that Germany by Art. 147 (recognition of British protectorate in Egypt) had to 'engage to run counter to the principle of self-determination'.

5. *German View of Reparation.* In respect to Compensation and Reparation the whole question is argued at length elsewhere in this volume.

The whole question of liability for compensation was made an occasion for demanding the return of the Colonies, in order to make good Germany's obligations under the Treaty. It

¹ This reply on the Polish question might have been almost textually reproduced from German pre-war professional utterances on the ancient Slavs, e. g. from the work of Dr. Peisker and Giesebrecht on the ancient Slavs, the former written just before the war. 'The primitive German was as savage in war as the mounted nomad (the Slav), but far superior in character and capacity for civilization. *The German with one leap into civilization, so to speak, from a plunderer becomes a founder of brilliant and well-ordered States, bringing to high perfection the intellectual goods which he has borrowed. On the other hand the lightest breath of civilization absolutely ruins the mounted nomad.* . . . It is then no wonder that the Slavs, incapable of resisting the terrible plundering raids and powerless to give themselves political organization, preferred to submit . . . Neither from the Germans nor from the Romans did they permanently wrest a span of ground; in spite of their enormous expansion their part is purely passive. . . .' Dr. Peisker goes on thus; 'Giesebrecht excellently characterizes the *Baltic Slavs*: "A mixed race, not seldom fluctuating in sharp contradiction in their belief, law, and customs, the Wends were already a fallen nation when they came in contact with the Franks. Thus from them could proceed much that was energetic as far as it could be carried out by individuals, families, or associations, *but nothing that pre-supposed national unity.*"' Dr. Peisker, *Cambridge Mediaeval History*, Vol. II, pp. 433-4, 453, 457.

will be remembered that, in the case of the Saar Valley, Germany refused 'to carry out any reparation as a punishment', while alleging that she could not cede Upper Silesia if she was to pay her debts. The German Government offered, however, to pay 20 milliards of gold on or before the 1st of May, 1926, and a total of not more than 100 milliards of gold.¹ They declined 'the ton for ton principle' as regards shipping, declared they must have a sufficient commercial fleet, and offered to build ships as required for compensation. Their final standpoint was expressed as follows: 'The German people cannot support any conditions which amount to its disorganization. It does not live only in order to perform acts of reparation, but rather to effect its reconstruction while discharging the burdens laid upon it.'

6. *General Conclusions.* Of the other questions raised by Germany only one demands notice here—the German claim to represent the new democracy.

The Labour section of the Treaty was used as a vehicle of propaganda for the new German Government to appeal to the workers of the world in the character of the most recent and most enlightened of governments. They ended on a note of warning. The Allies should remember that Bolshevism sprang from despair and that despair would result from forcing this treaty on Germany. It would be better for the world to enjoy 'a new common life based on liberty and labour'. 'Justice and the free consent of all parties to the Treaty will furnish the strongest—nay in course of time the only—guarantees of the treaty that is to be concluded.'

7. *Interval between German Observations and Allied Reply, 29th May to 16th June.* The Allied and Associated Powers took over a fortnight to reply to the Germans. During this period the wildest possible rumours were afloat, and one interesting development took place, the proclamation of a Rhineland Republic at Coblenz (4th June). This new internal revolt against Germany did not show great vitality or meet with the support of the 'Four', and consequently it speedily collapsed. Their attitude to this abortive attempt showed that the Powers did not wish to make the position of the German

¹ This offer was hedged round with some very perplexing and apparently prohibitive conditions, e. g. retention of her colonies and large merchant ships, her enjoyment of 'the same freedom of action as other people', &c.

Government too difficult. Meanwhile the Austrian Treaty was presented to the Austrian Delegation, and it is difficult to suppose that its terms could have encouraged the Germans in their demand for concessions. Finally on the 13th, after the Four had discussed and decided on the main points, the drafting of a reply was entrusted to a Committee of Five. These included for France M. Tardieu, perhaps the most widely learned of all the Plenipotentiaries, Mr. Philip Kerr representing the British Empire, Mr. Hudson the United States, Count Vannutelli Rey Italy, and M. Saburi Japan. Their reply was approved, signed by M. Clemenceau, and dispatched on the 16th.

8. *The Reply of the Allied and Associated Powers, 16th June.* The reply falls into two parts—a covering letter, summarizing the general terms, and a formal answer in detail to the German observations.

The latter may first claim our attention. The first section of this, and in principle the most important, gave the Allied view of the 'Basis of the Peace Negotiations'. Mr. Wilson had already been reported by the *Matin* as having said that he did not think that the Treaty violated the Fourteen Points. The Allied and Associated Powers as a whole, declared that they and the other principles of President Wilson, as laid down in his speeches from the 8th January to 27th September 1918, and as modified in the Allied memorandum included in the President's note of 5th November 1918, are the 'principles which have guided them in the deliberations which had led to the formulation of the Conditions of Peace'. They seized the opportunity to point out that the many quotations made by the Germans from the speeches of Entente statesmen other than Mr. Wilson were quite irrelevant to the issue, but that in point of fact in their note of the 10th January 1917, to the President of the United States, the Allies had laid down very similar terms for the conclusion of peace. They also quoted as apparently still applicable the Allied note of 10th January 1917, in the passage which refers to 'the turning out of Europe of the Ottoman Empire as decidedly foreign to Western civilization'.¹

¹ This quotation is important, and Mr. Lloyd George apparently considered that this foreshadowed an American mandate at Constantinople, v. speech in Parliament of 27th February 1920, and contrast this with his speech of 5th January 1918, 'Nor are we fighting . . . to deprive Turkey of its capital, or of the rich and renowned lands of Asia Minor and Thrace, which are predominantly Turkish in race.' This speech appears to contradict the note of 10th January 1917.

Turning again to President Wilson's speeches, they quoted and accepted as two of the agreed principles of the peace the giving of justice to the German people, and the destruction or reduction to virtual impotency 'of every arbitrary power everywhere that can separately, secretly, and of its own choice disturb the peace of the world'. They then quoted the German statement that 'in every case the decision (on territorial matters) is against Germany' and denied its application, stating that the fact that the decision was sometimes against Germany, was because an appreciable portion of the territory of the German Empire consisted of districts which had in the past been wrongfully appropriated by Prussia or by Germany.

9. *The Territorial Clauses.* These are analysed elsewhere. The concessions actually made were of much importance in the case of Poland and of Schleswig.

As regards Poland the idea of the Allies was to right the great wrong of a century ago, 'which has for long poisoned the political life of a large portion of the Continent of Europe . . . and perverted the political life, first of Prussia and then of Germany'. They showed that as regards Posen and West Prussia, if historic rights were pressed, practically all the territory in each case would go to Poland. To avoid even the appearance of injustice, they had left to Germany those parts near the German frontier which had an undisputed German predominance of population. Certain areas, such as Bromberg, could not be brought under this head, and as the difficulty had been enhanced by German expropriation and artificial colonization, a recognition of German claims would have sanctioned injustice and oppression. In deference to German protests, however, concessions had been made, and a line nearer the ethnic line would now constitute the western Polish frontier in this area. In Upper Silesia the claim of Poland was not historic, but it was ethnic; yet again, in deference to German wishes a plebiscite was conceded (Art. 88 and Annex). They also made important concessions, in case of the transfer of Upper Silesia to Poland by plebiscite, to make the coal available to Germany for fifteen years on the same terms as to the Poles (Art. 90). Provisions were also inserted to give protection to Germans in any liquidation of their property in these areas (Art. 297). Finally, a new article (93) was passed by which Poland was to agree by a Treaty (eventually signed the 28th June) 'to protect the interests of the inhabitants

Boundaries of GERMANY

Scale 1:6000000

Miles 100 50 0 100 Miles
Kilometres 100 50 0 100 Kilometres

REFERENCE

- Assigned to Poland.....
- Free City of Danzig.....
- Areas for Plebiscite.....
- Ceded by Germany.....
- Old International Frontiers.....



of Poland who differ from the majority, . . . in race, language or religion.' Thus 'they will not be subjected to persecution similar to that which Poles had to endure from the Prussian State'. As regards East Prussia the Allies adhered to the plebiscite in the 'Allenstein area', and expressed surprise that the Germans, 'at the very moment when they profess assent to the principle of self-determination', refused to 'accept the most obvious means of applying it'. The Allies, however, revised the articles dealing with communications between East Prussia and other parts of Germany in a sense more favourable to the Germans (v. Art. 98).

As regards Memel, the Allies retained their point of view and reaffirmed the Lithuanian character of the whole district. In respect to Danzig the Allies admitted the predominantly German character of the city population, but based their solution on the fact that 'the economic interests of Danzig and Poland are identical', and that Poland was justified in having access to the sea.

As regards Schleswig, the Allies made a new concession and altered the article in the Peace Treaty at the desire of the Danish Government.

Finally, in regard to Russia and the Colonies the German protests and observations were uncompromisingly rejected.

As regards the Military clauses, a few small concessions were made. The reduction of the German military forces was made more gradual (Art. 163), and similar modifications were made with respect to the demolition of fortifications (Art. 180).

10. *Allied View of Penal Clauses and Reparation.* The reply of the Allied and Associated Powers dealt at some length with the German responsibility for the war. Effective use was made of some statements by the new Government. For instance :

'The view of the Allied and Associated Powers could not indeed be better expressed than in the words of the German Memorandum itself. "The real mistakes of German policy lay much further back. The German Chancellor who was in office in 1914 had taken over a political inheritance which either condemned as hopeless from the start his unreservedly honest attempt to relieve the tension of the internal situation, or else demanded therefor a degree of statesmanship, and above all a strength of decision, which on the one hand he did not sufficiently possess, and on the other, he could not make effective in the then existing conditions of German policy."'

These arguments justified the proposed punishment of

individuals and the arraignment of the Kaiser. In particular it was pointed out that the latter was not arraigned for juridical but for supreme moral offences.

On the general question of Reparation the Allied Reply took strong objection to the German description of the Reparations Commission, but did not enter much into detail.

After thus lodging a protest against the German view of the Reparations Commission, the Allied Reply proceeded to examine the German proposal to pay 100,000,000 marks in gold. This was described as not an 'extensive offer'. No interest was to be paid, and no substantial payment at all, except the surrender of military material 'and the devolution on other Powers of large portions of Germany's own debt', was to be made till 1927.

The only substantial Allied concession was to make an arrangement (v. chap. I, pt. 4) by which Germany might offer a lump sum in settlement of her liabilities within four months of the signature of the Treaty. As regards financial and commercial policy and private property there were no very serious modifications.

11. *Internal Communications of Germany.* As regards Part XII, Ports, Waterways, and Railways, the Allies put forward an extensive argument to show that all German rivers were really international, as having either their sources or their mouths in other countries. The concessions actually made were as follows: 'The freedom of transit between East Prussia and the rest of Germany is more clearly defined.

'The number of representatives from Germany on the Commission for the Oder is increased from one to three.

'Measures are taken to ensure the representation of Germany at the Conference which will be charged with the duty of establishing a definitive statute for the Danube.

'The (future) Rhine-Danube canal is to be subjected merely to the régime applicable to waterways declared to be international.

'The provisions relating to the possibility of an International Commission being required for the Kiel Canal and a large part of the provisions relating to railways to be constructed on German territory are deleted.' None of these concessions had the effect of putting the Germans in a majority on any river commission.

12. *Labour and Guarantees.* As regards Part XIII, Labour,

only one small point was altered in Article 312, concerning the protection of Labour in ceded territories. An additional clause provides for the reference to impartial technical commissions of 'all cases in which an early settlement was not reached by direct negotiation.'

As regards Part XIV, Guarantees, the Allied reply may be quoted in full :

'The German Delegation observe in their remarks on the Conditions of Peace : "Only a return to the immutable principles of morality and civilization, to sanctity of treaties, would render it possible for mankind to continue to exist."

'After four and a half years of war which was caused by the repudiation of these principles by Germany, the Allied and Associated Powers can only repeat the words pronounced by President Wilson on September 27, 1918 : "The reason why peace must be guaranteed is that there will be parties to the Peace whose promises have proved untrustworthy".'

13. *The Covering Letter.* The covering letter, which accompanied this detailed reply, summarized the whole argument in a few pages with great power and brilliance. The attitude taken up is of great consequence, for it explains the severity of some terms of the Treaty. Germany, being responsible for the war and for the 'savage and inhuman manner in which it was conducted', had committed 'the greatest crime against humanity and the freedom of peoples that any nation, calling itself civilized, has ever consciously committed'. Seven million dead lie buried in Europe, more than twenty millions bear wounds and sufferings 'because Germany saw fit to gratify her lust for tyranny by resort to war'. Justice was indeed to be the basis of the peace, which Germany had asked and was to receive. 'But it must be justice for all. There must be justice for the dead and wounded and for those who have been orphaned and bereaved that Europe might be freed from Prussian despotism. . . . There must be justice for those millions whose homes and land, ships and property German savagery has spoliated and destroyed.' That was the reason for reparation, for punishment of criminals, and for the economic disabilities and arrangements to which Germany must temporarily submit. After detailing in brief the proposed modifications the letter concluded : 'The Allied and Associated Powers must make it clear that this letter and the memorandum attached constitute their last word'. In principle, despite concessions to Germany,

they stand by the Treaty, and the machinery has been created by which 'the settlement of 1919 itself can be modified from time to time to suit new facts and conditions as they arise'. It is not based on a general condonation of the events of the war. 'It would not be a peace of justice if it were. But it represents a sincere and deliberate attempt to establish "that reign of law, based upon the consent of the governed, and sustained by the organized opinion of mankind," which was the agreed basis of the Peace. As such the Treaty in its present form must be accepted or rejected.' A declaration was required from the German Delegation within five days that 'they are prepared to sign the Treaty as it stands to-day'. In default of such a declaration this communication would serve as the notification provided in Article 2 of the Convention for prolonging the Armistice signed on the 16th February, 1919. 'The said Armistice will then terminate, and the Allied and Associated Powers will take such steps as they think needful to enforce their terms.'

14. *General Considerations on the Peace Terms.* It is convenient at this point to reflect a little on the general principles of the Treaty. It is worth considering first what sort of peace could have been proposed by the Allies if the 'Fourteen Points' had not stood in the way. The result would have been very different if strategic, and not ethnic, arguments had been advanced; if, for example, principles like those on which the Italians have secured the Tyrol up to the Brenner Pass had been adopted. To give back Heligoland to Great Britain, to advance Danish territory to the south so as to cover the Kiel Canal, to give France the frontier of 1814 in its entirety or even the left bank of the Rhine, none of these proposals were without strategic argument or some historic justification. Yet such principles were not accepted, and even the arrangement as to the Saar basin did not give France the sovereignty over it, still less did it give her the whole frontier of 1814. The territorial settlement was defensible on the basis of the 'Fourteen Points', and it should be recognized that in the present condition of the world the primary basis of a peace-settlement must always be territorial. Man is first of all a political, not an economic, animal, and territorial terms must always possess a permanence which no economic or financial conditions can approach. It is possible to reduce the financial claims on Germany without impairing any essential principle of the peace, but the return

of part of Alsace-Lorraine or of Posnania would at once involve a disavowal of the aims of the Treaty and a disruption of national integrity. The plebiscites as a whole are unique in their fairness to the defeated nation, and it is worth noting that the Allies have already conducted a plebiscite in Schleswig on lines which the Prussians bound themselves in 1866 by treaty to give, though they subsequently repudiated their obligation. The drawing of the Eastern frontier and the provisions for the Polish plebiscites are similarly marked by a conspicuous attempt to realize self-determination. The only objection that can be urged is that some of the voters may be influenced by their desire to escape from a country crushed under such financial burdens as Germany will have to shoulder. In other words that the German mark and not the German blood may be the decisive factor in some plebiscites.¹ But in general the measure of the success of the territorial arrangements is the difficulty which the Germans found in putting forward an effective criticism of them. To this there are two possible exceptions. The Free City of Danzig and the Saar valley do indeed raise difficult ethnic problems, but the necessity of Poland's 'access to the sea' and of enforcing reparation also present questions which legitimately conflict, and yet can ultimately be reconciled with the territorial principles advanced in the 'Fourteen Points'. On one point alone is this more purely territorial part of the German settlement open to criticism; that is, the refusal under Article 80 to permit Austria to join Germany if she wishes. The question can be raised in the League of Nations, but the Council has reserved the right of decision. It does, however, appear a legitimate criticism that the provision that the Council must be unanimous means that either Italy or France can forbid this union in the future.² But we cannot omit the consideration that the independence of Czecho-Slovakia was a condition of the Armistice accepted by Austria, and that this independence might be jeopardized, at least in its early days, if Austria and Germany unite. Moreover, it cannot be regarded as certain that a plebiscite in Austria at this moment would represent anything but the

¹ This may prove the case in Upper Silesia, it is evident that in the southern zone of Schleswig the inhabitants voted on ethnic, not on economic, lines.

² *v.* Vol. I, chap. 8 (iii).

Austrian desire to obtain more food at any cost.¹ It may be hoped that, when the question does come before the League, it will be settled in a manner consonant with the definitely ascertained wishes of the Austrian people.

The territorial part of the 'Fourteen Points' and of the subsequent addresses of the American President are the most definite of all the principles there enunciated. Those on reparation and indemnities are the most dubious, but it is of interest to observe that the most generally assailed provision in the treaty (Art. 231 and Annex I), that making Germany responsible for pensions and allowances, was proposed by General Smuts, whom no one can accuse of vindictiveness towards Germany.² While there were many who condemned the policy of including pensions in reparation, and it is unquestionably the largest financial item in Germany's indebtedness, it is also well not to forget that there were some high-minded men who supported it.

Of the Four Great Powers, which took part in the Conference, one had suffered from the war more deeply, perhaps, than any one can imagine, another came to the Conference in the full pride of victory and of unlimited strength, a third had interests concentrated on Austria and not on Germany, a fourth was fresh from a great electoral mandate which demanded that Germany should pay and be punished to the utmost. From the leaders of such Powers, whose peoples had suffered or wrought so much, it was not possible to expect that calm detachment from popular influences or that indifference to popular pressure which an ideal peace conference demanded. While the Conference was actually sitting, neither Clemenceau nor Lloyd George nor the President lacked significant reminders from their respective nations as to the limits of their personal powers and as to the intensity of national

¹ It is important in this connexion to note that, in the case of one piece of territory to be ceded under the terms of another treaty than the German, the inhabitants showed their opinion emphatically in one-direction, in the middle of 1919, but appeared equally emphatic in another direction early in 1920. Fear of Bolshevism or desire for food, i.e. temporary influences, have certainly prevented us from ascertaining the permanent wishes of a population in more than one instance.

² v. Letter of Mr. Dulles in *The Times* of 16th February 1920, in reply to J. M. Keynes's *Economic Aspects of the Peace*, chap. v. Mr. Keynes draws attention to the fact that the President's legal advisers gave a legal opinion that pensions did not come under the head of reparation. v. *infra*, chap. ii, pts. iii and iv.

feeling on many of the subjects under discussion, and Orlando and Sonnino were actually defeated in their Parliament and replaced by a new ministry. While it is true that certain decisions could be taken by the Four on their own responsibility, it is equally true that certain other decisions were not of this class. There were occasions when neither the French, nor American, nor British, nor Italian representatives could give way, on account of popular pressure in their own countries, and as decisions had to be unanimous, the veto of one Power might mean the complete reversal of a policy. Perhaps no one knows the history of all these occasions, perhaps it never will or can be known, but it is certain no democratic negotiators ever yet had such difficulties to confront or to surmount. When General Smuts wrote of the Treaty as 'the peace of the statesmen', he did not realize that it was the peoples as much as the statesmen, who at the moment had made it so difficult to negotiate a satisfactory peace.

A less recognized, but no less powerful, influence on the composition of the Treaty than popular excitement or international disagreement was the simple fact that the terms of the Treaty were worked out by different sections, political, economic, military, naval, and financial. The experts on one subject often had no time to communicate with the experts on another, so that common or general policy between the sections was difficult, and the total effect of the burdens laid upon Germany was probably not realized by the time that the Treaty was complete. The only persons who had certainly read the Treaty in its entirety, apart from the printers, were the Drafting Commission, and their task and their comments were legal, and not political. The complexity of conditions and the pressure of time compelled the Treaty to be drawn up in sections, and prevented the cumulative and converging effect of the provisions from being realized at the time. This cause, though one of the simplest and most obvious in its character and effects, is liable to be forgotten by historians of the future. Even if the 'Four' had not undertaken the executive direction of the world, in addition to framing its future legislative code, it is doubtful if they could have remedied this defect, which lay deep in the nature of things.

In summing up it is well to remember that the Allies viewed Germany sternly. They regarded themselves as playing the part of Rhadamanthus, the avenger of innocent blood. There

was no question of 'appeasement', as General Smuts wanted, but of hard justice, no less and no more. President Wilson's speeches in 1918 carry with them a distinct intimation that the wrongs done by Germany were to meet with stern and exemplary punishment. Above all, and most important and fundamental, it is clear that the President did not view the change in the German Government as a reason for trusting Germany to carry out the terms of peace or for admitting her into the League of Nations immediately after Peace was signed. Speaking of the League of Nations on the 27th September 1918, he had said 'it [the League] cannot be formed now . . . it must be a part, and in a sense the most essential part, of the peace'. Peace had to be guaranteed because 'there will be parties to the peace whose promises have proved untrustworthy'.¹ The fact that Germany was still on probation, and therefore could not enter the League at once, is at the basis of all the negotiations. This is essential, and it explains the connexion between the Wilsonian ideas and those of General Smuts. Wilson regarded the League as necessary to guarantee the territorial integrity of weak states, like Denmark, or Belgium, or Poland. He looked to it also to enforce the disarming of Germany, and to prevent the revival of arbitrary power there or elsewhere. But he looked to it also to prevent racial oppressions of Germans in Danzig or the Saar valley, and, above and beyond all this, to revise and modify and adjust the peace as occasion demanded. General Smuts' view of the Treaty and the League was different, but not irreconcilable. He pleaded not for severity but for appeasement, he expressed disapproval of the Treaty in some of its territorial terms as regards some guarantees, punishments, and indemnities, which he hoped would soon be revised. Yet he found also something to praise in the instrument which he condemned. 'The real peace of the world ought to follow, complete and amend the peace of the statesmen. In this Treaty, however, two achievements of far-reaching importance for the world are definitely recorded. The one is the destruction of Prussian militarism, the other is the institution of the League of Nations. *I am confident that the League of Nations will yet*

¹ General Smuts in his statement, published 29th June 1919, seemed to admit the same thing. 'The Germans must convince our peoples of their good faith, of their complete sincerity, through a real honest effort to fulfil their obligations,' and he warned them against subterfuges.

prove the path of escape for Europe out of the ruin brought about by this war. And in a later statement in July: 'The great ideals of progress have won through; that is the real and abiding significance of this war and its tremendous conclusion. If that is so, then this war should leave no lasting bitterness behind it in the minds of the peoples. The baser elements of human nature have been defeated in the enemy; they should not re-establish themselves in the victors.' It is in this sense that President Wilson and General Smuts are agreed. For it is on the League and on the machinery it provides for wrongs to be stated and to be redressed, that the ultimate destinies of mankind must depend. Indeed, though it forms the sole immediate hope of Germany and of Austria, it is also the only ultimate hope of the world.

15. *The Germans sign the Peace Treaty, 17th-28th June.* The Germans had received the terms; it remained to be seen if they would sign them. Opinion fluctuated wildly in Germany, but the concessions had made a great impression. The anger of Germany against the cession of territory to Poland was, to some extent, assuaged by the offer of plebiscites in Upper Silesia. But the Government fell, and Bauer came into power and replaced Brockdorff-Rantzau by Hamel von Haimhausen (22nd June). In view of these changes the time limit was extended from five to seven days. On the 21st the Allied Governments dispatched a 'final last word' to Germany, assuring her that the concessions indicated in the 'first last word' of the 16th June were binding on the Allied and Associated Powers. On the 22nd Haimhausen, now in charge of the German negotiations, informed the Allies that Germany must decline all responsibilities for difficulties on her Eastern frontier, thus again indicating her sensitiveness in this area. He also sent a communication, in which he intimated that Germany would sign, if the Allies would not insist upon Articles 227-230, which provided for the surrender of the Kaiser and of war-criminals, and on Article 231, which declared Germany the sole and only author of the war. The Four met at Mr. Lloyd George's house in the Rue Nitot, and on the same evening despatched a reply rejecting both demands, and insisting on immediate compliance. The time-limit expired at 7 p.m. on the 23rd, but by 5.20 p.m. displays of flags on the *Hotels Crillon* and *Majestic* and *Astoria*, and the press of people in the streets announced to all Paris

that the Germans had consented to sign. It was arranged that Herr Müller, the new Foreign Secretary, and Dr. Bell should sign as plenipotentiaries. On the 27th June M. Clemenceau addressed a letter to the German Delegation to inform them that the blockade would be raised as soon as the Allied and Associated Governments were advised of 'the regular and complete ratification of the Treaty of Peace' by the German Assembly.

The contest was over, but the ceremony remained. It was staged with all that attention to finish and to detail, and that elaborate and picturesque art of which the French are masters. Though no negotiations had taken place in the great palace of Versailles, this was to be the scene of the signature. The Cour de Marbre had been filled with captured German guns on the Sunday before, but on the 28th June there was no trace of them. The environs of Versailles, its streets and its squares were filled with infantry and cavalry in sky-blue uniforms and steel helmets. On entering the palace the Delegates passed through a line of cuirassiers carrying naked swords and wearing helmets with horse-hair plumes and steel breastplates. The scene was set in the Galerie des Glaces, adorned with the painted victories of King Louis, the room in which a King of France had humiliated the Republic of Venice and declared his grandson to be King of Spain, where a King of Prussia had held his triumphant court and been declared German Emperor before the Kings and Princes of Germany and the generals of an army victorious over Frenchmen. In the Galerie itself, on the 28th, there were few soldiers, yet there were the delegates of thirty nations. As three o'clock sounded, a hush suddenly fell upon the assembly, and the German delegates appeared, preceded by four Allied officers. Müller was pale and nervous, Bell held himself erect and calm. They were led to their seats just opposite the table of rose and sandalwood on which the book of the Treaty was placed. Clemenceau rose quickly to his feet, and formally asked the German plenipotentiaries to sign. The nervous strain was such that all the actors played their parts awkwardly. Immediately after Clemenceau's speech the German delegates rose, bowed, and prepared to sign. It was explained to them that the speech must be interpreted, and they sat down. Mantoux—for once—stumbled in his interpretation, and was corrected by Clemenceau for speaking of the German 'Republic'

instead of 'the German Realm'. Then the German delegates signed. After them President Wilson and his plenipotentiaries signed; then the British delegates, including the Maharajah of Bikanir, then the French, then the Italians, and the rest in order. As Paderewski was signing the guns began to boom outside. Finally, about 3.40 p.m., the ceremony ended, and the delegates passed out of the building into the open air. In the garden the fountains, for the first time since the war had begun, were leaping in their famous cascades, and the crowds were cheering and pressing close—for all that their bodyguard could do—around the four men who had governed the world since the Armistice, and had now laid the German Empire in the dust in the very place where it had arisen in its glory.

Note.—The following account is given by M. Tardieu (*L'Illustration*, 29th May 1920, p. 325), with reference to the negotiations between the Allies preceding the signature of peace. On the 31st March 1919, he says that M. Clemenceau directed him to address a Memorandum to the first delegates of the Great Powers, pointing out that the existing suggestions as to the Treaty made by the other Great Powers were inadequate. They amounted to definite and total guarantees for the maritime powers, e. g. cession of all Germany's overseas possessions, surrender of Germany's war fleet, and most of her commercial fleet, and some exclusion of Germany from external markets. For the continental countries, however, there were only partial solutions, e. g. reduction of frontier suggested for Poland and Bohemia; the defensive engagement to protect French territory offered to France; the régime proposed for the Saar coal-fields, the subordination for all German payments to her capacity to pay 'à la capacité de paiement'. From these arrangements would result an inequality which must imperil the relations of the Allies after the war.

Discussion followed, and in the second fortnight of April 1919, Clemenceau 'obtenait les garanties essentielles jusqu'alors vainement réclamées' from the other Allied and Associated Powers. These consisted of occupation of the left bank of the Rhine, cession to France of the Saar mines, creation of the territory of the Saar valley, prohibition to Austria to unite

herself with Germany, and 'réparation intégrale des dommages et remboursement des pensions'. He goes on to say that, after the Germans had received the Treaty, further attempts were made to alter these terms, especially in respect to reparation, and to the earlier admission of Germany into the League. On 13th June he says that these attempts were finally defeated, and the French view prevailed.

Note.—On the 10th January 1920 the Protocol of the Peace Treaty was signed at Paris and the Peace Treaty came into force.

CHAPTER I: SECTION I

GENERAL AND INTERNATIONAL CLAUSES

PART I

THE LEAGUE OF NATIONS

GENERAL INDICATIONS

I

1. *Introduction.* Future historians, tracing the origin of the League of Nations, will doubtless examine the writings of essayists, the schemes of peace societies, and the speeches of statesmen, and will point out, article by article, how the main lines of the Covenant took gradual shape through study, discussion, and propaganda before it became the subject of official negotiations at Paris. The embryology of ideas is a science much in vogue, but for the purpose of this chapter it is of more importance to point out the connexion between the chief provisions of the Covenant and the immediate preoccupations of statesmen during the War. The League of Nations as constituted at Paris probably owed less than is generally supposed to its intellectual forerunners, though it owed much to general popular aspirations and idealism. The creative force behind it was the passionate hatred of war, but the practical problem how war could best be avoided or diminished, having in view the inveteracy of nationalist feeling, was presented for solution to men who for four and a half years had been absorbed in crushing administrative tasks. Such men learn mainly, not from books, but from experience. During these years experience had forced three main ideas upon Western statesmanship, and these became the foundation of the Covenant.

2. *Three Practical Causes of the Desire for a League.* In the first place, the course of negotiations in the twelve days immediately preceding the outbreak of war drew attention to the need for some settled Council of the Nations responsible for the maintenance of peace. This lesson was later reinforced by

recurrent disputes between the Allies on matters political, military, and economic. The Balkan failure, directly due to continuous disagreement between London, Paris, Petrograd, and Rome, discredited ordinary diplomatic machinery. Successive military disasters brought up the problem of unity of command. Bitter controversies in regard to equality of economic sacrifice, arising first out of the operation of the blockade and later out of the general shortage of supplies, indicated the need for a common economic policy. Hence the Supreme War Council, the Allied Military Committee at Versailles, and the Allied Maritime Transport Council.

In the second place, the violation of Belgium demonstrated the need for a more comprehensive guarantee of the safety of small nations than could be furnished by incidental treaties between a group of Powers. This truth was, however, hardly realized until the diplomatic conflict between the Allies and neutral nations, arising mainly out of the blockade, drew attention to the anomalies of the doctrine of neutrality in a world war.

Finally, the increasing exhaustion of Allied resources during the later stages of the War forced upon the Allies a co-operation not merely in the formulation of broad policies but in the detailed administrative execution of such policies. National resources, instead of being made the subject of general agreements between statesmen, were actually, in a measure, pooled under the joint management of international bodies. From the experience thus gained, it began to be realized how great were the possibilities of such co-operation, how meaningless had been many of the economic rivalries which had divided nations in the past and how beneficial in a practical way, apart from any question of conciliation or the settlement of problems of high policy, might be an organized system of international administration in affairs of common interest to all nations. Moreover, experience during 1917 and 1918 showed that Inter-Allied bodies tended to succeed or fail in proportion as they were provided with efficient secretariats capable of carrying out the detailed administrative work entailed by the policy laid down at periodical meetings. This point was particularly demonstrated by the efficiency of the Secretariat of the Allied Maritime Transport Council.

It was by some such process that the various provisions of the Covenant took shape. The first set of considerations, referred to above gave birth to the Assembly and Council of the

League and determined the functions of high policy and conciliation assigned to them by Articles 11 to 15 and Article 19.¹ The second found expression first in Article 10, with its guarantee of territorial integrity and political independence, and secondly, in Article 16, with the obligation it imposes on all members of the League to enforce the maintenance of peace. Finally, it was due to the practical experience of international administration acquired during the later stages of the War that the international secretariat, established by Article 6, occupied a more central position in the Covenant than the 'Secretarial Bureau' provided for in previous unofficial schemes, and was invested with functions, under Articles 22 to 24, of a definitely administrative character. These are the fundamental and essential provisions of the Covenant and all others are little more than corollaries.

3. *Arbitration in relation to the League.* It will be observed that the ideas of international law and arbitration played but a small part in these provisions. The only traces of them are contained in the Preamble, where the 'firm establishment of the understandings of international law' is placed after the promotion of 'international co-operation' among the objects of the League; in the mention of arbitration as an alternative to action by the Council or Assembly of the League in Articles 12 and 15, and in the more specific provisions of Articles 13 and 14.² Among all these provisions the only one which makes any appreciable advance upon the régime of arbitration treaties existing before the War is the Permanent Court of International Justice foreshadowed in Article 14.³ In fact, owing to the experience of war, the idea of legal arbitration had to a considerable degree receded into the background, especially in the mind of statesmen at Washington and London, where, even before the War, the failure of the 1911 Arbitration Treaties and their supersession by the 'Bryan' Conventions had marked a tendency to seek peace in conciliation rather than in judicial procedure. It is important to note this fact because it may be regarded as

¹ See Vol. III, Appendix III, pt. 2 for full text, and Appendix II, pts. 3-4.

² Article 14 is as follows: 'The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.'

certain that any scheme for a League of Nations worked out by European publicists would have taken a very different form from that embodied in the Covenant. The schemes worked out, with more or less of official sanction, not only in neutral countries such as Scandinavia, Holland, and Switzerland, but in Allied countries such as France and Italy, about the time of the Armistice, were indeed mainly built on the basis of the Hague Conventions. The German scheme, and even the American draft convention laid before the New York Bar Association in January 1918, though far more original and more comprehensive, were also marked by a tendency to lay special stress on the adjudication of disputes. The second paragraph of Article 13 must indeed be regarded to a certain extent as an afterthought—a concession made, perhaps, in direct response to M. Léon Bourgeois' protests against neglect of the work accomplished by the Hague Conferences. 'Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration' (Art. 13). This side of the Covenant must be further developed by the League, but at present it is important to emphasize the extent to which it has been left in the background.

II

4. *Schemes of a League previous to the Peace Conference.* The Covenant was the first part of the Peace Treaty to be completed and laid before the Plenary Conference, and the rapidity of its preparation is in some respects the most significant thing about it. There had been no cut-and-dried agreement as to its terms before the meeting of the Conference. The idea of the League had frequently been referred to by Allied statesmen, its principles had been the subject of many pronouncements by President Wilson, but neither President Wilson's speech of 27th September 1918, nor Lord Robert Cecil's address to the University of Birmingham of the 11th November, perhaps the two last authoritative pronouncements before the meeting of the Conference—contained anything which could be called

a definite project.¹ General Smuts's pamphlet alone put forward comprehensive proposals, but its author has always insisted that his work was intended to awaken interest and stimulate discussion, not to lay down policy.² As already stated, the official or semi-official schemes drawn up in France, Italy, Scandinavia, and Holland, and the unofficial American scheme bore no close relation to the Covenant itself. In England, where the subject had been under examination by the Foreign Office for more than two years, a Committee had worked out a scheme in the spring of 1918 which had been carefully considered by the Cabinet and much spade-work had been done on many phases of the problem, but no final detailed draft of British proposals had been prepared.

5. *The Commission of Nineteen.* All these schemes had been submitted to the Allied Governments before the end of 1918, but the Commission of Nineteen (see Vol. III, App. II, pt. 2), when it met for its first session at the Hotel Crillon on the 3rd February, made a practically fresh start. It is now common knowledge that it based its deliberations on a combination of two drafts, both drawn up at Paris, one by the British and one by the American Delegation, and consolidated in a series of informal conferences between the two delegations during the latter part of January. The Covenant, as it was laid before the Plenary Conference on the 14th February, represented the "result of no more than ten days' concentrated work by the Commission on this combined draft and the modifications introduced into it later were all decided in a second series of sessions equally brief, between 22nd March and 11th April. In all, the Commission held only fifteen sessions, ten in February and five in April, and it did little work through sub-committees. A small Drafting Committee examined the Covenant in detail between 8th and 13th February, and a Committee on Revision redrafted the whole between 27th March and 10th April, during which time the Commission held no meetings, but with these exceptions the Commission itself sat too frequently to allow of any serious delegation of its work. Between 14th February and 22nd March, during President Wilson's absence in the United States, the Commission

¹ See Vol. III, Appendix II, pt. 1 for relevant quotations.

² See Vol. III, Appendix II, pt. 1. In practice General Smuts advocated almost all the actual proposals of the Covenant, as, e.g., the Mandatory Principle, the Economic boycott, the Limitation of Armaments, and the distinction between Council and Assembly.

did no work except that it held two formal conferences with the representatives of the thirteen neutral States, and received their proposals for amending the Covenant.

6. *The Resolutions of the 25th January.* We have here, therefore, no result of laborious spade-work by expert sub-committees of the conference or protracted negotiation between heads of governments such as went to make up the other twelve chapters of the Treaty. We have rather a stroke of statesmanship, a rapid focussing of fragmentary studies and discussions into a reasonable scheme of preliminary organization. The rapidity of its preparation explains its many imperfections of structure and phrasing, so evident in the draft of 14th February and only partly removed in the final document, but it would be a mistake to attribute its larger omissions and silences to this factor of haste. Its moderation was deliberate, and for an obvious reason. President Wilson and Lord Robert Cecil—for it is necessary to speak in personal terms of this negotiation—arrived in Paris with the dominant idea of settling the main lines of the Covenant and laying it before the world at the earliest possible moment, in order that it might be in some degree the centre and standard of the whole Treaty. They wished the League to emerge at once with a definite constitution and with definite responsibilities, but with its hands almost entirely free to mould its policy according to the future needs of the world. The preliminary discussions, which occupied the month of January, showed clearly enough that speedy agreement could only be reached by the elimination of controversial matter. One incident, in particular, indicated the difficulties of the task. The question of mandates, an essential feature of the League, was raised in the Council of Ten at an early meeting in January; it immediately became the subject of acute controversy, and the whole project seemed in danger of splitting on the rock of South African and Australian nationalism. The situation was saved by a carefully drafted compromise which appears bodily in Article 22 of the Covenant and was left untouched by the Commission of Nineteen throughout its deliberations. Such occurrences clearly warned the promoters of the League to shun embarrassing and inflammatory matter. The resolutions (see Vol. III, App. II, pt. 3) presented to, and passed by, the Plenary Conference of 25th January, the first public appearance of the

League at Paris, were thus drafted with deliberate simplicity and moderation, and the British and American Delegations co-operated in reducing their combined draft to a bare scaffolding for the essentials of international action.

7. *The Draft Covenant of 14th February.* Even so, their moderation was only just sufficient to secure the needed harmony in the deliberations of the Commission of Nineteen. That Commission was originally appointed by the Plenary Conference of 25th January as a Commission of Fifteen—two representatives nominated by each of the five Great Powers and one representative nominated by each of five minor Powers to be selected by the Conference of the smaller Allies. On the 27th January the smaller Allies nominated Belgium, Brazil, China, Portugal, and Serbia, and at its first three meetings the Commission was composed of these ten Powers only, but on 6th February it was obliged to recognize the claim of the smaller Allies to fuller representation by adding to its number the representatives of Czecho-Slovakia, Greece, Poland, and Rumania (see Appendix II). Immediately the Great Powers found themselves faced with the demand of the smaller States for full representation on the Council of the League. The problem of the 'equality of States' was raised in its acutest form. Later, the disarmament provisions of Article 8, taken together with the guarantee provided for in Article 10,¹ raised the whole question of international supervision and regulation of armaments and the idea of an international police force, and the debates on these points left their mark on the proceedings of the Plenary Conference of 14th February in the speeches of M. Bourgeois and Mr. Barnes. The whole group of articles relating to conciliation and the enforcement of peace gave rise to further differences of opinion, while an attempt to draft a provision for religious toleration involved the Commission in complex difficulties and ended by raising the analogous question of racial toleration as between the Western nations and Japan. If even the bare essentials embodied in the draft Covenant (see Appendix III) raised discussions so thorny as these, it became clear that to add to the fundamental law of the League any

¹ Article 10: 'The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression, or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.'

provisions not absolutely vital to its proper constitution would be to invite disaster.

8. *The Revised Covenant of the 28th April.* This lesson was reinforced by the tone of public discussion between 14th February and 22nd March, and especially by the acute controversy aroused in the United States by the draft Covenant. The five last sessions of the Commission were therefore devoted to the task of improving the structure and wording of the draft, and meeting certain specific criticisms thrown up by public discussion and by the conferences with the neutral representatives. The two main additions to the Covenant made during these sessions were those embodied in the second paragraph of Article 4¹ and in Article 21.² The first of these opened the way for the admission of Germany and Russia to the Council as permanent members, while the second was intended to recognize American policy in regard to the Monroe Doctrine. A third addition was that embodied in the eighth paragraph of Article 15, designed to allay American apprehension as to foreign interference in 'domestic affairs'. These amendments were sufficiently contentious, and the harmony of the Commission was further disturbed by the competition between Geneva and Brussels for the honour of providing the Seat of the League, and by the recrudescence of the debate on the race question following on an amendment to the preamble proposed by the Japanese representative. In these circumstances it was considered unwise to add fuel to the flame of debate by attempting to meet the other main criticism levelled at the Covenant, in the course of public discussion. The idea of an international parliamentary assembly never had many adherents in the Commission, and, while several tentative proposals were put forward, it was clear that no really satisfactory assembly of this kind could be devised without prolonged discussion, negotiation, and controversy.

¹ See full text in Vol. III, Appendix II, pt. 4, Appendix III, pt. 2, second paragraph of Article 4: 'With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be members of the Council; the Council, with like approval, may increase the number of Members of the League to be selected by the Assembly for representation on the Council.'

² Article 21: 'Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine for securing the maintenance of peace.'

The moderation of the Covenant has already justified itself. Its rapid completion enabled other Commissions of the Conference, and the Supreme Council itself, to turn to the League for the solution of various problems on which no immediate agreement seemed possible. This is true, not only of the functions specifically entrusted to the League by the German Treaty, such as the administration of the Saar Basin, the revision of Articles 321-30, 332, 365, and 367-9 (Ports, Waterways, and Railways), and the various provisions of the Labour Charter, but also of many functions nominally assigned to the Allied and Associated Powers, but clearly demanding machinery for continuous consultation and administrative action such as could only be realized through the League. Not only as a matter of general spirit and atmosphere, but in innumerable practical ways, the Covenant did actually become the centre and focus of the Conference, and with all its imperfections it may claim to have demonstrated a truth too often forgotten by the Conference as a whole—that restraint, simplicity, and self-limitation are the essence of statesmanship as they are the essence of art.

III

9. *Difficulties inherent in the Covenant.* This sketch of the history of the League during the first three or four months of the Conference would be incomplete without a brief summary of the main underlying difficulties disclosed by the negotiations and necessarily inherited by the League itself from its birth. These difficulties were three in number: the doctrine of the equality of States or nations; the question of 'sanctions'; and the constitution of the United States. We can do no more here than indicate the effect of these three factors on the provisions of the Covenant.

The doctrine of the equality of States was, of course, the palladium of the smaller nations. No Council could be constructed except at the cost of some hardly logical compromise with this doctrine. A parliamentary assembly based on proportional representation of populations was repugnant to it. It stood in the way of any elaboration by the Commission of the project for a Permanent Court of International Justice. By appealing to it Japan was able to enlist the smaller States in support of the analogous doctrine of racial tolerance.

The question of 'sanctions' was also of great interest to the smaller States, but France throughout took the lead in attempting to strengthen the provisions of the Covenant dealing with the enforcement of peace. This was indeed the central point of difference in the proceedings of the Commission. The French representatives made repeated attempts, not only to increase the scope of the obligations assumed by members of the League under Article 16, but to provide for international machinery to supervise national armaments, with power to pass upon their adequacy from the point of view of an international police force as well as upon their compliance with any limitations that might be imposed upon them as the result of the procedure foreshadowed in Article 8. The moderation of the Covenant in this respect was only maintained at the cost of considerable resentment in French circles, a resentment only eventually allayed by the scheme for Franco-British and Franco-American treaties of guarantee.

As regards the third factor, it would be easy to exaggerate the limiting effect of the constitution of the United States on the terms of the Covenant. Broadly speaking, it probably did little more than supply a standard of national feeling by which the authors of the Covenant were guided in estimating the possibilities of international action. Its rigidity as a written constitution gave force to warnings which might have passed unheeded if they had been illustrated only by less tangible examples of nationalist feeling, such as British parliamentary sentiment or Polish public opinion. Except, possibly, in the case of the proposals for an international parliament, which were perhaps finally killed by the technical difficulties of reconciling them with its provisions, the influence of the American constitution upon the drafting of the Covenant was probably beneficial and, in general, coincided closely with British feelings and policy.

Note.—A correspondence in *The Times*, under the dates 20th–24th March 1920, shows exactly the preparation made by the British Government. Lord Robert Cecil brought forward the subject of the League of Nations in a paper before the British Cabinet in 1916, which was presented to the Imperial War Cabinet in 1917. This paper contained a rough sketch of what are now Articles XV and XVI of the Covenant. This paper

was considered by a Committee appointed by the Foreign Office and presided over by Lord Phillimore, including Sir Eyre Crowe, Sir William Tyrrell, Mr. C. J. B. Hurst, all of the Foreign Office, and Professors A. F. Pollard, J. Holland Rose, and Sir Julian Corbett, with Mr. Alfred Kennedy as Secretary. Their report was presented in 1918, and was communicated to the Government of the United States' and subsequently used by General Smuts. Its nature is defined 'as including the general substance of those parts of the Covenant, which are directly concerned with International disputes'. Subsequent developments are indicated in Vol. III, Appendix II, *passim*. The evidence of Mr. Lansing and the communications of President Wilson, published by the Committee of Foreign Relations of the United States Senate, give much information about the American draft.

CHAPTER I: SECTION II

GENERAL AND INTERNATIONAL CLAUSES (*continued*)

PART II

INTERNATIONAL LABOUR AT THE CONFERENCE

1. *Origin of the Commission for International Labour Legislation.* When at the first plenary session of the Peace Conference Clemenceau announced that one of the three first commissions to be appointed was to deal with International Labour Legislation, the general opinion seemed to be that this action was to be explained as a counter move to the labour conventions of the Socialists and Trade Unionists, which were at that moment threatening to throw the whole weight of the international labour movement in opposition to the work of the Paris Peace Conference. This interpretation, whatever its justification, implied a certain unreality in the work of the Labour Commission; for an attempt to meet the large industrial problems, which it would have to face, in the spirit of temporizing expediency, might easily discredit anything it should attempt to do. The taint of a suspicion that this was the case lingered all through the Peace Conference, and a certain indifference towards its work was noticeable upon the part of those occupied with the more normal labours of treaty-making, in the preparation of maps for new boundaries, and statistics for indemnities. It is possible, however, that the Labour section of the Treaty, in spite of the relatively unfavourable circumstances under which it was prepared, may prove of as definite and lasting significance as the political and economic sections. There was indeed a grotesque side to the work of those exact scientists, the geographers, mapping the frontiers of a new Europe that was in the midst of an eruption, with the molten currents of revolution sweeping away all old-time barriers in both the political and the economic realm. Whatever could be done by the Labour section to stem this international revolutionary current by way of positive promises for the future, if

not through achievement at the moment, was as effective a stabilizing action as the tracing of frontiers on the illusive, blood-stained map of Europe.

2. *Relation to the 'Internationale'*. But if it was a mistake to think too lightly of the work of the Commission for International Labour Legislation it would be wrong to expect too much of it. The relations of Labour to Capital, with which it was to concern itself in the main, are, in spite of a common belief to the contrary, primarily matters for home governments, and only to a slight extent international. This obvious fact has been obscured by the paradox that the Labour movement has so largely cast its programme in terms of international action. The '*Internationale*' of pre-war days has been a Labour organization; but when one examines the setting of this revolutionary movement, it becomes clear that the international aspect has been worked up by parties in opposition to the various established Governments in a way that would have little relation to international labour legislation through and by those same Governments. The '*Internationale*'—as this revolutionary movement is generally termed—implies international direct action which would eliminate or subordinate altogether the very Governments through which the international labour legislation of the Peace Conference would be carried out. Every one of these Governments considers Labour problems essentially as home problems, and the last thing that Labour leaders would demand would be that they should be under the surveillance of a Foreign Office. How, therefore, could the Commission for International Labour Legislation accomplish anything worldwide, so long as it remained inside the existing governmental framework?

3. *Programme of the Socialist Convention*. A little glimpse of history will make the problem clear. Two International Labour Conventions were meeting in Switzerland while the Paris Conference was taking shape. The first of these was an International Socialist organization, which dated in the first instance from the days of Karl Marx and Bakunin, but which had been remade at a congress held in Paris in 1900, from which date it had maintained a standing secretariat and had even during the War attempted, with varying success, to continue its periodical congresses.

This Socialist international movement, although it had played

a prominent rôle in pre-war Socialist policies, did not have the practical effect upon either internal or foreign policies which its prestige seemed to warrant. The War played still more serious havoc with it ; and the first meeting after the War revealed its essential weakness. For its programme was too far-reaching to be effective, mixing as it did political and economic aims. In attempting to cover the whole field of social justice, it was losing sight of even that class struggle upon which the Socialist movement to such a large degree depended and which at least gives it coherence and purpose. In short, the programme of the Socialist Convention was too diluted with things in general to offer any important clue toward Labour policies in the Peace.

4. *The 'Labour Charter' of the International Federation of Trade Unions.* Much more definite was the programme of the International Federation of Trade Unions which met side by side with the Socialists to participate in the same gesture of opposition to the Peace Conference. While its programme also included much that was not specifically Labour—for one of the most striking facts in the whole situation was the extent to which the Peace programmes of Labour parties extended over all sorts of questions from Balkan boundaries to tariffs and finance—it drew up a definite Labour Charter, which elaborated the points raised at previous Trade Union Congresses, and elaborated them along lines set forth by the Imperial Labour Office in Berlin during December. This charter of Labour was before the Paris Commission for International Labour Legislation as a model or a challenge during the whole of its work, and bearing as it did the marks of its origin, was used by the German Government as the basis of the counter-proposal to the Labour section of the Treaty.

This so-called Charter concentrates upon immediate and definite reforms, but makes slight provision for their continuance, or for international control of their administration. The machinery which it proposed to set up is simply the formal recognition of the work of the International Association for Labour Legislation, a private and at most semi-official institution with national self-governing branches in thirteen different countries and maintaining a secretariat at Basle in Switzerland. This International Association for Labour Legislation dates from 1900, and is an offshoot of the series of Government Congresses on Labour Legislation with which the Paris Peace Con-

ference was more logically connected than with either of the two Labour bodies—Socialist and Trade Union.

5. *Previous International Government Congresses on Labour Legislation.* The history of these official International Conferences for Labour Legislation is a slight one, and owes its chief impulse to the Swiss Federal Council which proposed a European Conference of this character as far back as 1876. Bismarck opposed the idea, but the young Emperor William II not only accepted it but made it his own, and the first International Conference on Labour Protection met in Berlin in 1890. It accomplished nothing however, for the Governments of that day were unwilling to go further than the discussion of general humanitarian principles even in the question of the labour of women and children. Further conferences have been held at Brussels and in Switzerland (especially in 1905 and 1906), but the total result of a generation of International Labour Legislation by way of these Government Congresses is exceedingly slight. Two general treaties only have resulted; one suppressing the use of phosphorus in match-making, and the other limiting night work for women in industry. When one compares these insignificant results with the vast and intricate amount of Labour legislation in force in the different countries, one sees how delusive would be the hope of securing from the Conference at Paris any large measure of social reform for universal adoption. Had the Commission for Labour Legislation limited itself to specific points to be incorporated in the Treaty of Peace, it could have accomplished very little. A Charter of Labour can be drawn up with relative ease so long as it is merely an expression of ideals to be aimed at by a party not responsible for carrying them out. For instance, the ideals of an Eight Hour Day could be expressed in a single sentence in the Labour Charter; actual enactment of that ideal into law under the varying conditions of both industry and social development in the different countries, becomes a delicate and difficult task. Even the abolition of Child Labour carries with it complications in the readjustment of family budgets and the elaboration of educational facilities, which in their turn react upon the whole economic and social structure. No one Treaty of Peace could elaborate all these conditions into workable formulae. Moreover, to apply them successfully would mean adapting them not only to the different conditions of the different nations, but

to the varying conditions which are bound to arise as the result of industrial progress. A Ten Hour Day was as far as the International Labour Congress ventured to go in 1913; an Eight Hour Day seemed hardly enough in 1918. The progress of invention constantly modifies the basis of social legislation.

6. *The Constitution of a Labour Parliament; British and American Attitude.* The Commission for Labour Legislation was saved from the dilemma of preparing impossible projects in a Treaty which was supposed to be final, by the proposition of the British Delegation that it should concentrate rather upon the preparation of a Constitution for Labour Parliaments than upon specific items in the present Treaty.

The scheme worked out by the British Delegation is one of the most interesting in the history of political theory. It preserves the functions of the national legislative bodies by leaving to each the chance to discuss, and if need be to modify, the propositions of the International Labour Conference. But the Labour Conferences themselves have the outward marks of parliamentary action, sufficient at least to win for them the support of those internationally minded Labour leaders who think, or dream, in terms of a World-State.

The conclusions of the Conferences were to be drawn up for the most part in treaty form, so as to secure coherence and to permit of international inspection in questions of enforcement; but as this would work too much toward rigidity, and is too suggestive of outside interference to be acceptable to a country like the United States, an alternative had to be found to this legalistic method of procedure which would leave it possible under certain conditions for the propositions of the Labour Conference to be treated as recommendations only for legislation by National Parliament. This alternative, proposed by the United States, was at first opposed by those who conceived of the organization in terms of a World-State, especially the Continental European representatives. But it was claimed on the other hand that unless some such alternative were offered, the work of the International Labour Conference would be so narrowed in scope as to be ineffective, and in support of this view attention was called to the relatively futile history of Labour Treaties in connexion with the International Conferences of the past. If the International Labour Conferences are to be regarded as forums for discussion, looking towards securing that general

acceptance of principles which is necessary to ensure success in imposing standards of Labour legislation, then its work in preparing recommendations for Labour legislation is a preliminary and contributing part in the preparation of more binding obligations. In short, the difficulties which showed themselves in connexion with the participation of the United States in the Labour Conferences, resulted in widening their scope and giving them a larger promise of influence, without which their treaty-making powers would soon become atrophied.

7. *The Attitude of Japan.* Similarly the difficulty which Japan experienced in fitting its newer industrial conditions to the more developed organization of the West, resulted in the improvement of the scheme as a whole. The tendency toward rigidity and uniformity which characterized the first draft of the Labour Constitution, owing to its emphasis upon treaty obligations, would have narrowed the scope of the Labour Conferences, if indeed it were not to prevent the participation of those Powers which had not reached the relatively uniform standards of Western Europe or America. Some provision had to be made for a 'drag' in the curve of Labour legislation, a provision by which backward countries could participate in the drafting of the propositions with a delay in the obligation to carry them out. This had been granted in the case of previous international Labour legislation, but the representatives of Labour at Paris were anxious to avoid any too great concession to backward States, for fear it would work towards a nullification of the legislation itself. The compromise was finally adopted with the co-operation of the Japanese delegates that 'In framing any recommendation or draft convention of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances make the industrial conditions substantially different, and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries'. This secured that degree of elasticity which would make possible general legislative action, and yet adapt the details to the circumstances of participating States. The value of this became apparent at once in the adhesion of the small States to a compact which otherwise they could not have accepted; and as the general purpose of international Labour legislation is to raise the level of the backward States so that

there shall be a common standard recognized by the public opinion of the world, any international organization which would have failed to take account of the circumstances of those very States for which the legislation was specially designed, would have been a partial and imperfect affair.

The value of the participation of Japan, secured in this manner, was evident in the first conference held at Washington in October and November 1919. Although a disagreement arose between the Government and the Labour delegates of Japan concerning the Eight Hour Day, the action of the Japanese delegation in accepting modified but real advances towards the standards of the most advanced States concerning child labour and the conditions of women in industry, showed that the special provisions for the less industrially developed States made possible their participation in a way which may have very large results in the future.

8. *Relation of the Labour Parliament to the League of Nations.* The Commission for Labour Legislation attempted a most difficult task—perhaps the most difficult that a Commission could undertake—namely to prepare within and through the framework of existing Governments the means for co-ordinating the action of industrial democracy. Its international aspirations were to be realized as far as possible under the existing order, and those questions of social justice which had a common human background, were to be developed into parallel and consistent codes of law over which the League of Nations should keep watch and ward. Fortunately for itself, this Labour Constitution was worked out with little relation to the League of Nations. It was even the opinion of a section of the Commission that it would be best not to have too close a relation with that more ambitious scheme. It was the claim of these advocates that the Industrial World-Parliament might develop a consistent, independent function along the lines laid out for it, whatever might be the fate of the more miscellaneous and ambitious League. Examination of the text will show that, although it has been finally articulated with the structure of the League of Nations, the Industrial section of the Treaty could be cut off from the rest by a very slight surgical operation, and could function by itself. The Governing Body would then be a Supreme International Council instead of a Commission under the Council of the League. In that case it would deal directly with

the appropriate departments of the different Governments and even act, some day, as the executive of a loosely knit Industrial World-State.

From the standpoint of the League, it is perhaps unfortunate that the Labour Conference does not receive the attention which is bestowed upon the administrative machinery for the Labour section; for, if the Labour machinery is to have any real influence, it must be through the International Conference rather than by the bureaux over which the Governing Body will preside. The Labour Office is a necessary and important part both of the International Labour Constitution and of the League of Nations, for it will prepare and collect material upon which the proposed legislation will be based, and thus for the first time give promise of securing comparative data from different nations—a necessary preliminary to the scientific treatment of Labour questions, and one which is sadly lacking at the present time. But this work of the Labour Office is after all subordinate to that of the Industrial Parliament which bears the rather misleading and ambiguous title of International Labour Conference. It is to this latter body that Labour will look for the embodiment of its demand of international representation, and upon its success or failure depends, to a larger degree than seems to have been realized, the stabilizing of opinion with the development of experience in international dealings, so that the restless current of industrial society may be, to some extent, guided and directed towards constructive ideals.

CHAPTER I: SECTION III

GENERAL AND INTERNATIONAL CLAUSES (*continued*)

PART III

REPARATION AND ECONOMIC ASPECTS¹

GENERAL INDICATIONS

1. *Introduction.* In its economic aspect the work of the Conference resolved itself almost entirely into the solution of the problem of how Germany was to make good the damage she had caused. There were, it is true, many other points to be decided before normal relations could be renewed, but the majority of these were matters of detail and unsuitable for discussion here. The only important question of economic principle, other than reparation, had been settled in effect before the Conference came together, for none of the Allies were prepared, or could be expected, to establish trade relations with Germany on a basis of reciprocity until their own industries had had time to recover from the effects of the War. And even this imposition, for a minimum period of five years, of unilateral tariff and other conditions upon Germany must be regarded as a measure of reparation, rendered necessary by the acts of Germany herself. This was explained in the Allies' reply to the observations of the German delegates on the Conditions of Peace.

The moral basis of the Allies' claim to reparation does not need to be discussed at length. For her own unjust ends Germany had provoked a war, which brought on the world unparalleled loss and suffering. In defeat it was right that, like any other wrongdoer brought to justice, she should make all amends within her power. Nothing, it is true, could atone for the loss of life and the human misery which she had caused. But material damage could be made good, and, in so far as the

¹ A fuller and more detailed treatment of enemy debts and commercial policy in the German Treaty is to be given in Vol. IV in conjunction with similar aspects of the Austrian Treaty.

task could be placed upon Germany's shoulders, it was the duty as well as the interest of the Allies to see that this was done.

2. *The Three Main Questions.* This was the general principle upon which the action of the Allies was based. But before it could be put into execution the Conference had to decide three main questions: (1) Had the claim of the Allies been in any way limited by assurances given to Germany prior to the conclusion of the Armistice? (2) Whatever their claim might be, was it wise in the interests of the Allies themselves to exercise it to the full? (3) Finally, to what extent was Germany in a position to fulfil her obligations under this claim? When the history of this section of the Conference's work is written in detail it will be seen that there were widely divergent views on all three questions, and that the solution reached was a compromise—satisfactory perhaps to none. The first of these questions was one of interpretation alone. But a decision upon it was necessary before the economic aspects of reparation could be profitably discussed.

3. *The Right to recover the whole Costs of the War; Precedents from History.* Judged by historical precedent the right of the Allies to recover the whole costs of the War, or what soon began to be known in the discussions of the Conference as an indemnity, as opposed to reparation, or compensation for damage to civilian life and property, was without question. A long-continued international practice had consecrated the right of the victor to recover, if he could, the costs of war from his defeated enemy. In the seventeenth and eighteenth centuries indeed it had been customary, in the imposition of an indemnity, to specify a sum to be paid over without any explanation as to how that figure had been reached, but after the early years of the nineteenth century no demands for an indemnity had been put forward except for an amount which was at least ostensibly required to cover war costs. The best known examples of such indemnities are those imposed by Germany herself upon the other German States in the wars of the sixties and upon France in 1871, and the recognized connexion between indemnities and war costs was well illustrated by the negotiations preceding the Treaty of Frankfort. When, during these negotiations, M. Thiers and M. Favre urged that Germany should not regard its victory as a mere occasion for financial speculation, but should be content with the recovery of her actual war expenditure, Bismarck was

ready at once to do lip service to their argument. He proceeded to explain how his demand for £200,000,000 did not exceed Germany's war costs by specifying in detail the various claims on which it was based ; so much for actual expenditure on the operations of war itself, so much for the renewal of war material, so much for pensions, for the indemnification of German subjects expelled from France, for the maintenance of French prisoners in Germany, etc. That the sum demanded was in fact almost double these costs is, for our present purpose, irrelevant.

It is true also that on the two occasions on which, during the course of the War, the Allied Governments had made official reference to indemnities, they had safeguarded the right to the recovery at least of full war costs. 'The disasters,' it is said in their reply of the 30th December to the German Peace Note of the 12th December 1916, 'caused by the German declaration of war and the innumerable outrages committed by Germany and her allies, against both belligerents and neutrals, demand penalties, reparation, and guarantees.' Again, in their note to President Wilson of the 10th January 1917, the Allies had explained that their war-aims, 'with all the compensation and equitable indemnities for harm suffered', would only be set out in detail when the time came for actual negotiation.¹

4. *The Position as affected by the Armistice Negotiations and the 'Fourteen Points'*. But the position was changed by the negotiations immediately preceding the Armistice. The basis of these negotiations, it will be remembered, was President Wilson's Speeches in 1918, especially the Fourteen Points. Now the Fourteen Points make no reference to indemnities for war costs, and even the conception of reparation for damage done which they express is a very limited one. 'Belgium,' it is stated in the Seventh Point, 'the whole world will agree, must be evacuated and restored.' 'All French territory,' says the Eighth, 'should be freed and the invaded portions restored, and the wrong done to France by Prussia in 1871 in . . . Alsace-Lorraine, which has unsettled the peace of the world for nearly fifty years, should be righted, in order that peace may once more be made secure in the interest of all.' Finally, in the Eleventh

¹ It is doubtful whether it is right to assume from this modification in wording that the Allies, in the short space of three weeks that had intervened between the two Notes, had decided to abandon the claim for penal indemnities, which was hinted at in the first. It is more probable that the wording of both was intentionally vague, to be defined later as circumstances allowed.

Point, is added: 'Rumania, Serbia, and Montenegro should be evacuated and the occupied territories restored.'¹

The interchange of notes following on the German request for an armistice, showed that this somewhat vague statement of principles was not considered sufficient by the Allies, and a further memorandum, dated the 5th November 1918, was communicated to Germany in order to make clear the exact nature of the Allied demand in this respect. 'Further,' says this document, 'in the conditions of peace laid down in his Address to Congress of the 8th January 1918, the President declared that the invaded territories must be restored as well as evacuated and freed, and the Allied Governments feel that no doubt ought to . . . exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air.'

It is this statement then which must be taken as the ruling document in any discussion as to what the Allies were entitled to claim by way of reparation in the Treaty of Peace, and it is difficult to interpret it otherwise than as a deliberate limitation of their undoubted right to recover the whole of their war costs.

It may be argued, as has been done with much insistence, that the Allies could not, by implication alone, have abandoned so well established and important a right as that of the recovery of war costs, and in support of this argument the terms of the Armistice Convention itself are quoted. The clause appealed to, Article 19, runs as follows :

With the reservation that any subsequent concessions and claims by the Allies and the United States remain unaffected, the following financial conditions are required :—

Reparation for damage done.

While the Armistice lasts, no public securities shall be removed by the enemy which can serve as a pledge to the Allies to cover reparation for war losses.

Immediate restitution of cash deposits in the National Bank of Belgium, and, in general, immediate return of all documents, specie, and securities of every kind (together with plant for the issue thereof) affecting public or private interests in the invaded countries.

¹ In his address of 11th February, which, with the 'Fourteen Points' formed part of the basis of settlement, President Wilson uses the phrase, 'There shall be no annexations, no contributions, no punitive indemnities.' These appear to be his own sentiments, though he speaks of them as the principles of 'the court of mankind'. v. *infra*. c. vi.

Restitution of the Russian and Rumanian gold removed by the Germans or handed over to them. This gold to be delivered in trust to the Allies until the signature of peace.¹

What, it is said, can be the meaning of the reservation by which this clause is introduced unless it is that it safeguards the right to put forward further claims, and in particular the claim to war costs? It cannot be the right to reparation that is reserved, for this right itself heads the list of the financial conditions that follow.

It must be admitted that the whole question is lamentably obscure. It is true that, if the Armistice Conditions are to be taken as a Convention incorporating and modifying the conditions of peace which were laid down in the preceding exchange of notes, the reservation would appear to safeguard the right of the Allies to present later other financial claims, and among them a claim for war costs. But the Armistice Conditions are surely no such document. They are a military convention, regulating the surrender of the German armies and safeguarding the interests of the Allies during the period between the cessation of hostilities and the coming into force of the Treaty of Peace. It is inconceivable that a right to war costs could be inserted by implication into a convention of this character, if a right to war costs had formed no part of the preliminary conditions of peace. It is inconceivable, too, that the German delegation, had they thought otherwise, could have let such a clause pass without challenge. There is an unfortunate lack of precision in the drafting of Clause 19, but the financial terms of the Armistice are so badly drafted in other points as well as this that they can only be explained on the assumption that they were drawn up, in the hurry and confusion of the moment, without adequate technical advice on either side.

That the Conference itself, however, was not prepared to appeal to the Armistice terms in support of such a claim is shown by the reply of the Allies to the observations of the German delegates on the Conditions of Peace. For in this reply the Allies refuse 'to enter into a discussion of the principles underlying the Reparation Clauses', but explain that these clauses 'had been prepared with scrupulous regard to the correspondence leading up to the Armistice of 11th November 1918', and they proceed to cite as the basis of their reparation claim the above-quoted Note of the 5th November.

¹ Complete texts of all these documents, etc., are in Vol. I. App. III-V.

5. *The Allied Claims as contained in the Treaty.* The text of the Treaty itself will show that this fundamental question of what the Allies were entitled to claim was never satisfactorily settled.¹ Specific reference to Germany's liability are made in the opening clauses of the Reparation section, which runs as follows :

ARTICLE 231. The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

ARTICLE 232. The Allied and Associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present Treaty, to make complete reparation for all such loss and damage. The Allied and Associated Governments, however, require, and Germany undertakes, that she will make compensation for all damage done to the civilian population of the Allied and Associated Powers and to their property during the period of the belligerency of each as an Allied or Associated Power against Germany by such aggression by land, by sea and from the air, and in general all damage as defined in Annex I hereto.²

From these two clauses it will be seen that the Allies had decided to differentiate between their moral and their material claim. While imposing upon Germany a general confession of guilt for having by her aggression caused the war, and of responsibility for the resultant loss and damage, they had decided to limit their claims for actual compensation to the damage specified in the Note of the 5th November 1918, of which the relevant portions are reproduced textually in Article 232.

There is no doubt that the Allies were justified in exacting this confession of a moral obligation, for it in no sense disagrees

¹ A letter in *The Times* of 15th February 1920, from Mr. J. Foster Dulles, one of the American representatives at the Conference, has now made public the attitude of the American Delegation on this point. 'The American Delegation,' he writes, 'at the opening of the Peace Conference presented a carefully thought out and detailed statement of the principles to govern the exaction of reparation. The essential features were : no liability for war costs ; liability for damage to non-military property and to the civilian population, and a special position for Belgium resulting from the fact that, as regards Belgium, the war in its entirety had been illegal and Germany had recognized the duty to make complete indemnification.' He also lays stress on the fact that opinion was divided as to 'the inclusion of pensions and separation allowances', and states that an argument in its favour was brought forward 'by General Smuts, . . .' 'who did not hesitate to express his disapproval of certain other features of the Treaty'. Cf. Keynes, *Economic Consequences of the Peace*, 47-9, 139-55. v. further, *infra*, c. vi.

² The equivalent Austrian Article 178 runs, 'and in general damage as defined in Annex I hereto.' The word 'all' is omitted.

with the statement of their claims set out in the Note of the 5th November, though that is concerned with claims for material compensation alone. But it is strange that it should have been thought necessary to justify the limitation set upon the claim for material compensation by reference, in Article 232, to the fact that the resources of Germany are not adequate to make complete reparation. Unless the Allies did not consider themselves bound by the statement of their claims set out in the Note of 5th November, these words are at the best irrelevant and misleading.

Unfortunately, however, there is a further complication. In the Annex referred to in Article 232 is given a list of the categories of damage for which reparation is claimed. These categories comprise, in the first place, damage to civilians or to their dependents by acts of war, acts of cruelty or violence, acts injurious to health, honour or capacity to work, or by being forced to work without just compensation or to pay fines, levies, etc., and damage in respect of the property of civilians. All these categories are clearly in accordance both with Article 232 and with the Note of 5th November.

To these, however, are added claims in respect of pensions and compensation to naval and military victims of war, and to their dependents, and in respect of allowances to dependents of mobilized persons and of prisoners of war. These claims, at first sight at least, seem difficult to reconcile with the Allied Note of the 5th November 1918. Nor is the difficulty solved by the words 'as damage caused to the people of the Allied and Associated Powers', which are inserted before the claim for pensions. For the damage on account of which the Allies were claiming reparation was damage to civilians, and the damage to civilians involved in the payment of pensions and separation allowances can hardly be other than damage resulting from the extra taxation necessary to meet these charges. If we include the damage resulting from taxation on this account, there is no logical reason why compensation should not have been claimed on account of taxation caused, for example, through expenditure on guns and shells. Unless an argument can be found to support, on the basis of the Note of 5th November, a claim on account of all increases of taxation due to the war—that is to say, to the costs of the war as a whole—it would seem hardly legitimate to base on it a claim for pensions and separation allowances.

6. *The Doctrine of 'Indirect Damage'*. As opposed to damage through the direct action of the enemy, the doctrine of 'indirect damage', of which the claim for pensions and separation allowances is an illustration, was the subject of much discussion at the Conference, and claims on account of indirect damage were finally abandoned, except in the case of pensions and separation allowances. It will be seen that there remained some doubt in the minds of those who drafted the Treaty as to the possibility of reconciling these claims with the Note of 5th November. Thus Article 232, after formulating in the words of that Note the demand for compensation on account of damage done to the civilian population, ends with the words 'and in general all damage as defined in Annex I hereto'. By the insertion here of the significant word 'and' the Allied demand is extended beyond the scope of 'damage done to the civilian population' in order to cover 'damage as defined in Annex I'. Those at least, who were responsible for the drafting of Article 232, were not willing to allow the Allied claim on account of pensions and separation allowances to rest alone on the words 'as damage done to the civilian population and their property' in Annex I. It is unfortunate that in order to safeguard this demand the Conference should have felt it necessary to supplement the wording of the Note of 5th November 1918. In this way they have made it possible to question the 'scrupulous regard' for that declaration which was expressed in their reply to the comments of the German delegates. Why the claim for pensions and separation allowances was put forward, and this awkward drafting adopted, will be considered when the work of the Reparation Commission is described in detail.

7. *Economic Problem : effect of indemnity payments on Allied interests*. The economic problem would have been much simplified had this question of interpretation been settled in the narrower and more obvious sense, and the claim of the Allies restricted, in consequence, to direct damage to civilians and to their property. For the total value of the claims on this account would have been nearer to the sum which can reasonably be expected from Germany. Moreover, the danger of injury to Allied interests through the transfer of this sum would have been less, though we need not waste time over the argument that an indemnity necessarily does harm to the country to which it is paid. The receipt of indemnity payments means nothing more than

the receipt of imports without the obligation of paying for them. No one denies that investments abroad are a valuable national asset, and interest on foreign investments differs only from indemnity payments in that interest, at least on good investments, continues to be paid indefinitely, while an indemnity sooner or later comes to an end. Even the financial crisis of the early seventies in Germany, which has often been cited as an instance of the evils of an indemnity, was, it is now agreed, due in the main to other causes than the French indemnity. In so far as it was accelerated and made more acute by the indemnity the fault lay in the method of payment chosen by the German Government and the use to which the payments were put, rather than in the indemnity itself.

At the same time there is another side to the question. The payment of any indemnity by Germany, beyond that which could be exacted in a very short period, pre-supposes that she is to be allowed to recover and maintain her productivity on a level sufficient for the creation of a surplus, over and above her own requirements, to the amount of the indemnity. By the enforcement of a more Spartan method of life Germany might possibly reduce her own consumption and, with the same production as before, increase the available surplus. But the amount that could be obtained in this way would be small, and every increase beyond it would involve a necessary increase in Germany's productivity. For the period of the indemnity this increase would be for the benefit of the Allies alone, but at a later stage, when the indemnity payments had been completed, Germany would to that extent have become a more powerful economic rival than before. In any case, an increase of this kind in the export surplus of Germany, whether obtained by reduced consumption or by increased production on her part, would mean increased competition of German goods with those of the Allies both in their own home markets and abroad, and would certainly not be to the advantage of the Allied industries. To prevent undercutting, however, would be to prevent Germany from paying the compensation required. Although up to a certain point the advantage of obtaining goods for nothing obviously outweighs any incidental disadvantage to the industries of the receiving country with which such goods compete, the disadvantage eventually becomes of greater weight unless the receiving country is content to let its own industries die

away and to become a *rentier* state incapable of holding its own when the indemnity is finally paid off.

It was difficult, however, for the European Allies at least, to pay much attention to such problematic dangers. All of them had the task of reconstruction before them, and all already, with the exception of Great Britain, were on the verge of economic exhaustion. In consequence, reparation, on however large a scale, seemed nothing but an unmixed blessing to them. Some of the delegates, no doubt, were well enough aware of these considerations, but those who took them into account could also foresee that the economic interests of the Allies were little likely to be injured by the amount of reparation which could in fact be obtained from Germany.

8. *Germany's Capacity to pay.* On the second of these two economic problems, the capacity of Germany to make reparation, opinion differed more widely perhaps than on any other subject discussed at the Conference. Between the sums of £24,000,000,000 and £2,000,000,000 (both of which figures were mentioned, although neither was put forward officially by the delegates of any Power) there was room for endless deliberation, and very little concrete evidence could be obtained on which to base a decision. When it became clear that the claim put forward by the Allies was not to extend beyond reparation, strictly so-called, together with compensation for pensions and separation allowances, the range for practical consideration was more limited. Even then, however, the difficulty of arriving at an agreement was extremely great.

It was obviously useless to calculate, as has occasionally been done, the amount of Germany's potential wealth by the simple process, for instance, of multiplying the estimate of her mineral resources by the pit-head price to-day, and then to suggest that the result formed a measure of her capacity to pay an indemnity. It was less unreasonable, but equally wide of the mark, to take any of the usual estimates of Germany's annual savings and to suggest that she could be forced to hand over this surplus. For, apart from the fact that Germany after the War was very different from that country in the full course of her rapid economic development, an annual surplus available for investment at home was very different from a surplus which could be sent abroad in order to pay an indemnity.

9. *Germany's Foreign Trade in 1913 ; Alterations produced*

by the War. The essential characteristics of an indemnity is the transfer of wealth from one country to another, and the criterion, therefore, of capacity to pay an indemnity is the power to produce exportable wealth. Of this power no evidence is available beyond the figures of foreign trade, which at least supply a basis for discussion by showing what had been achieved in the past. In 1913, the best year in the history of Germany's foreign trade, her exports amounted to £505,000,000, her imports to £538,000,000; that is to say, there was an adverse balance of imports over exports amounting to £33,000,000. As a rule this adverse balance was much higher, for the average during the five years before the War amounted to £74,000,000. It has been estimated, however, that before the War Germany was investing abroad at the rate of some £100,000,000; so that, in order to arrive at her total exports, there must be added to the above figure of visible exports a sum, made up of earnings of shipping, foreign banking and insurance business, and returns on existing foreign investments, exceeding the adverse balance by that amount. On pre-war figures of foreign trade Germany would have been able to pay an annual indemnity of some £100,000,000—that is to say, the amount left abroad each year for new investments—and could only have paid a larger sum by increasing exports or diminishing imports. To do this to any considerable extent would, even before the War, have been difficult. About two-thirds of Germany's imports were made up of raw materials and food. Of the exports only one raw material, coal, amounting in value to 7 per cent. of the total in 1913, was of any great importance. Even potash, for instance, only accounted for 0.6 per cent. By far the greater part of the remaining exports were manufactured articles, almost all of which, with the exception of iron and steel goods, depended for their production largely on imported raw materials. It will be seen then that imports could hardly have been reduced without in one way or another reducing the power to export, and so defeating the object of an increase in the export surplus. There were a certain number of luxuries with which the German people might have dispensed without impairing their efficiency, and the people as a whole might have worked harder. But the amount that could have been saved in this way is small, and to add another £150,000,000 to the export balance on this account would probably be far too optimistic an estimate.

In any case such estimates provide no more than an outside figure of very little use for the problem with which the Conference was faced. For the Germany with which the Allies had to deal was very different from the Germany before the War. Although the country had escaped invasion it was far nearer to complete economic collapse than any of the Allied countries themselves. Except for coal and iron ore its stocks of raw material had almost all been completely depleted. Agricultural land was exhausted through lack of essential fertilisers. Food rations for two years past had been on a scale considerably below that required to maintain normal health. Since the Armistice, even this scale had been kept up only (with the reluctant consent of the Allies, who were unwilling to see disappear one of Germany's few remaining immediately available assets) by the expenditure of the greater part of the gold reserves of the Imperial Bank. The labour supply had been reduced, not only by war losses but by the cutting off of the annual influx of Poles and Russians, upon whom Germany relied for much of her agricultural work before the War. What remained had been seriously affected by several years of underfeeding and by the complete collapse of discipline which accompanied the Revolution.

And this of course was not all. In consequence of the cession of Alsace-Lorraine and of Prussian Poland,¹ and the probable loss of Upper Silesia, Germany would surrender three-quarters of her iron ore, three-quarters of her zinc, one-third of her coal, one-third of her blast furnaces, one-tenth of her iron foundries, and a very considerable proportion of her richest agricultural land, together with a population amounting to about 8 per cent. of the country as a whole. It is clear that a country, disorganized by war and revolution and reduced to this extent in labour power and in other resources, could not produce an export surplus anything approaching that which might have been attainable before the War.

¹ Upper Silesia contains about 23 per cent. of the German output of hard coal, and 75 per cent. of the zinc production of Germany. The loss of iron ore in Upper Silesia would be small, but there are a good number of blast-furnaces. By Art. 90 of the Treaty Poland engages to permit the export to Germany for fifteen years (free of export duties or charges restrictive of exportation) of the products of any of the coal mines of Upper Silesia transferred under the Treaty. (v. also chap. 4, pt. ii, p. 207 *sqq.*) The terms of sale to Germany are to be as favourable as are applicable to live products sold under similar conditions to purchasers in Poland or any country.

10. *The Scheme of Reparation.* Faced with this situation, two courses were theoretically open to the Allies. One was to concentrate on getting out of Germany everything that could be got over a short space of time, and, having ruthlessly swept the country bare, to leave it alone to recover as best it could. The other was to levy little or nothing in the immediate future, but instead to assist Germany with food and raw materials until she was able, by an excess of exports over imports, to pay off the indemnity required by annual instalments. In the end, however, the Conference came to no clear decision between these alternatives. Nor did it ever fix in the Treaty itself the total amount of reparation to be paid by Germany.

Instead of stating at once the amount of reparation due a Reparation Commission was set up, which, after examining into all claims presented in accordance with the Categories already described, is to present to Germany by the 1st May 1921, a bill for the total of all such claims approved, and to devise a scheme by which the balance between this total obligation and the payment on account to be described later shall be liquidated within thirty years from that date.

At the same time, 'in order,' as it is explained, 'to facilitate and continue the immediate restoration of the economic life of the Allied and Associated countries' (Annex II, § 12 c) the German Government is to hand over to the Allies before 1st May 1921, the sum of £1,000,000,000¹ in gold or its equivalent. The form in which a large part of this payment is to be made is already laid down in the Treaty itself. Germany is to hand over practically the whole of her mercantile marine and one-quarter of her fishing fleet. She is to deliver, in quantities which are specified in some cases but in others left to the discretion of the Reparation Commission, animals, machinery, etc., similar to those removed from occupied territory, in case the return of the original articles is no longer possible. In addition, she is to deliver certain kinds of reconstruction material; and is to supply fixed annual quantities of coal or coke to France, Belgium, and Italy, with a further supply in the case of France, to compensate for damage to the mines of the Nord and the

¹ The 'gold marks' of the Treaty are here and elsewhere converted at par. The 20,000,000,000 gold marks expressed in sterling to-day is of course considerably more than £1,000,000,000; expressed in paper marks it is about 200,000,000,000 marks.

Pas de Calais. She is finally to give extensive options to the Allies for the delivery of dye-stuffs and chemical drugs. In addition, however, to these immediate payments Germany is required to pledge herself to further specific payments 'on account' after the 1st May 1921. She is to issue, immediately on the ratification of the Treaty, gold bearer bonds to the amount of £2,000,000,000. These bonds are to pay no interest up to the year 1921. After that date they bear interest at the rate of $2\frac{1}{2}$ per cent. per annum until 1926, and from then onwards at the rate of 5 per cent. per annum, until their redemption through the operation of a 1 per cent. sinking fund beginning also in 1926. At the same time—that is to say, on ratification—she is to hand over to the Allies an undertaking to issue a second series of bonds, of the same amount and under the same conditions, at any time when, in the opinion of the Reparation Commission, interest and sinking fund charges on this second series can be met. In short, Germany is to pay £1,000,000,000 gold within the first two years, and annual instalments of an amount not yet known, but of either £50,000,000 or £100,000,000 at least, between 1921 and 1926, and from 1926 onwards either £120,000,000 or £240,000,000 at least.

11. *Difficulties of the Reparation Proposals.* The most striking feature of this scheme is the refusal to come to an immediate decision as to Germany's total liability. There were, it is true, insurmountable obstacles in the way of fixing, in time for presentation in the Treaty, an exact total arrived at by the summation of individual claims under the categories of damage. Indeed, the enormous number of claims, the difficulty of obtaining satisfactory proof and the difficulty of making valuations render it highly improbable that an exact total can be reached by this method within two years, or indeed at any time. When the effects of this postponement are taken into account, it may be doubted whether it would not have been preferable, in the interests of the Allies themselves, to have made an approximate estimate well within the total to which they were entitled and thus to have fixed Germany's liability once and for all. For there is perhaps nothing in the terms imposed which is so prejudicial to the chances of economic recovery in Germany, and in consequence to the prospects of the Allies being paid within a reasonable time, as this prolongation of the uncertainty as to Germany's obligations. That this was recognized by the Allies

is clear from their reply to the observations of the German delegates on the Conditions of Peace. In this they agree to consider any proposal for the establishment of the total liability which may be put forward by Germany within four months after the signature of the Treaty and to come to a decision within six months from the same date. It is unfortunate, however, that a more satisfactory solution could not have been found in the Treaty itself.

12. *A Parallel with the French Indemnity in 1871.* From the fact that the sum of £5,000,000,000 is fixed as nothing more than a payment on account it will be seen that the Conference placed a high estimate on the capacity of Germany—an estimate considerably higher than Germany's economic position would seem to justify. It is difficult when dealing with figures of the magnitude of £5,000,000,000 to convey any real impression of their significance, but perhaps some indication of the burden which even this provisional payment involves may be given by a comparison of the Allies' demands with those made in 1871 on France. The national wealth of Germany in 1913 (and of course during the War this wealth has been much reduced), is calculated to have been rather more than double that of France in 1871. If then Germany had been called upon to pay reparation on a scale proportionate to the indemnity of £200,000,000 imposed by Bismarck on France, the total sum would have amounted at the most to £500,000,000, or one-half that which has been imposed on Germany for the first two years. It is well known too (and it was here that Bismarck made his error in thinking that he had crushed France for a generation at least), that an exceptionally large proportion of France's wealth was in the form of foreign investments, which facilitated the rapid payment of the indemnity.

Before the war, as has been suggested above, Germany, at the very height of her economic development, might possibly have been able to pay an annual tribute of as much as £250,000,000, but even this is improbable, and it could only have been achieved by a complete transformation of her economic life and with great injury to Allied trade. Exhausted as Germany was after the War, and reduced in territory and natural resources by the Treaty of Peace, it is doubtful, even if she had been allowed to retain her ships and the remainder of her assets abroad, and if, in addition, food and raw materials

had been advanced to her by the Allies, whether she could have completed a payment of £5,000,000,000 within a period much longer than the thirty years provided under the Treaty.

In forming their decision as to Germany's capacity, the Allied statesmen at the Conference perhaps naturally hesitated to adopt an estimate so out of accord with the popular view of the time as that which has been suggested here, however much the facts before them tended to bear out the more pessimistic conclusion. To have done this would have involved the risk of discovering when too late that Germany could, after all, have paid a larger proportion of her obligations than had been asked of her. In their opinion it was perhaps wiser to lay on Germany an obligation which it was probably beyond her power to meet, and to leave to the future to decide the extent to which this obligation should be enforced. At the same time it is open to doubt whether in the end this policy will not secure for the Allies a smaller measure of reparation than the fixing of a sum more compatible with Germany's real capacity.

A further consequence of this over-estimate of Germany's capacity is that the Allies were not prepared either to allow to Germany such time for recovery as would seem to have been necessary in order to make possible annual payments on any satisfactory scale, or to take what they could at the moment and renounce further payments. At least such would appear at first sight to be the meaning of the reparation clauses. Provision is made for later annual payments, but at the same time the greater part of Germany's immediately transferable assets will be taken over during the first two years. Her ships, her assets in Allied countries, and most of her few available exports (coal, dyes, etc.) are taken over, and German concessions in Russia, Turkey, etc., are to be surrendered at the demand of the Allies. In so far as the sum credited to Germany on account of these various transfers falls short of £1,000,000,000 this sum is to be made up, before 1st May 1921, by the normal course of trade, although the development of German trade is deliberately handicapped by the obligation to give most favoured nation treatment to the Allies for a period of five years at least without any similar obligation on their side, and by the practical exclusion from Allied countries of German banking and other financial activities.

13. *Concessions to Germany.* There are, however, indications that the Conference was itself by no means confident that these

demands for immediate payment could be enforced if Germany was to be in a position to make annual payments by 1921. In its requisitions for live-stock and for various reconstruction materials the Reparation Commission is instructed to give due consideration to 'such domestic requirements of Germany as it deems essential for the maintenance of Germany's social and economic life . . . and the general interest of the Allied and Associated Governments that the industrial life of Germany be not so disorganized as to affect adversely the ability of Germany to perform the other acts of reparation stipulated for' (*Annex IV*, § 4); and, similarly, with reference to deliveries of coal, it is provided that 'if the Commission shall determine that the full exercise of the foregoing options would interfere unduly with the industrial requirements of Germany the Commission is authorized to postpone or cancel deliveries' (*Annex V*, § 10).

There is another and more important concession. Out of the £1,000,000,000 to be paid within the first two years are to come, in addition to the expenses of the armies of occupation, 'such supplies of food and raw material as may be judged by the Governments of the Principal Allied and Associated Powers to be essential to enable Germany to meet her obligations for reparation' (Art. 235). It is, of course, difficult to estimate the exact amount of food and raw material which will be required to enable Germany to meet her obligations, particularly as the full amount of these obligations is as yet unknown. But it is hardly possible to doubt that, if Germany is to pay within reasonable time even the £5,000,000,000 already imposed, little or none of any part of the £1,000,000,000 that can be collected during the first two years will be available for reparation, after the essential supplies of food and raw material have been met.

14. *Political Aspects of the Reparation Question.* The problem which the Allied statesmen had to solve was certainly a difficult one. They had been forced to recognize, as the above concessions show, the improbability of being able to get much from Germany immediately, without endangering the chances of further payments for a long time to come, and they were not prepared to sacrifice the future for the sake of the relatively small sum at best which could be got from Germany at once. At the same time they realized that immediate payments were of the utmost importance in order to facilitate the urgent work of reconstruction, and besides, they were determined that in any

POLITICAL ASPECTS OF REPARATION QUESTION 57

case, even in order to pay reparation, Germany could not be allowed to recover more quickly than the Allies and so regain her old position of economic predominance.

It must be admitted, however, that the Conference has little reason to be proud of the solution finally reached. For this decision was just as much a refusal to face the issue before them, as was the postponement of the assessment of Germany's total liability, and the resultant uncertainty will be as detrimental in the one case as in the other. The motives that led the Allied statesmen to these decisions were, however, for the most part political rather than economic, and were based more on the fear of disappointing public expectation than on any reasoned study of Germany's position. As soon as it had become clear that the enemy's resistance was broken a demand sprang up in many quarters that Germany should be made to pay the whole costs of the war. Impossible of realization as this demand was from the beginning, it was natural enough that it should have been made. For to most of the Allies victory had opened the way to a period of economic exhaustion and unparalleled taxation, or even to bankruptcy itself, unless help could be obtained from one quarter or another. In England and the United States, where the strain had been less great, it would not have been difficult to show that little of this help could come from Germany, which was even more exhausted than the Allies themselves. But no responsible statesman took it upon himself to explain the real position, while bankers and other men of business who could not have failed to realize the folly of this demand chose to remain silent rather than incur the suspicion of considering the interests of Germany. In England indeed, instead of attempting to moderate the public demand, the Government took advantage of popular feeling for the immediate purpose of the elections of December 1918, and Mr. Lloyd George was returned to power largely on the cry of 'Make Germany pay for the War!' It is true that Mr. Lloyd George was cautious enough in most of his public speeches to qualify this by explaining that Germany would be made to pay up to the limit of her capacity.¹ His followers, however, were not, and there was no doubt in the public mind that the Government was pledged to the recovery of the whole war costs. It was further assumed that this was

¹ It will be seen that even this promise is difficult to reconcile with the declaration of the Allies in their Note of 5th November 1918, discussed above.

the policy of the Allies as a whole, for it was not thought possible that Mr. Lloyd George would have taken a step of this importance without previous consultation with his Allied colleagues. In any case, none of these colleagues gave any indication that they held other views, and when the Conference opened there was a general conviction that Germany was to be made to pay the war costs of the Allies. It is perhaps surprising that President Wilson made no protest against a claim which appeared to be in contradiction to his Fourteen Points. But the position of the United States at that time was a difficult one. Of all the Allies the United States alone had been, from the economic standpoint, comparatively untouched by the War. Indeed, it had emerged from it richer than before and had been transformed from a debtor into a creditor nation. Had the United States at that time preached moderation in the treatment of Germany the European Allies would have been forced from the start to turn elsewhere than to Germany for the help they required and they could have turned only to the United States. But the United States was not prepared to give any promise of continuing the advances which it had made on so large a scale during the War, and it was perhaps too much to expect that it would take up a position which would have made it difficult to resist the requests of the other Allies that this should be done.

By their refusal to face facts at the beginning and to make the public understand that, however desirable this might be, it was impossible to throw more than a very small proportion of the costs of the War on to Germany's shoulders, the Allied statesmen had very greatly increased the difficulties of their task at the Conference. For from the beginning it was impossible for them to fulfil the pledge to which in popular expectation they were bound.

15. *Summary.* The question of Germany's liability, it is true, was settled with relative ease by the distinction between moral responsibility and material compensation. But this was a matter of words alone and, after straining the interpretation of their pre-Armistice declarations in order to include pensions and separation allowances, the discrepancy between the total claims possible under the Treaty and the war costs as a whole was sufficiently glaring to add considerably to the attraction of postponing the presentation of this claim. It was, in view of public expectations, almost impossible to go farther and frankly

admit that, if Germany was ultimately to pay even this reduced amount, little or nothing could be expected during the early years when it was most needed. In result, an exaggerated amount was demanded from Germany during the first two years, while at the same time provisions were added which made it impossible to know whether the Allies would insist on its payment or not.

By this compromise the Allied statesmen have succeeded in satisfying public opinion for the time being. But it is doubtful whether this result is sufficient to justify their action. At a time when Europe is faced with the danger of a widespread economic crisis, nothing is more urgently necessary in the interests of all than the concentration of the energies of the Allies and of Germany alike on the common work of reconstruction. Instead of that the Treaty has introduced an element of confusion threatening seriously to retard this work. The resulting uncertainty directly deters Germany from making any serious attempt to set her house in order. As to the Allies, their own plans for reconstruction are complicated through ignorance as to what can be expected from Germany in the near future, to say nothing of the probability that, by asking too much, they have seriously risked the loss of what they might otherwise have obtained.

CHAPTER I: SECTION IV

GENERAL AND INTERNATIONAL CLAUSES (*continued*)

PART IV

FINANCE AND REPARATION

I. INTRODUCTORY

1. *The Position of the Financial Delegations.* The relation of the Financial Delegations to the rest of the Peace Conference may be compared to that of the Treasury towards the rest of the Civil Service. They were concerned, as the Treasury is concerned, with practically the whole range of subjects dealt with by the various specialized departments. They stood in a central position towards which almost every question was apt at some stage or another to gravitate. But they were not armed with the same authority or required to exercise the same control as the Treasuries at home. On the contrary, decisions were frequently taken by agreement in other Sections on subjects which, in Civil Government, would have required Treasury sanction, on account of their financial implications. While, therefore, the Financial Delegations had a very wide range of interests and responsibilities, the field of their effective influence was far narrower: and this field was still further restricted by the fact that none of them—at least none of those who were visitors in Paris—were equipped, even in the later stages of the Conference, with the staff and the technical material necessary for the enormous volume of work that came to them.

2. *The Nature of their Work.* This work fell into three distinct parts. The first was concerned with the current financial questions of the immediate present; the second with the text of the strictly financial portions of the Treaty; the third with the financial implications of other Treaty Clauses. These three types of work differed both in the amount of time and attention which they demanded and in the procedure adopted to cope with them.

3. *Financial Problems of the immediate Present.* Problems of the immediate present—often having little or nothing to do with the terms of the Treaty—were prominent among the different claims on the time and attention of Financial Delegates. Such problems provided most of the work of the Supreme Economic Council, which met once a week, and nearly all the work of its Finance Section, which found that a weekly meeting was often inadequate if the Section was to keep abreast of current business.¹ To the same category of work belonged the conferences with German Delegates at Trier, Spa, and Brussels, the financial questions connected with the successive renewals of the Armistice, and the whole finance of Relief, with its great variety of technical difficulties, and its world-wide scope. In addition to this, a great number of national questions which in normal times would have been dealt with by the home Treasuries, and of international questions which would have reached the different Treasuries through diplomatic channels, had to be settled by negotiation between the financial representatives in Paris.

Two serious consequences resulted from the prominence of this type of work. In the first place, numerous momentary points of detail demanded an amount of time altogether out of proportion to their combined importance, with the result that the more serious and fundamental financial problems of the later Armistice periods were often thrust into the background, and could not receive sufficient consideration as a whole. In the second place the Treaty suffered from the preoccupation of Delegates of all nationalities with problems having only a remote or indirect connexion with the financial settlement to be made with the enemy.

4. *The Treaty Clauses.* Of the Treaty Clauses themselves, it may be said that Reparation overshadowed everything else. The Financial Clauses, it is true, were among the last to be submitted to the Council of Four, and a great deal of time was spent on their construction. But as finally submitted, they were easily disposed of in a short discussion, and they raised no differences of policy and principle at all comparable to those of the Reparation Chapter.

The work of the Commissions which dealt with the financial portion of the Treaty differed perhaps in two respects

¹ v. Vol. I, chap. 8, pt. ii.

—though only in degree—from the work of the other technical commissions of the Conference. In the first place the material information had for the most part been collected for them before they began their work. There had been various investigations and discussions of the economic position and of the capacity of Germany to pay, and there was a wealth of statistical material to draw upon. In this way the Financial Commissions differed, for example, from the Communications Section, which had not only to consider but also to collect the material information by means of special missions to various parts of Europe. In the second place the Financial Commissions were perhaps less rigidly confined than others by lines of general policy accepted and laid down beforehand by agreement between the different Allied Governments. The radical alterations made, up to the last moment, in the terms of Reparation, are evidence of the fact that in this case the details of policy were not definitively determined in advance.

5. *The Financial Implications of other Treaty Clauses.* The financial aspect of the Treaty as a whole fell, or should have fallen, within the sphere of the responsibility of Financial Delegations. In practice little time could be given to the subject. Different sections of the Conference would refer to their Financial Delegations any papers which obviously had a bearing on finance. But there was often little or no opportunity for the financial point of view to be represented while a decision was still under discussion. It was left to the private initiative of financial delegates to pick out from the mass of papers which at one time or another passed under their eyes, questions whose financial bearing might be less obvious or seemed not to have been sufficiently considered. There was no recognized machinery or routine to ensure that a single, consistent policy in economics and finance should be reflected in all the different parts of the Treaty drawn up by specialists who were not economists or financial experts. The structure of the Peace Conference had left no room for any other unifying authority than the Council of Four. It is true that at the weekly meetings of the British Empire Delegation, experts of every degree of specialization combined to discuss questions variously affecting their different special fields. But even if British policy could by these or other means have been effectively co-ordinated, it would have been impossible to achieve the same result inter-

nationally, and the Treaty was never watched as a whole from the financial or economic point of view.

6. *Personnel.* The personnel available was generally so limited that it would have been impossible—even if it had been desirable—to entrust different types of work to different individuals. The Financial Delegates who were concerned with Armistice conditions, Relief and other immediate problems, were usually the same individuals who had to deal with the Financial, Economic, and Reparation Clauses of the Treaty, and who were nominally responsible for the financial policy of the Treaty as a whole. The consequence naturally was that less was gained in unity and co-ordination than was lost through overwork and pressure of engagements. The British Delegation was able to some extent to specialize, by deputing such comparatively narrow subjects as Ottoman Debt or the Clearing House Scheme to the charge of different officials. But as a rule, principle, policy, and detail fell upon the same shoulders, and the fact is of some importance to the history of the Treaty on its financial side.

7. *Procedure.* (a) *Immediate Problems; the German Finance Committee; the Neutral Financiers' Committee.* Immediate problems were dealt with formally at the Supreme Economic Council, which dictated policy; less formally at the Finance Section of the Council, whose functions were largely executive; but for the most part by quite informal discussion and arrangement between the different sections concerned, or rather between the more active members of the various bodies charged with international administration.

A significant proof of the important part played by these immediate questions in the activities of the Financial Delegations is that it was found necessary by the Finance Section to make two innovations which are without parallel in any other part of the Peace Conference. A Financial Committee of German experts was summoned, while the German Treaty was still under discussion, and established at the Château de Villette, near Campiègne. Here they were visited by the Finance Section on different occasions for the settlement of outstanding questions, chiefly relating to the provisioning of Germany, by word of mouth. Similarly, a Committee of neutral financiers was invited to come to Paris to discuss with the Finance Section the question of German credits in neutral countries, many of

which were maturing while the Peace Conference deliberated. Several meetings of the Finance Section were attended by these neutral representatives.

(b) *Financial Terms.* For the drafting and discussion of the financial Terms of Peace the procedure was quite different and far more normal. A Drafting Committee was first formed to draw up a list of the questions which would have to be settled by the Financial Clauses of the Treaty. Only the five principal Powers were represented, and though some weeks were spent in discussing and drawing up the list of questions to be solved, the list as finally drafted differed little from that which had been originally proposed. The chief results of the Drafting Committee's work were, first, that it succeeded in limiting the field for discussion in the Financial Commission by the definite exclusion of questions not directly affecting the enemy and the Treaty terms themselves, and, secondly, in the course of drawing up its schedule of questions the Committee arrived at some indication of the answers that would have to be given. The Committee had completed its work by the end of February 1919.

These questions and their answers were then debated for a full two months in the Financial Commission, which met frequently and found progress difficult until it resolved itself informally into a far smaller body. This informal Commission of four members abandoned the attempt to arrive at an agreed document, and concentrated its efforts upon formulating the points of difference which would have to be decided by higher authority. The outstanding questions were in this way narrowed down to a round half-dozen, and it was these few points of disagreement which were taken for discussion to the Council of Four and there quickly determined.

(c) *Financial Policy throughout the Treaty.* For dealing with the third type of financial question—the economic implications of other parts of the Treaty—there was no procedure at all.

8. *Methods of Interpretation.* Of the genesis and metamorphoses of the Financial Treaty no more need here be said. Some knowledge of the way in which the different clauses and even the different phrases came to be embodied in the text may be essential to a full appreciation of their history and intention. But a detailed account of their growth is now probably impossible and would be largely irrelevant. Such practical interest as it

might have is derived from the fact that those who administer the Treaty will at first be often the same people who had a hand in the making of it, rather than from any likelihood of their attempting to remember the original intention of the Terms. When the terms of Peace are carried out in action, it will be the letter of the Treaty and the circumstances of the time that will be the controlling factors, not the letter of the treaty interpreted according to the spirit in which it was written. What the makers meant—an obscure and inexhaustible subject—will be forgotten, and what the words mean will be the criterion by which the limits of action will be fixed.

The Treaty in detail is the result of an untiring search for the 'formula' which, in spite of differences of opinion, would succeed, not so much in commanding the whole-hearted agreement, as in avoiding offence to the susceptibilities of all interested parties. Not unnaturally, the formula, when found, was only acceptable to all the signatories alike because each of them could interpret it in his own way. It merely postponed instead of solving the problems arising out of the divergence of their opinions. Consequently, it becomes a matter of the first importance to distinguish precisely between what the Treaty formally and definitely excludes, and what various practical possibilities might still be included within the letter of its terms. The progress of Inter-Allied discussion invariably tended to narrow the field of the former and to extend the possibilities of the latter. But the words of the Treaty, which were chosen, and will perhaps be interpreted, in a meticulous and legalistic spirit, describe the limits of practical action; and these are the only limits to the possibilities of the future except such as are superimposed by physical necessity, or by explicit renunciation of the Terms of Peace.

In order to distinguish exactly what may be done from what must not be done, the clauses must therefore be studied in detail, with close attention to their phrasing. Often, indeed usually, there will remain a wide expanse of possibilities. The Treaty itself can provide no clue as to the precise point at which these possibilities will be translated into the actualities of practice. The determination of this point depends upon general considerations, which are often not financial, and estimates of the practical effect of the Terms of Peace therefore become conjectural and vary with personal temperament and opinion.

II. FINANCE

1. *The Financial Clauses. Article 248, Priorities.* The first of the Financial Clauses establishes the principle that all the assets and revenues of the German Empire and its constituent states are to be made available for the satisfaction of the obligations incurred by Germany under the Treaty. Strictly interpreted, these assets and revenues include nothing but State property and the revenue *actually* collected. It may be doubted whether anything is covered by the word 'assets' except what *was* State property at the time when the Treaty was signed; and certainly nothing is covered by the word 'revenues' that is not actually collected in the form of revenue by the State. Potential revenue is not included, and the private property of German nationals is definitely excluded. The Treaty therefore establishes no blanket mortgage on the assets of Germany in general. On the contrary, the assets and revenues specifically pledged to the satisfaction of Treaty claims amount to so little in value that it was necessary in the later articles of the Financial Clauses to lay down the order of priority in which the different obligations of Germany are to rank. Unless there was an admitted danger that the assets and revenues of German Governments would not suffice, or could not be used for the satisfaction of Treaty claims, there was little reason why priorities of any sort should be necessary. If creditors are certainly to be paid twenty shillings in the pound, it matters nothing which of them has the first claim. Taken in conjunction with one another, Article 248 and Article 251, which contains the list of priorities, therefore constitute a recognition of the fact that the Treaty claims on Germany might not, in practice, all be satisfied, and could certainly not all be adequately covered by the security given against them in Article 248. It would be too much to say that those who made the terms knew that Germany was not in a position to meet her financial—much less her moral—obligations: but when a claim was relegated to a low category in the list of priorities the chances of its being met were known to be sensibly diminished. Priorities, without necessarily prejudging the precise measure of Germany's capacity to pay, involve a recognition of the possibility of default. In practice, therefore, they have a fundamental importance on account of their limiting effect on the prospects of each of the many

different kinds of claim established against Germany by the Treaty.

Their importance is further enhanced by the limited nature of the general mortgage which Article 248 establishes in favour of the Allies. The assets pledged are to be available for Treaty claims, '*subject to such exceptions as the Reparation Commission may approve*': and no limit is imposed on the extent to which the Reparation Commission may permit the use of assets for other purposes, nor is their permission required to be unanimous in order to be valid. A majority of the Reparation Commission has power to diminish the assets actually available for the satisfaction of an obligation which only the unanimous Commission could cancel or postpone. Moreover, it must in practice be inevitable that the silence of the Commission should be interpreted as equivalent to its consent, in most cases where the use of assets for other immediate purposes than the satisfaction of allied claims is in question. Otherwise, the express permission of the Commission would be required not merely for the conclusion of such commercial treaties as have already been made by Germany with Poland and Holland—involving the delivery of coal from year to year—but also in order to enable the German Government to earmark revenue to any services, such as Education, which are not incidental to the fulfilment of the Terms of Peace. No neutral credit could be repaid and no loan negotiated by Germany without the consent of the Commission, and all the ordinary business of Government would be brought to a standstill by a rigid application of the terms of Article 248. But the reply to the German Delegation's observations gave the assurance that no such interference in the internal affairs of Germany was contemplated. It may be taken as certain that the consent of the Commission will not be sought or required in many of the cases in which it is technically necessary. The effect of Article 248 is merely to reserve to the Allies a right to insist that Treaty claims shall not be postponed to unessential expenditure, and that German Government assets shall not be disposed of with the purpose of prejudicing the satisfaction of Germany's obligations under the Treaty. If the limits within which the Allies may exercise supervision and control for this purpose are wide, that is not to say that the Treaty contemplates or would be likely to be held to justify any arbitrary interference with the commercial transactions of Germany or

any detailed control over the financial arrangements of the German Government.

2. *Order of Priority.* (a) *Special Debts to be met from Special Assets.* Certain assets of Germany are specifically exempted by the Treaty from the general mortgage imposed by Article 248, and are earmarked to the satisfaction of particular obligations which constitute an exception to the list of priorities and may be said therefore to rank above all others. They are of no great importance, except in the case of enemy assets and property within Allied jurisdiction at the outbreak of war and State property in ceded territories. The former are exempted by Article 252, and are made available for the payment of German debts outstanding to Allied nationals which, on account of the War, have not been paid. The latter will be considered later. Assets of Germany arising out of the Ottoman Debt are also exempted as well as the gold sent to Germany by her Allies in connexion with loans made to them by Germany, and the plunder obtained by the Treaties of Brest Litovsk and Bucharest (Article 259, par. 6). In certain special cases, Germany undertakes a particular liability in regard to the restoration of property or the continuance of an existing obligation: she is to restore, for example, the French flags captured in the Franco-Prussian War (Article 245),¹ and to make good the losses involved in the burning of the Library of Louvain (Article 247). The payments, due to Brazil under Article 263 for coffee requisitioned and sold in Germany, may also be held to involve the assignment of particular assets to the payment of this particular debt, even though the assets are monetary and indistinguishable. Finally, mortgages effected before the War, in favour of the Allied Governments or their nationals, are specially protected by Article 253 from being prejudiced in any manner by the priority list.

(b) *Restitution.* The restitution of recognizable articles of stolen property is, of course, not regarded by the Treaty as a part of Reparation. Integral restitution of such property must be made independently of all other claims: and since the property is not a German asset, but belongs still to its original owners, it does not constitute an exception similar to those considered above. But the specific claims for German cattle, etc., in *replacement* of stolen property are a part of Reparation,

¹ v. also Art. 246.

and rank as such, though in point of time they may be expected, to some extent at any rate, to take precedence.

(c) *Cost of Food and Raw Materials.* The first specific claim on *all* the assets and revenues of the German Empire and its constituent States is the cost of such 'supplies of food and raw material for Germany, and such other payments as may be judged by the Allied and Associated Powers to be essential to enable Germany to meet her obligations in respect of reparation'. These claims will have priority only 'to the extent and upon the conditions which have been or may be determined by the Governments of the said Powers', but in practice the liberty of Germany to make use of her own assets to equip herself for industrial recovery by the provision of food for her people and raw materials for her factories is not questioned. As will be seen later, the cost of such food and raw materials is only the second charge upon the first £1,000,000,000 to be *paid* by Germany. But logically and chronologically it ranks first among the claims on the assets and revenues of the German Empire. By expressly recognizing this priority in Article 251, the Treaty escapes from the dilemma which made the economic destruction of Germany incompatible with the enforcement of Reparation claims. The decision here implied is that Germany must be assisted to recover at least so much financial strength as is necessary to enable her to meet her obligations under the Treaty in addition to her normal expenditure. Though the claims of the Allies rank, for example, before the Internal Debt, the priority of these two claims upon her assets is to be reversed if internal default would, in the opinion of the Allied Governments, incapacitate Germany from making Reparation in full. The power to make the necessary concessions is reserved to the Allied Governments by Article 251, but is delegated by implication to the Reparation Commission by the first words of Article 248, in so far as those concessions concern German State property or revenue.¹

At the time when the Treaty was ratified the Allied Governments had already permitted very considerable assets of Germany to be used for provisioning the country. By authority of the Supreme Economic Council, German gold had been exported for the payment of food supplies delivered to Germany by the

¹ Art. 248 : ' Sous réserve des dérogations qui pourraient être accordées par la Commission des réparations, etc.'

Allies after the Armistice. By the month of June 1919, some £25,000,000 had been delivered by Germany in gold at Brussels or Amsterdam, and by September the stock of gold in the Reichsbank had already been diminished by about £60,000,000. It soon became evident that gold payments would not be available in sufficient quantities even to pay for the imports which the Relief authorities judged to be necessary. It was therefore decided to earmark foreign securities publicly or privately owned in Germany for the payment of supplies. A list of these securities had already been compiled by the German Government; a special decree was passed by them prohibiting their alienation; they were then requisitioned by stages, and a special Committee was formed to make arrangements with the German financial representatives for the long process of bringing them to market and selling them for the credit of the food account.

The value of foodstuffs actually delivered to Germany by Great Britain alone amounted to £15,149,667 on 13th February 1920, and the value of British contracts still to be completed was on the same day £655,473. Payment before delivery has been the invariable rule.

(d) *Other Necessary Payments.* Not only had the assets of Germany been applied in the first place to the payment of necessary supplies, but there had also been occasion, long before the Treaty was signed, to permit 'other necessary payments judged to be essential.' Gold, immobilized by the conditions of the Armistice, was allowed by the Allies, while the Armistice was still in force, to be exported from Germany for the payment of certain debts contracted in a neutral country during the War. These payments were judged to be essential if German credit was not to collapse altogether in neutral countries; and it may be assumed that similar motives will forbid the seizure of gold reserves now remaining in Germany, since they are scarcely adequate to maintain such confidence as still exists in German paper.

When the available assets and revenues of the German Empire and its constituent States have been first of all diminished by

1. The exemption of particular assets reserved by the Treaty for the satisfaction of particular claims, and
2. The exemption of such assets as the Reparation Com-

mission may by a majority decision allow to be applied to other purposes, and when the balance has been applied to

1. The payment of food and raw material and
2. Other payments judged to be necessary,

what remains is to be applied to meeting the demands of the Allies in the following order :

- (i) The cost of the armies of occupation.
- (ii) Reparation.
- (iii) Other Treaty claims.

(e) *Cost of Armies of Occupation.* The claim for the costs of the armies of occupation covers not only the pay and keep of men and beasts but also the cost of all equipment, armament, and rolling stock and the subsidiary services of hospitals, transport, or administration. It applies to the costs of occupation both before and after the signature of peace, and it must be assumed to apply—though this is not definitely stated—to all armies of occupation, including the Allied forces temporarily in occupation of the plebiscite zones. No limit is assigned by the Treaty either to the amount of this claim or to the size of the forces in respect of which a claim may be made. The Treaty leaves it to the Allies to settle among themselves what forces are required, and it is for Germany to pay all expenses to which the Allies are put as a result of their employment. But France, Great Britain, and the United States have arrived at an agreement for limiting the total annual amount to be paid by Germany under this head. The question whether or not any part of these expenses would in any event have been incurred by the Allies cannot arise under the Treaty : nor is Germany less liable for the cost of conscripts drafted to occupied territory during their normal period of service than she would be for the cost of troops specially recruited for the purpose. The claim is for the whole cost integrally, and any expenses actually incurred in connexion with occupation are a valid claim under the Treaty, without regard to any other consideration.

(f) *Reparation.* Reparation will be considered later (v. Part III).

(g) *Other Treaty Obligations.* After Reparation rank all the other financial obligations assumed by Germany in the Treaty of Peace, or under the Armistice Conventions. These

obligations are scattered throughout the Treaty and need not be enumerated. They include, for example, the repayment to the Allies of the loans advanced by them to Belgium during the War (Article 232), the payments to be made to France in Equatorial Africa (Article 125) and the costs of the destruction of Heligoland (Article 115).

(h) *Obligations not specifically ranked.* Any obligations of Germany not specifically assigned to a place in this list of priorities must be assumed to rank after those included in the list. Pre-war obligations towards neutral countries must be held to be postponed to all Allied claims under the Treaty, except in so far as they may be judged to be essential to the preservation of German credit and so to the maintenance of Germany's ability to make reparation. And all post-war obligations of the German Government rank after the Treaty claims on Germany's assets, even if they are incurred towards one of the Allies. The special agreement, for example, which has now been concluded between the Belgian and German Governments for the redemption of the six milliards of marks withdrawn from circulation in Belgium, cannot affect the priority or the extent of Belgian claims against Germany under the Treaty. But these inferences are again subject to the proviso that the Reparation Commission have power—and might use that power—under Article 248 to make exception.

3. *Particular Provisions. Pre-war Debt, Details.* For the rest the Financial Clauses are concerned with regulating the financial conditions incidental to territorial changes consequent upon the Treaty and with certain matters of detail that may be summarized quite shortly.

In regard to the pre-war debt of Germany the general principle is laid down that ceded territory carries with it a proportion of both Imperial and State debt as they stood on the 1st August 1914. This proportion is determined by the ratio of the revenues derived from ceded territories to the whole revenue of the Empire or State (Article 254). Inasmuch as in 1871 Germany refused to undertake any portion of the burden of the French debt, France is exempted in respect of Alsace-Lorraine from this general principle (Article 255). Poland is also exempted from the obligation to assume that part of the pre-war debt of Germany which is attributable to the German colonization of Poland (Article 255); the amount of the German debt.

transferred with the ceded territories is to be computed so as to exclude any debt which represents expenditure by Germany on property belonging to the German Empire or State, or to the former German Royal House. This deduction is due to the fact that Germany is, in general, to be credited (under Article 257) with the value of such property in the Reparation Account. In the case of former German territories assigned to a Mandatory no portion of the German debt is transferred with the territory, and no credit is given for the Government property situated within those territories (Article 257).

The Financial Clauses further continue the embargo imposed by the Armistice on the export or disposal of German gold (Article 248). They exclude Germany from representation on international economic organizations (Article 258), and they define the terms in which monetary obligations of Germany throughout the Treaty are expressed (Article 262). Except for purchases or requisitions of the Allied Governments in occupied territories (Article 249) German monetary obligations are assessed in terms of gold.

All other provisions included among the Financial Clauses relate to the Reparation account and are best considered in conjunction with the Reparation Chapter.

III. THE REPARATION CHAPTER¹

1. *Moral Responsibility of Germany, but Limited Financial Responsibility.* The first of the Reparation Clauses (Article 231) asserts the responsibility of Germany and her Allies for *causing* all the loss and damage suffered by her enemies as a result of the War. This responsibility is a moral and not a financial responsibility. The Clause means simply that Germany caused the War. But the extent to which any debtor can be made *financially* responsible is limited by his ability to pay, and Article 232 acknowledges that the resources of the new Germany are not adequate for the reparation of all War damage. Germany is therefore to be held financially responsible only for part of the damage caused by the War, and this part is specified in the Treaty. The assertion of her moral responsibility for more does not affect her financial liabilities as detailed in the

¹ An uncompromising criticism of the Reparation clauses will be found in J. M. Keynes, *Economic Consequences of the Peace*, chap. v; his conclusions were questioned by Mr. J. F. Dulles (U.S.A.) in the *Times* of 16 Feb. 1920.

terms of Peace, nor does it enable her financial responsibilities eventually under any circumstances to be extended to cover other damage, however much Germany may have been responsible for causing such damage (cf. the precisely analogous logical structure of Annex III, par. 1).

2. *Methods of limiting Financial Responsibility.* The limits of Germany's financial responsibilities might have been fixed in various ways. The Treaty might have determined what Germany was to pay, and this method would perhaps have been in accordance with precedent. It is important to realize that the Treaty deliberately and consistently discards this method. It determines not what Germany is to pay, but what Germany is to pay for. It defines the nature of the damage for which compensation may be claimed; it refrains from assessing any particular claim or limiting the value at which the total of all valid claims may be assessed.

What Germany is to pay for by way of Reparation is defined generally by Article 232 and in detail by Annex I of the Reparation Chapter. No other kinds of damage than those there described can at any time be made the basis of a claim for Reparation under the Treaty.

3. *General Limitation as to Time.* Article 232 further restricts the liabilities of Germany by a general limitation as to time which governs all the particular categories of damage. A claim for Reparation, in order to be valid, must be not only for damage falling within the specified categories, but for damage suffered by one or other of Germany's enemies 'during the period of the belligerency of each as an Allied and Associated Power against Germany'. This general limitation has a three-fold effect. It excludes any claims for losses suffered at a time when the claimant was

- (a) Not belligerent.
- (b) Not recognized as an Allied or Associated Power.
- (c) Not belligerent against Germany.

Under the Reparation Commission the United States would therefore not be entitled to compensation for damage—as for the *Lusitania*—suffered before America declared war on Germany. Poland can claim only for damage inflicted after the time when Poland was recognized as an ally of the Powers belligerent against Germany; and Italy can obtain no Reparation

from Germany for losses suffered when she was at war with Austria without being at war with Germany also.

4. *Belgian War Debt.* Article 232 contains one addition to the particular categories of damage for which Germany is to pay Reparation. Germany assumes responsibility for the reimbursement of all sums borrowed by Belgium from the Allied and Associated Governments between the outbreak of war and the signature of the first Armistice. The sums in question are said to have been advanced to 'Belgium' not to the Belgian Government. But the clause probably covers nothing more than the advances made from Government to Government, and its effect is to transfer to Germany the whole liability for these advances. Even if Germany were to default, the Allies have no claim against Belgium for sums advanced during the War, and Belgium, alone among the belligerents, enters upon the period of reconstruction without any burden of foreign debt contracted in this period.¹

5. *Categories of Damage.* The other kinds of damage for which Germany is to make compensation are enumerated in Annex I, briefly as follows :

- (1) Personal injuries suffered by *civilians* and damage suffered by the dependents of civilians killed, as a *direct* consequence of operations of war by any belligerent.
- (2) Damage caused by Germany or her *Allies* to *civilian* victims of cruelty, violence, or maltreatment, or to the surviving dependents of such victims.
- (3) The third category adds nothing that would not be included by a reasonable interpretation of the second.
- (4) and (8) The fourth extends the claim to cover maltreatment of *prisoners of war*, and the eighth specifically includes the forced labour of civilians.
- (5) The capitalized cost, at the date of the coming into force of the Treaty, of all pensions and compensations to *soldiers* and their dependents, calculated on the basis of the scales in force in France.
- (6) The cost of assistance to *prisoners of war*, their families and dependents.

¹ Both this extension of Annex I, and the general limitation as to time already referred to, bear traces of having been introduced into the text of Article 232 at a late stage, as modifications of the original structure of the Reparation Chapter.

- (7) Separation allowances on the French scale.
- (8) Damage done to property—other than naval and military works or materials—directly in consequence of hostilities, and damage suffered by Allied nationals, through the seizure or injury of their property, wherever situated, by Germany or her allies.
- (9) Fines, levies, and exactions imposed by Germany or her allies on the civilian population.

6. (a) *Damage by Germany's Allies.* The specific categories of damage here enumerated do not in all respects correspond with the general description of the damage for which Germany undertakes to make reparation by the terms of Article 232. In the first place Article 232 makes no specific mention of the damage caused by Germany's Allies. It is true that under Article 231 Germany and her Allies are declared to be jointly responsible for all war damage, but the *financial* liability of Germany is described in Article 232 without any specific statement that Germany is to be made financially responsible for damage caused by others than herself.

(b) *Indirect Damage.* 'Germany undertakes that she will make compensation for all damage done to the civilian population . . .' Besides omitting to mention by whom the damage must have been done, these words fail to distinguish between direct and indirect damage, and the Treaty does not in fact anywhere determine how far it is permissible to trace out the ulterior consequences of war losses and to charge them to Germany's account if they arise out of damage falling within the categories of admissible claims.

The question would have been of very great importance if the losses due to unrestricted submarine warfare had been charged to Germany's account. It may still be raised both in regard to categories where indirect damage is not mentioned, and in connexion with the assessment of indirect damages where they are definitely allowed by the Treaty. If the ulterior consequences of direct losses were to be traced out indefinitely, large amounts might be involved and estimates might be expected to vary considerably.

(c) *Damage to Civilians.* The most striking difference between the general description of the claims in Article 232 and their particular enumeration in Annex I, is in regard to damages suffered by combatants. These are formally excluded from

the general statement of Germany's liabilities quoted above, though they are of course included among the injuries for which Germany accepts moral responsibility by Article 231. It may be held that, though excluded by the general description 'damage done to the civilian population', they are covered by the addition at the end of Article 232 of the words 'and *in general* all damage as defined in Annex I hereto'. The accepted canons of legal interpretation would scarcely admit of the contention that 'and in general' here means 'and in addition', or that this phrase extends the limits of the claim as already defined. But it may, none the less, be taken for granted that in practice the terms of the Annex will in this case be held to override the main Treaty text. Differences of principle which had to be reconciled are here seen imperfectly fused together in the terms of Peace.

7. *Impossibility of confident Interpretation.* In a document of so wide a scope, dealing—especially in these chapters—with a subject-matter so necessarily complicated, and compiled, as we know the Treaty was compiled, in many separate parts by different people, it was perhaps inevitable that obscurities and inconsistencies should remain. They serve to emphasize the fact that international legislation of this kind stands in need, at least as much as national legislation, of the interpretation of the Courts and of development and modification by the authorities who are charged to administer it. They should also tend still further to diminish the confidence with which any one at this date can say what the Treaty, with its network of clauses, annexes, protocols, and provisos will be held to mean. Even if this were known it would not follow that its practical effect could be foretold.

8. *The Determination of Claims.* The Treaty, then, lays down not what Germany is to pay but what Germany is to pay for. But it also prescribes the method by which the amount that Germany is to pay shall be determined. The amount of the reparation claims admissible against Germany under the Treaty is to be determined by the Reparation Commission. The Commission must before the 1st May 1921,¹ notify to Germany both the total amount of reparation eventually to be paid and the time and manner for securing and discharging the entire obligation within a period of thirty years from that date.

¹ Article 233.

The Commission, in making its notification, need not specify the manner in which this total amount is distributed or assigned among the different categories of damage for which compensation is due. Their award will be expressed in the form simply of a lump sum in gold marks and a schedule or timetable giving the provisional programme up to 1951. But before the award is made or notified, the Commission is obliged by the Treaty to 'consider the claims and give to the German Government a just opportunity to be heard'.¹ Though the final award is expressed and notified in the form of an aggregate, it cannot be arrived at until the evidence on which the findings are based has been divulged and discussed before the Commission: and the German Government must be given an opportunity of being heard in regard to the separate elements that go towards the constitution of the final result. The case may therefore be argued before the Commission for and against each separate category of damage, both as to the amounts included and as to the admissibility of different items within the terms of any category.

The German Government is *not*, however, entitled, in these deliberations, to be heard on the subject of the capacity of Germany to pay any given *total*. Until the 1st May 1921, the Reparation Commission in considering the total amount eventually to be paid by Germany will be concerned purely with questions of fact and with valuations. It will be their task, for example, to determine whether in fact such and such damage was committed, whether it falls within the definition of damage for which Germany is liable under the Treaty, and what is a fair assessment of the damage in terms of money. It is not until *after* the 1st May 1921 (Article 234) that any consideration need be given to the resources and capacity of Germany in general or that the representatives of Germany need be given an opportunity to be heard on this subject as provided for in Annex II, 9.

Under other clauses of the Treaty German representations may be considered regarding the possibility of meeting any *particular* demand which may be made for part payment of the first £1,000,000,000. But this does not alter the fact that the Reparation Commission is to arrive at its award by the addition of a multitude of separate items, each of which

¹ Reparation, Annex II, 10.

Germany is allowed to dispute on other grounds, but which may neither individually nor collectively be disputed on the ground that the final total is thereby swollen to a figure beyond Germany's capacity to pay. The Commission are to assess the claims without regard to the total to which together they amount.¹

9. *Method of discharging the Debt.* But the Allies have need to proceed at once to the restoration of their industrial and economic life. They cannot afford to wait for the first substantial payment from Germany until the whole amount due has been assessed. The Treaty therefore provides for a payment on account, to be made by Germany before the 1st May 1921, while the Reparation Commission are arriving at their final aggregate award through the assessment of particular claims. During 1919, 1920, and the first four months of 1921 Germany is to pay 'the equivalent of 20,000 million gold marks' (Article 235). Though the amount to be paid within this period is specified, there is no departure here from the general principle of avoiding immediate assessment. The Treaty merely requires that a determinate amount—not a determinate proportion—of Germany's debt shall be discharged within a stated time, in order to enable the Allies to proceed at once with reconstruction.

Just as the pressing needs of the moment require that a minimum of reparation should be paid within a certain time, so the particular needs of the Allies require that a certain minimum should be paid in a particular way. The Treaty consequently demands particular restitutions and prescribes particular modes of payment—in coal, shipping, dyestuffs and so on—for limited amounts (Annex V and VI). The time and method of discharging the balance of the debt—as eventually assessed by the Reparation Commission—are not laid down by the Treaty, but left to be adjusted in the light of the changing circumstances of the future.

10. *Argument of Mr. David Hunter Miller.* It would be unnecessary to dwell upon this point if a different view of the logical structure of the Treaty had not been taken by the legal adviser of the American Peace Commission. Mr. David Hunter Miller published in the *New York Tribune* of 9th February 1920, an entirely new and unexpected interpretation

¹ Reparation, Annex IV, 4; Annex V, 10.

of the Reparation Chapter. In his view the Treaty does not merely prescribe the method of discharging particular amounts of Germany's whole debt to the Allies, leaving the settlement of the greater part to be made as may seem best at a later date. He gives it as his opinion that 'payment is *solely* by means of bonds'.

The consequences of this interpretation are so important as to merit detailed consideration. The effect would be that nothing could be demanded from Germany beyond the 60,000 million marks to be delivered in bonds under par. 12 of Annex II, unless the Reparation Commission unanimously agreed to demand such payment. In that event, whatever were the amount of Germany's debt as fixed by the Commission, any single member could effectively veto the discharge of any part of that debt in excess of 60,000 million marks gold. The intention of the Treaty, it can scarcely be doubted, was that unanimity should be required of the Reparation Commission not for the discharge but for the postponement of the discharge or diminution of the amount of Germany's debt (Annex II, par. 13 (d)). But if the United States representative on the Commission took a different view, the consequences would be all the more serious in view of the fact that unanimity is certainly required in all 'questions of the interpretation of this Part' of the Treaty (Annex II, par. 13 (f)).

The argument of Mr. David Hunter Miller is as follows :

'Articles 231 to 233 relate simply to the total amount which Germany *owes*. As to payments, they are controlled wholly by Annex II of Part VIII. . . . It is of the utmost importance to distinguish the *debt* of Germany from the *payment* prescribed by the Treaty. . . . It is the payment that matters, and payment is *solely* by means of bonds (which are extinguished *pro tanto* by deliveries of coal, ships, &c.). . . . *No bonds other than the sixty billion marks* can be issued until the Reparation Commission is satisfied (the French text is 'convaincue') that Germany can meet the interest and sinking fund obligations thereof. . . . The Commission, to be convinced, must be *unanimously* convinced. This is *specifically* provided by Annex II, Clause 13 (b).'

The pivot of the argument is the assertion that payment is solely by means of bonds. The generally accepted opinion is that the Treaty does *not* lay down *any* general method for the discharge of Germany's obligations. A particular minimum (20,000 million marks gold) is to be paid by 1st May 1920, Art. 235, because of the pressing nature of the Allies'

needs : and particular commodities (coal, ships, dyestuffs, &c.) are to be delivered in certain specified quantities, which similarly represent the minimum required by the special nature of the Allies' needs.

Apart from these specified minima the Treaty determines neither the amount nor the method of the payments to be made by Germany. It resolves one problem only, namely, what Germany is to pay *for* : and after that it contents itself with laying down how the remaining problems—how much, when and what Germany is to pay—shall be resolved at a later date.

11. *Who determines how payment is to be made?* (a) *Until 1st May 1921.* The authority, which is deputed by the Treaty to decide how payment shall be made until 1st May 1921, is the Reparation Commission. 'Germany shall pay . . . in such manner (whether in gold, commodities, ships, securities or otherwise) as the Reparation Commission may fix' (Article 235). The Commission is given by this clause absolutely unfettered discretion to demand payment up to £1,000,000,000 in any form whatever. This is by far the most comprehensive of all the powers conferred by the Chapter on representatives of the Allies, and it has been criticized both in Germany and in this country as being an infringement of the elementary rights of a sovereign State. No doubt it could be made so within the letter of the Treaty terms ; for the Reparation Commission are hereby given a potential claim not merely to the State properties and revenues which by Article 248 are generally assigned to the satisfaction of Allied claims, but also to private property, both in Germany and elsewhere, and to anything else that might take the fancy of a *majority* of the Commission. But though the drafting of this clause is open to such criticism, there is no reason to suppose that its execution will in practice lead to the infringement of any of the legitimate interests of Germany.

(b) *After the 1st May 1921.* After the 1st May 1921, the method of discharging Treaty obligations is left by implication to the discretion of Germany except in so far as that discretion is limited by the provisions of the Treaty relating to the delivery of commodities. The total value of commodities specifically required is likely to amount to an insignificant proportion of the whole debt as eventually assessed, and the

discretion of Germany may therefore be said to be left unfettered after the payment of the first £1,000,000,000. The reply of the Allies to the German observations on the Reparation Chapter stated that 'if Germany raises the money required in her own way, the Commission cannot'—after the 1st May 1921—'order that it shall be raised in some other way.' From May 1921 onwards the Treaty therefore conforms to precedent in that the total amount to be paid will have been determined, and the method of payment will be left, subject to certain rights of inquiry and control, to the discretion of the Government which is responsible for finding the means of payment.

(c) *Bonds as Security.* 'Whatever part of the full amount of the proved claims is *not paid* in gold, or in ships, securities and commodities or otherwise, Germany shall be required . . . to cover by way of *guarantee* by an equivalent issue of bonds', etc. (Annex II, 12 (a)). The terms of this clause make it clear that the delivery of bonds is in no sense a discharge of Germany's obligations, and that in *delivering bonds* Germany is not *paying* Reparation. Even if the Reparation Commission were to refrain from demanding the delivery of any further security in the form of bonds than they are required by the Treaty to take, Germany's obligation to pay the balance of the Commission's award, and the obligation of the Commission to exact payment of the remainder of this balance, would not be affected. It was sufficiently obvious when the Treaty was drawn up that *payment* of reparation is only possible, apart from immediately realizable assets, by means of goods delivered or services rendered by Germany. The object of introducing bonds at all was twofold: first, that the Allies might obtain from Germany an 'acknowledgment of' the debt, and secondly, that this acknowledgment might be in a marketable form, so that future payments of Reparation to be made by Germany in goods and services might, if possible, be discounted beforehand. By so discounting their claims on Germany it was hoped that the Allies might apply Reparation payments to 'the immediate restoration of economic life' before they were actually made.

12. *The Amount of Reparation to be Paid by 1921.* Bonds for the 20,000 million marks gold must be *issued* forthwith, payable not later than 1st May 1921, without interest (Annex II, 12, c. 1), but 'there shall be specially applied towards the

amortization of these bonds the payments which Germany is pledged to make, in conformity with Article 235, *after deduction* of the sums used for the reimbursement of expenses of the armies of occupation, and for payment of foodstuffs and raw materials.'

It follows, therefore, that the amount of *Reparation* to be paid by Germany by 1921 falls far short of the total sum of £1,000,000,000, whose payment is demanded by Article 235.

It is perhaps of no consequence that the amount of these deductions is to be determined by the *Governments* of the principal Powers, viz. United States of America, Great Britain, France, Italy, and Japan—and not by the Reparation Commission. Nor is it likely to be of any practical importance that deductions under the second head would, on a strict interpretation, be limited to the cost of food and raw materials, and would not extend to those 'other payments' which, under the Financial Priorities (Article 251) rank prior to Reparation among the various claims on the assets and revenues of the German Empire and its constituent States. Such 'other payments' must in practice be expected, if they are allowed at all, to diminish the amount available for Reparation by diminishing the total of actual payments that can be made by Germany to the Reparation Commission before 1921. Their effect would then be the same as if their deduction from the amounts actually paid were permitted by this clause. By allowing the use of assets and revenues for other purposes the Allied Governments would not merely be reducing the security pledged to the satisfaction of Germany's obligations towards the Allies, but would also be prejudicing the capacity of Germany to pay the amount demanded within a stated time. The balance of the bonds outstanding at the end of this period will tend to be increased by every concession, whether in the form of a deduction or of a permitted priority.

A certain amount of bonds will, however, be automatically cancelled—and a certain amount of reparation paid—by the mere execution of other portions of the Treaty terms.

13. *Credits to the Reparation Account.* Germany is to be credited in the Reparation Account with the value of certain assets which, under the territorial and economic conditions of the Treaty, are to be transferred to the Allies. By simply fulfilling the terms of the Treaty in regard to Alsace-Lorraine,

the Saar Basin, and the ports, waterways, and railways, Germany automatically discharges a part of her debt and thereby reduces the amount of the net balance to be found between the conclusion of Peace and 1921.¹ The Financial Clauses further provide that Germany is to be credited, at the discretion of the Reparation Commission, with the value of :

- (i) Material surrendered under the Armistice, apart from material of purely military value (Art. 250).
- (ii) Property of the German Empire or States situated in territory ceded by Germany under the Treaty—other than Alsace-Lorraine, territory ceded to Belgium (Art. 256), and territory ceded to a Mandatory (Art. 257).
- (iii) The value of rights and interests of German nationals in public utility undertakings which the Reparation Commission may compel the German Government to acquire and transfer (Art. 260).

Under Articles 252 and 297 (b) the balance of the private property of German nationals controlled by the Allied and Associated Governments, will also be credited to Germany in the Reparation Account, if anything remains over after the payment of private debts and other prior claims (Annex XIV § 4).

14. *Ships.* A certain specified portion of the balance then remaining to be paid is to be delivered by Germany in kind both before and after 1921. These payments in kind are governed for the most part by the Annexes to the Reparation Chapter. Annex III provides that the German Government will within two months of the coming into force of the Treaty deliver to the Reparation Commission, free of all encumbrances, charges, and liens of all kinds, all German merchant ships of 1,600 tons or more, half the merchant tonnage consisting of ships from 1,000 to 1,600 tons, and a quarter of the tonnage of German steam trawlers and fishing boats. As an additional part of Reparation (Annex III, 5) Germany is to lay down ships for the account of the Allied and Associated Governments for five years after the coming into force of the Treaty: the tonnage to be built in this way is determined by the Reparation Commission and must not exceed 200,000 gross tons a year.

¹ Articles 243 ; 58, 72, 74, &c. ; 50. Part XII.

15. *Coal.* Under Annex V, Germany contracts to deliver, if required to do so :

- (i) to France (par. 2) 7,000,000 tons of coal a year for 10 years, and for a period not exceeding 10 years an amount of coal equal to the difference between the annual production before the war of mines in the invaded departments and the actual production of those mines in the year in question (Art. 260). A protocol of August 29th 1919, fixes the monthly amount of this difference for the time being at 1,660,000 tons. France should¹ therefore receive about 27,000,000 tons in the first year after the Peace. Deliveries for December 1919, are said to have amounted only to 600,000 tons, and for January 1920, to about 497,400 tons.
- (ii) to Belgium, 8,000,000 tons annually for 10 years.
- (iii) to Italy, 10,500,000 tons up to June 1921, and an average of rather more than 8,000,000 tons annually thereafter until June 1929.

If the Reparation Commission by a majority decision determine that these deliveries would interfere unduly with the industrial requirements of Germany, the Commission is authorized (Annex V, 10) to postpone or to cancel the demand for such deliveries.

16. *Dyestuffs.* By Annex VI Germany accords to the Reparation Commission an option to require as part of Reparation the delivery of such quantities and kinds of dyestuffs and chemical drugs as the Commission may designate, not exceeding 50 per cent. of the total stock of each kind at the signature of Peace.

17. *Other Goods and Services.* Other parts of the Treaty provide for the delivery of reconstruction materials (Annex IV, 2, 6), benzol, coal tar (Annex V, 8), and for the physical restoration of invaded areas by German labour (Annex IV, 1). The value of all these goods and services will be credited to Germany in the Reparation Account. But in no case will credit be given for property restored (Art. 243), and the animals, machinery, equipment, &c., demanded under Annex IV, 2 and 6, do not

¹ The interpretation of this Protocol is at present in doubt. *Contemporary Review*, April 1920, pp. 557-68.

contribute to the satisfaction of Germany's Reparation obligations, in so far as the materials delivered can be identified as being the materials taken away by Germany.

18. *Estimate of the Balance Sheet up to 1st May 1921.* Any estimate of the practical effect of these provisions is necessarily hazardous, and can have only a very wide margin of accuracy. So far as can be seen at present, at least one-third of the first £1,000 millions payable by Germany will have to be used to meet the combined cost of the Armies of Occupation between the 11th November 1918, and the 1st May 1921, and the payments required for necessary food and raw materials. Of the remainder—say £650 millions—perhaps £100 millions will be automatically credited to Germany in the Reparation Account for cessions made under the Treaty. If all deliveries in kind demanded by the Treaty are punctually made—and some of them have already had to be abated—Germany may by this means pay off a further £250 millions by the 1st May 1921. The result would then be that by the strict fulfilment of specified demands Germany would have paid £700 millions, of which £500 millions would be available for reparation. A balance of £300 millions would remain to be paid 'in such manner as the Reparation Commission may fix', in order to complete the first instalment of £1,000 millions. It is safe to say that this balance of £300 millions would have to be met from other sources entirely than those already drawn upon for the payment of the first £700 millions. Gold, foreign securities, ships, coal, cattle, agricultural machinery, reconstruction materials, and in fact everything over which the Allies obtained a specific claim for Restitution or Reparation under the conditions of the Armistice and the Peace, would already have been applied to the meeting of such claims in quantities sufficient to ensure that no surplus was available from these sources before 1921. It was no doubt intended that a part of the balance should be met by marketing the bonds delivered by Germany to the Reparation Commission.

19. *Reparation after 1921.* If estimates of the practical working of the Reparation chapter even until the 1st May 1921, are difficult and problematical, it is scarcely worth while attempting to gauge the prospects after that date. It is enough to say that the whole of the aggregate award of the Reparation Commission is to be covered eventually by bonds,

and that all these bonds bear interest from 1921 onwards. But 'questions of determining the amount and conditions of bonds or other obligations to be issued by the German Government' (Reparation, Annex II, 13 (b)), require *unanimity* in the Reparation Commission, and the Commission has the right to vary the rate of interest (Annex II, 16). In general, it may be said that the powers of the Reparation Commission are of greater interest and importance than the precise terms or the remoter possible consequences of the financial parts of the Treaty as now drafted. The powers of the Reparation Commission are so wide as to give to the Terms an almost limitless elasticity.

20. *The Powers of the Reparation Commission.* The Treaty not only implies but definitely states that the Allied and Associated Governments have a general interest in ensuring that 'the industrial life of Germany be not so disorganized as to *affect adversely* the ability of Germany' (Annex IV, 4) to make reparation. The Commission is to take into account, even in regard to the preliminary acts of *restitution* required by the Treaty, 'such domestic requirements of Germany as it deems essential for the maintenance of Germany's social and economic life' (Annex IV, 4). It must give 'the *representatives* of the German Government an opportunity and a time to be *heard*'—and this implies more than an exchange of notes—even as to the capacity of Germany to replace what was taken from invaded territory, and (after the 1st May 1921) as to the resources and capacity of Germany in general (Art. 234). The Commission shall be required, if the German Government so desire, to hear, within a period which it will fix from time to time, *evidence* and *arguments* on the part of Germany on any question connected with her capacity to pay (Annex II, 9). It may extend the date and modify the form of payments to be made; and a Protocol to the Treaty leaves it to the German Government to remove all uncertainty as to the total volume of its eventual obligations by making to the Commission an offer for compounding the whole at an acceptable figure (Annex II, 10). The Commission 'shall not be bound by any particular code or rules of law or by any particular rule of evidence or of procedure, but shall be guided by justice, equity, and good faith (Annex II, 11)'. And on all questions relating to the interpretation of Part VIII of the Treaty (Reparation) the

Commission must be unanimous. 'The Commission shall in general have wide latitude as to its control and handling of the whole reparation problem' (Annex II, 12).

21. *Limits on the Discretion of the Commission.* These provisions give to the Reparation Commission power to adapt the Treaty to the needs and circumstances of the time in a broad and liberal spirit. Whether the force of opinion or of circumstances will compel the use of this prerogative of mercy may be a debatable question. But it is clear that the demands which the Commission has no authority to relax are comparatively limited. The Commission has no authority to *cancel* any part of the debt of Germany as determined under the Treaty: and it may not amend the Annex which lays down its own constitution and functions. But it may interpret this Annex, and a single dissentient in a question of interpretation can produce a deadlock for which no solution is provided by the Treaty. Arbitration can only be resorted to on the question whether a given case is one which requires a unanimous vote for its decision or not, and in a question of interpretation (which certainly requires a unanimous vote), a difference of opinion obstinately insisted upon would bring the Commission to a standstill. Though it may not remit any part of the *debt* it has a wide discretion, after 1921, in the question of *payment*. Paragraph 13 (c) and (d) of Annex II is susceptible of an interpretation which would give the Commission authority, by a majority decision, to postpone until 1930 any part of the payments falling due between 1st May 1921, and the end of 1926; and also to postpone from year to year, similarly by a majority decision, any payment falling due after that date.

22. *Sanctions.* The German Delegation's commentary on the Reparation Chapter represented the Commission as possessing in Germany incomparably greater rights than the German Emperor ever possessed. Their view was based upon the clauses giving to the Commission a power of supervision and control for the purpose of ensuring that the sums for reparation which Germany is required to pay shall effectively become a prior charge on all German revenues. The Commission, for example, is to examine the German system of taxation and to satisfy itself that that system is proportionately as heavy as that of any of the Powers represented on the

Commission (Annex II, 12*b*). Germany is bound to put into immediate execution without further proceedings any decision of the Commission (Annex II, 14), to supply all information which the Commission may require (Art. 240), and to pass and maintain in force any legislation that may be necessary to give complete effect to the provisions of the Reparation Chapter (Art. 241). If these and other powers of the Commission were or could be systematically abused, there are scarcely any limits to the arbitrary interference and control which the Commission could exercise in the affairs of Germany. But the possibility of ruthless or even of rigorous exercise of power by the Commission is dependent upon the sanctions provided by the Treaty. In case of default by Germany in the performance of any obligation, the Commission 'will forthwith give notice of such default to each of the interested Powers' (Annex II, 17), and may make recommendations as to the action to be taken. The measures which the Powers have the right to take in case of *voluntary default* may take any form that the respective Governments determine and are not to be regarded as acts of war (Annex II, 18). In other words the Reparation Commission has no means of enforcing any decision except by invoking the authority of Governments. In this way the actions of the Commission are ultimately made subject to the sanction of public opinion in the different Allied countries, and pressure can only be brought to bear on Germany by international action which would, in other cases, amount to an act of war, and would in this case be attended by the hurtful consequences resulting from a partial renewal of a war of reprisals. The practical limitations, which this form of sanction will impose upon the authority of the Commission, are obvious. Except by postponing the date for the evacuation of the left bank of the Rhine, the Allies can only enforce a demand which Germany resists if public opinion is prepared to support the Government in taking action, which must result in further diminishing Germany's capacity to pay, in further postponing the receipt of reparation payments, and in further prejudicing the prospects of a return to normal economic life and normal international relations. Such action would conflict with the expressed intentions of the Treaty to maintain 'Germany's social and economic life' and not to 'interfere unduly with the industrial requirements of Germany'. It may confidently be expected that,

except in the last resort, action of this kind would not be taken.¹

23. *Summary of Conclusions.* The logical structure of the Treaty, as regards finance and reparation, may now be summarized in outline as follows :

- (i) Germany accepts the moral responsibility for having caused all damage suffered as a consequence of the war.
- (ii) The Treaty specifies what portion of this damage is to become a financial liability of Germany.
- (iii) It does this by determining precisely what Germany shall pay *for* ; it does not determine in general how much Germany shall pay nor in what form her obligations are to be discharged.
- (iv) *How much* Germany is to pay in all, both by way of Reparation and on account of other Treaty claims, is left to the decision of the Reparation Commission.
- (v) The amount is to be determined by the Commission by valuation and addition of claims conforming to the different categories of damage for which compensation is due under the Treaty.
- (vi) In arriving at its decision the Commission will have no regard to the ultimate total nor to the capacity of Germany to pay this total.
- (vii) The decision is to be notified to Germany by 1st May 1921, after the German Government has been heard as to the admissibility and the valuation of particular claims.
- (viii) The Reparation Commission will also decide *when* payment is to be made, except that the equivalent of £1,000,000,000 must be paid as a first instalment within the period assigned to the Commission for arriving at its decision as to the total Reparation debt.
- (ix) *How* payment of the first £1,000,000,000 is to be made is also a question left to the discretion of the Commission.
- (x) *How* payment is to be made after the 1st May 1921, is left to the discretion of the German Government

¹ Since this was written, the occupation of Frankfort has raised the question of Treaty sanctions. The course of events has tended to confirm what is said here about the nature and value of these sanctions.

except as regards certain specified amounts to be paid in kind.

- (xi) The Commission has no discretion to abate its aggregate award for Reparation, when once it has been arrived at, except with the specific authority of the several Governments represented upon the Commission.
- (xii) But though it may not vary the Reparation *debt*, the Commission has a wide discretion over *payments*: it may extend their date and modify the form even of such payments as are required by the Treaty to be made in a specified way.
- (xiii) The sanctions by which the Commission is enabled to enforce its decisions are the ordinary international sanctions of force supported by public opinion. It has no special sanctions to support its authority against Germany.

CHAPTER I: SECTION V

GENERAL AND INTERNATIONAL CLAUSES (*continued*)

PART V

INTERNATIONAL COMMUNICATIONS POLICY EMBODIED IN THE TREATY

NOTE.—The references to the Articles are to the German Treaty except where otherwise stated.

1. *Comparison with Congress of Vienna.* The situation in January 1919, has been compared with that at the outset of the Congress of Vienna, 1814-15. It is therefore desirable to note the differences in the conditions as regards the transportation aspects. At the time of the Congress of Vienna the sole means of inland international communication, other than roads, consisted of international rivers. The Congress contented itself with laying down in Articles 108-116 certain general principles, leaving to subsequent conventions the settlement of the administrative régime of the principal rivers of Europe. On navigable rivers traversing or separating two or more states, the navigation along their whole course from the point where each of them becomes navigable to its mouth was to be entirely free and not prohibited to any one so far as commerce is concerned, subject to observing the necessary regulations which were to be alike for all and as favourable as possible to the commerce of all nations. The dues were to be regulated in a uniform and invariable manner, and drawn up and applied with a view to encouraging commerce and facilitating navigation. Each riparian state was to be at the expense of maintaining the navigable channel on its territory. The rivers were to be regulated by international commissions composed of representatives of the riparian states. The application of the above-mentioned articles has formed the subject of a great deal of controversy during the succeeding century, but their most liberal interpretation which has gradually been accepted

assures the liberty, equality, and continuity of navigation to all flags. The intentions of the Congress as regards the administrative régime of international rivers were only partially fulfilled.

During the century following the Congress of Vienna the rivers of international concern have greatly increased in number and cover the whole world. Irrigation, reclamation, hydraulic power, fishing, and other water rights have assumed a rapidly growing importance and have to be taken into account as well as navigation. The developments of artificial canals, railways, ports, telegraphs, telephones, and mechanical transport, not to mention flying, open up an enormous field which has never been reviewed as a whole from the standpoint of international right. Certain general understandings had, it is true, been arrived at before the War, in the form of established practice or even of specific conventions, but the conventional obligations were limited in extent, and certain notable exceptions existed to the generally accepted standards, such as, for example, the control of German transmigrant traffic by German steamship companies. Moreover, in the demoralization resulting from the War there was no guarantee that after a complete break of five years the pre-war standard of transportation ethics would be recognized.

2. *Nature of Problems to be Solved.* The transportation situation which had to be resolved by the Treaties of Peace was therefore one of great complexity. This was not only due to the natural technical difficulties of framing conditions safeguarding in the future an enlightened régime of international communications, but also to the special problems arising out of the vast and simultaneous changes in practically all the frontiers of Europe. The new landlocked, or nearly landlocked, states of Austria, Hungary, Poland, and Czecho-Slovakia had been created, the latter country having to cross two frontiers to reach its pre-war national ports on the Adriatic. Serbia, expanded to Yugo-Slavia, is no longer landlocked, though old Serbia will continue to be chiefly dependent on its pre-war outlets. The necessity for assuring access to the sea of states wholly or partly separated from the seaboard was self-evident. The creation of new states, whose national interests would inevitably tend to a considerable upheaval of the economic conditions obtaining before the War, was likely in many cases to result in fundamental changes in the

direction and intensity of international traffic. It was therefore necessary on the one hand to give reasonable time for the new régime to crystallize, while shielding it as far as possible from adverse influences directed to political ends, and on the other hand to minimize the real risk of common economic loss resulting from too sudden changes, and to ensure the necessary co-ordination between the separate parts of previous economic units. Finally there was the necessity during the period of reconstruction of safeguarding certain Allied interests from competition and granting them special temporary facilities.

3. *Formation of Ports, Waterways, and Railways Commission.* About the middle of January 1919, proposals were circulated by the secretariat-general of the Peace Conference for the formation of committees to deal with (a) the international navigation of rivers (Rhine, Danube, Elbe, Scheldt, Vistula), and (b) international railways, with specific reference to the railway on the 45th degree of latitude, communications from the Adriatic to the Baltic, the Bagdad railway, and the trans-African railways, Cape to Cairo and Cape to Algiers. On the 24th January the British Delegation proposed that an inter-allied committee should be established on transit and transport, and that this committee should deal, either itself or through sub-committees, with questions of freedom of transit, international rivers, aerial navigation, and railway routes of international interest. It was also suggested that this committee should deal with questions affecting roads of international interest, and that the bearing on transport policy of territorial adjustments should be referred to the committee before final decisions were taken on territorial questions.

At its plenary session on the 25th January, the Peace Conference decided to appoint a Commission to inquire into and report on the international régime of ports, waterways, and railways, this Commission to be composed of fifteen members, two for each of the Great Powers (U.S.A., British Empire, France, Italy, and Japan), and five elected by all the Powers with special interests. At a meeting of the latter Powers, held on the 27th January, Belgium, China, Greece, Serbia, and Uruguay were chosen to nominate each one representative, and after the first meeting of the Commission, it was decided to add delegates from Poland, Portugal, Rumania, and Czecho-Slovakia.

4. *Composition of Commission.*

As a result of the nomination of representatives by each of the states concerned, the composition of the Commission was as follows:—

Composition of Commission on the International Régime of Ports, Waterways, and Railways

United States of America :

- Hon. Henry White (former United States Ambassador Extraordinary and Plenipotentiary at Paris and Rome).
- Mr. David Hunter Miller.
- Mr. Manley O. Hudson (Professor of Law at the University of Missouri), (alternate).

British Empire :

- The Hon. Arthur L. Sifton, P.C. (Minister of Customs and Inland Revenue of Canada).
- Sir Hubert Llewellyn Smith (Permanent Secretary to the Board of Trade).
- Brigadier-General H. O. Mance, Director of Railways, Light Railways, and Roads, War Office (alternate) subsequently replaced the Hon. A. L. Sifton.

France :

- Mr. Claveille (Minister of Public Works and Transport).
- Mr. André Weiss (Jurisconsult of the Ministry of Foreign Affairs).

Italy :

- Mr. S. Crespi (Minister of Supplies).
- Mr. G. de Martino (Minister Plenipotentiary, Secretary-General of the Ministry of Foreign Affairs).

Japan :

- Mr. Adatei (Japanese Envoy Extraordinary and Minister Plenipotentiary at Brussels).
- Colonel Sato (Military Attaché of Japanese Legation at Berne).

Belgium :

- Mr. Segers (Minister of State).
- Mr. de Visscher and Mr. Hostie (alternates).

China :

- Mr. Chengting-Thomas-Wang (former Minister of Commerce and Agriculture)
- Mr. Chin-Chun-Wang (Managing Director of the Peking-Hankow Railway) (alternate).

Greece :

- Mr. Coromilas (Envoy Extraordinary and Minister Plenipotentiary of Greece at Rome).

Poland :

- Mr. C. Kasperski (Professor at College of Commerce at Warsaw) subsequently replaced by :
- Mr. Joseph Gieysztor (Chief of Department, Ministry of Railways).

Portugal :

Count de Penha Garcia (former President of the Chamber of Deputies and former Minister of Finance), subsequently replaced by :
Colonel Norton de Mattos (former Minister for War).

Rumania :

Mr. N. Misu (Rumanian Envoy Extraordinary and Minister Plenipotentiary at London).
Mr. N. Stefanescu (Engineer-Inspector-General, former Director of River Navigation of the Rumanian State) (alternate).
Mr. Caracostea (Engineer-Inspector-General) (alternate).

Serbia : (Serb-Croat-Slovene State)

Mr. A. Trumbic (Minister of Foreign Affairs).

Czecho-Slovak Republic :

Mr. C. Kramar (President of the Council of Ministers), subsequently replaced by Dr. Beneš.

Uruguay :

Mr. Juan Carlos Blanco (Envoy Extraordinary and Minister Plenipotentiary of Uruguay at Paris, former Minister of Public Works).

5. *Early Procedure of Commission, Consideration of General Conventions.* The Commission, which was known as the 'Commission on the International Régime of Ports, Waterways, and Railways', first met on the 3rd February, and after the necessary formalities proceeded to discuss the general procedure. On the recommendation of the British and French Delegations, the Commission unanimously decided that before examining the conditions which should be laid down for specified rivers, ports, and railways, it was desirable to lay down general principles relating to freedom of transit, and rules for the general regulation of international waterways and railways, and ports of international concern. With this object in view, two sub-commissions were formed, the first consisting of ten members, charged with the duty of drawing up a draft relating to freedom of transit, and the other, consisting of nine members, with the duty of drawing up draft regulations regarding rivers, ports, and railways. Draft general conventions were submitted as follows :

Freedom of Transit. By the British Delegation.

International Rivers. By the British and French Delegations.

International and Free Ports. By the French and British Delegations respectively.

International Railways. By the French Delegation.

In addition to these draft conventions, which involved a considerable amount of preliminary work by the respective

delegations, the conference was indebted to the French Delegation for the circulation of valuable reference papers, more particularly on the subject of the Rhine and the Danube, and to the British Delegation for undertaking a large amount of spade work in preparing information and drafts on both general and special questions prior to discussion by the Commission.

The procedure adopted in considering the draft general conventions was to start with a discussion on general principles, followed by a debate on the various articles, which served to bring out, and in many cases to adjust, the differences in views of the various delegates. This general discussion was followed by a detailed examination by drafting committees, who were in a position to present drafts relating respectively to freedom of transit, international rivers, and international ports.

6. *Diversion from General Conventions to Articles of Preliminary Treaty of Peace.* About the middle of March it became necessary for the Commission to concentrate on the preliminary Treaty of Peace with Germany, and in view of the large number of special cases to be considered it was found essential to suspend for the time being action on the above general conventions as such. Had it been possible to complete the work on the general conventions, and secure their adoption by the Allied and Associated Powers, subsequent discussion on the articles for the Treaty of Peace would have been simplified, and the form of the articles might have been much improved by consisting of the general conventions applicable to all the signatories, subject possibly to certain temporary exceptions, followed by the addition of special articles which were in any case necessary. As it is, a considerable number of articles were adopted *en bloc* from the draft conventions, thereby saving a large amount of discussion. On the other hand, the railway clauses of the Treaty of Peace, which were, however, possibly more complicated, were the subject of extended discussions owing to the lack of predetermined general formulae, and it was not found possible to separate the permanent provisions from those which could evidently only be regarded as transitory.

7. *Adjustment of Conflicting Views.* In considering the transit and transport articles for the Peace Treaty, the Commission had to deal with a large number of claims from individual nations, and among these claims it was natural that a proportion should be in conflict either with the above general

principles or with the interests of other allies. As the members of the Commission got to understand each other's point of view, it was found possible to reconcile or arrive at an agreement on all these conflicting claims. Gradually it became recognized that deviations from the general principles previously arrived at would only be accepted by the Commission if and to the extent that they were proved to be necessary for the special needs—reconstruction, access to the sea, etc.—for which exceptional treatment had been reserved. In certain cases, after reducing to its simplest expression the object which it was desired to attain by a particular draft article which had been submitted, a satisfactory solution in conformity with the accepted general principles was arrived at as a result of the labours of informal sub-committees of technical experts, and in a few residual instances the possible clashing between the interests of the Allies was adjusted by the withdrawal of certain claims and compromise on others.

8. *Submission of First and Second Reports.* Work was pressed forward, and on 7th April the first report of the Commission was submitted, accompanied by 61 articles, all unanimously agreed to, and although this first report assumed that the articles would be inserted in a preliminary Peace Treaty, very little would have remained to be added in the final Treaty. Subsequently, however, it was decided that there should be only one Treaty, and the Commission therefore submitted a further report on 25th April. The drafting of some of the original articles had been improved, and certain additions made to complete them, the total number of articles accompanying the report being 64, all of which had been unanimously agreed to by the Commission. Considering that fourteen Powers were represented on the Commission, this fact may be regarded as a remarkable achievement and a happy augury for future international relations in matters of transit and transport.

9. *Temporary Employment of Expressions 'A' and 'B' States.* In view of the fact that some of the new States had not been officially recognized as such, and to avoid long references to specific allied or enemy powers, it was decided at an early stage that the draft articles should throughout employ the abbreviated expressions 'A' States, meaning powers regarded as allied or associated powers at the time of the signature of the preliminary Peace Treaty, and 'B' States, meaning the re-

maining signatory powers. In this way certain awkward discussions were avoided, as the possible difficulties had ceased to exist by the time the final draft of the treaty was prepared.

10. *Consideration by Supreme Council of Articles in German Treaty, the German Observations, and the Allied Reply.* The draft articles regarding ports, waterways, and railways were considered by the Supreme Council on 26th April, and were adopted, with one or two modifications agreed to by the French representative who was principally concerned. The most important of these alterations was an undertaking by the French Government to pay to Germany either in money or in power the net value of half the water power developed by the French Government on the section of the Rhine where it forms the boundary between France and Germany.

The underlying motifs of the German observations, which were submitted on 29th May 1919, were, firstly, complaint as to interference with the sovereign rights of Germany, and, secondly, the claim that Germany should not be asked to subscribe to any engagements except on a basis of immediate reciprocity.

A further report from the Ports, Waterways, and Railways Commission to the Supreme Council on the 9th June, in reply to the German observations regarding the Peace Treaty, is of value as indicating the underlying principles which, in its own view, had guided the Commission in its labours. Briefly it was claimed that Part XII of the Conditions of Peace secured, on German territory, that freedom of communications and equal treatment for all nations, which is referred to in Article XXIII (e) of the Covenant of the League of Nations. Pending future general conventions of wider application, under the League of Nations, the enemy States were to observe the essential provisions of such general conventions, an obligation which was non-reciprocal for a limited period in order to prevent Germany from profiting from the devastation and ruin for which she was responsible. There was no intention of preventing the legitimate use by Germany of her economic independence, but it was proposed to prevent the abusive use thereof by obstructive procedure and for political reasons, and particularly to secure the necessary guarantees that the new landlocked States should not have gained their political independence only to fall once again under the economic tutelage of Germany. Certain specific observations

were more fully dealt with in explanation or justification of the intentions of the Allies. Apart from certain drafting improvements, the granting of increased German representation on the International Commission for the Oder,¹ and the modifications affecting the Kiel Canal referred to below, the concessions made to the Germans, in reply to their observations, amounted to the deletion of an article imposing temporary obligations regarding competitive railway traffic, on the utility of which there had been some divergence of opinion in the Commission; the admission of German representatives, though without voting power, to the future conference on the permanent régime of the Danube; the withdrawal of the proposal for the international administration of a deep draught Rhine-Danube navigable waterway, if constructed during the next twenty-five years, and the substitution of a stipulation providing for its becoming an international waterway whenever constructed (353); and the withdrawal, except in one small instance, where the cost is to be borne by Czecho-Slovakia (373), of the right of certain Allied States to require the construction of specified railway lines in Germany.

11. *Kiel Canal* (380-386). The future transport régime of the Kiel Canal and the question of its fortifications was referred to a joint committee of the representatives of the five principal powers on the Ports, Waterways, and Railways Commission, together with naval experts. The main question to be decided was whether the canal should be controlled by an international commission or left to the German Administration to operate. A compromise was adopted providing for administration by the German Government, who, however, are required to maintain a local organization for dealing promptly with any complaints, and for the institution of an international commission should the League of Nations consider this necessary.

It may here be observed that this last stipulation was subsequently withdrawn.

12. *Transportation Aspects of Frontier Questions*. Unfortunately, the importance of referring transportation aspects of questions not primarily affecting communications, such as frontier delimitation, was not sufficiently recognized for these questions to be referred to the Ports, Waterways, and Railways Commission except in special cases, and it was frequently left

¹ Such representation did not prevent Germany from being in the minority.

to the vigilance of the transportation representatives of the various delegations to identify such questions in time for the technical transportation aspects to be taken into consideration by the appropriate territorial commission. For a variety of reasons the 'transportation frontier' could not always be adopted. The communications clauses inserted in the treaties with the new States were, however, drafted as a result of joint sittings of political and technical experts, and were based on the principles of the Peace Treaties.

13. *Co-ordination with Supreme Economic Council.* There was no official liaison between the activities of the Ports, Waterways, and Railways Commission and those of the Communications Section of the Supreme Economic Council, except through the British, and later also the Belgian representatives, who belonged to both organizations. The respective functions of these two bodies were, however, sufficiently defined to render the avoidance of clashing between them comparatively easy in the circumstances.

14. *Suggestion to maintain Uniform Text in all Treaties.* In submitting their report of 25th April, the Commission pointed out the importance of treating as a whole the ports, waterways and railways articles, which had been drafted having in view all the enemy powers, and suggested that the text of the articles should be introduced in each of the treaties as an annex to an article to the effect that the enemy State concerned would assure their application as far as it was concerned. This recommendation was, however, not adopted.

15. *Austrian and Hungarian Treaties.* It therefore became necessary to prepare separate drafts for the treaties with Austria and Hungary, and to delete from the German Treaty the articles which did not concern that country. These modifications as regards Austria and Hungary were first submitted in a report, dated 12th May, and an additional article regarding freedom of transit for telegraphic and telephonic communications, which had not been inserted in the treaty with Germany, was added on the 18th June. A further special feature of the treaties with Austria and Hungary is the article in each case guaranteeing access for those States to the Adriatic. The concessions granted to Germany in reply to her observations were similarly adopted for the Austrian and Hungarian Treaties. The same procedure was adopted in a report of 21st June, covering the

draft articles for insertion in the Treaty of Peace with Bulgaria. In further discussions regarding the Treaties with Austria, Hungary, and Bulgaria, certain additions and modifications were adopted, which were included in all these treaties. The principal modifications affected the arrangements for the repartition of the river craft on the Danube, which, owing to that river having been the theatre of military operations, possessed certain complex features not existing on other rivers.

16. *Sudbahn*. Reference should be made to a report, dated 24th June, regarding the southern railways of Austria (*Sudbahn*) in which the Commission failed to reconcile the conflicting views of France and Italy, but a complete agreement was subsequently arrived at before the Supreme Council (Austria 320).

17. *Reply to Austrian Observations, important Modifications as compared with German Treaty*. In reply to the observations of the Austrian Government, the functions of the Provisional Commission for the Upper Danube were further defined, and it was decided, at the suggestion of the American Delegation, that the administration of the Cataract Navigation service should be entrusted to this Commission, pending the decisions of the Conference to settle the permanent régime of the Danube. The extensive alterations to the frontiers necessitated a special provision regulating the arrangements at the new frontier railway stations. In view of the definition of the international portion of the Danube river system not having included those tributaries or portions of tributaries which only served one State, it was further arranged that any excluded portions might be declared international with the consent of the riparian States concerned. The report dated 13th August, covering the draft reply to the Austrian observations, brought out a fresh point of considerable importance. Austria in her reply claimed firstly that she was in a very different position from Germany, as regards the measures necessary to ensure the reconstruction of the neighbouring allied States by means of non-reciprocal general clauses, and further, that the territories which were being transferred from the old Austro-Hungarian Empire should not be placed on the same footing with regard to such clauses as the original territories of the powers which had been at war with the late Austro-Hungarian Empire. The first point was met by reducing the period during which a certain number of general articles were non-reciprocal to three instead of the

five years in the case of Germany. The second point had a far wider bearing than purely transportation questions, and in conformity with a general decision as to policy it was agreed that the new States or portions of States lately forming part of the Austro-Hungarian Empire could not claim the fulfilment of the stipulations in these articles without granting reciprocal treatment. Austria signed the Treaty on 10th September.

The concessions and the revisions to the original draft Austrian Treaty were embodied in the draft treaties for Hungary and Bulgaria as far as they applied.

18. *Reply to Bulgarian Observations.* In a short report, dated 29th October 1919, the Commission pointed out that no new circumstances had been brought to light in the Bulgarian observations which justified any alteration of the articles. Bulgaria signed the Treaty on 27th November 1919.

19. *Hungary.* The Ports, Waterways, and Railways Commission was re-assembled in March 1920 and submitted a report on the 16th of that month with reference to the Hungarian observations on Part XII of the Peace Treaty. These observations were largely founded on the claim that pre-war Hungary was an economic unit which should not be broken up—a general question which was beyond the competence of the Commission. With one important exception the points raised were either based on a misunderstanding of the Treaty or were analogous to those which had already been fully considered in the replies to Germany or Austria. As all the concessions which it had been found possible to make to these latter countries had already been embodied in the Hungarian Treaty no further alterations were agreed to. The important exception referred to above related to a series of important Memoranda on the Hydraulic Régime of the Middle Danube Basin in matters outside the competence of the International Danube Commission, e. g. irrigation, reclamation, water power, hydro-metric services including warnings of floods, navigation on National Waterways, and the correlated question of forestry. The existing situation as regards these questions had already been provided for in Article 293 of the draft Hungarian Treaty (equivalent to Austria 309), but the Hungarian Government urged the creation of an International Commission with extensive representation not only to execute the provisions of Article 293 but to control all future developments and divide

the benefits between the States of the Middle Danube Basin irrespective of the new frontiers. The Commission recognized, however, that while the preservation of existing Water Rights was an essential feature of the Treaty and might with advantage be entrusted in the special circumstances to an International Commission with wide functions, the inception of new schemes for future development should be a matter of agreement to which the State territorially interested is a party. It was therefore agreed to constitute a Commission with representatives of each of the States comprising part of the Old Hungarian Monarchy, and a president designated by the League of Nations. This Commission was to supervise, and in case of necessity assure the execution of the agreements provided for in Article 293. It was charged with maintaining and improving the unity of the hydraulic régime and of the services connected with it, including fisheries and navigation questions other than those within the competence of the Danube Navigation Commission with which it would keep in close touch. It was also authorized to undertake the preparation and execution of any new works or services which might be entrusted to it by unanimous agreement between the States concerned. The Commission was charged with framing its own procedure subject to ratification by the various States, and all disputes were to be referred to the League of Nations. Very serious results of unco-ordinated administration, exemplified as they have been by the results of the lack of proper attention during the last few years, render the Middle Danube hydraulic régime a promising field for the above machinery for international co-operation.

20. *Discussion of General Conventions resumed.* After completing the articles for insertion in the Peace Treaties with all the enemy powers except Turkey, the Ports, Waterways, and Railways Commission resumed consideration of the question of general conventions. As early as 9th May, a Delegation from the Swiss Government submitted an important statement on the subject of international right in questions of transit and transport, including a reference to freedom of innocent transit in time of war. At the same meeting a Note was submitted by the British Delegation reopening the question of general conventions, and recommending that the Commission should endeavour to conclude world-wide transit and inland transport conven-

tions, to which all members of the League of Nations would be parties. It was pointed out that the early conclusion of general conventions was of importance in connexion with the principal rivers of Europe, as the provisional régimes laid down in the Peace Treaty would be thereby eliminated. The British Delegation submitted that there was no intrinsic reason why world-wide conventions should not be agreed upon to establish the fundamental principles of freedom, equality, and continuity in the international régime of transit and waterways, and to a large extent of ports and railways, while maintaining a careful distinction between questions of international right and obligation, and questions of administration. The importance of taking advantage of the prestige of the Conference which had founded the League of Nations, and of the experience and cordial relations of the members of the Ports, Waterways, and Railways Commission, was emphasized. The American representative explained that his delegation had not available the special experts required to deal with the question of general conventions, and it would be necessary for the American Government Departments concerned to be more directly represented in dealing with the subject which, in his opinion, did not come within the scope of the Conference. At his suggestion, it was decided that a further decision should be sought from the Supreme Council of the Allies as to the advisability of the Ports, Waterways, and Railways Commission continuing the discussion of these conventions. Ultimately, in a letter dated 1st July, the American delegate on the Ports, Waterways, and Railways Commission informed the President of the Commission that the United States Government was not prepared to enter at that time into a consideration of conventions of world-wide application covering transit and waterways, and suggested that the drafting of such conventions could more properly be undertaken by the appropriate agencies of the League of Nations.

21. *General Tendencies affecting Future Developments as regards General Conventions.* In considering the question of General Conventions, as also in the discussion on many of the specific articles before the Commission, the shades of opinion advanced varied from complete internationalization on the one hand to repudiation of any proposal which effected the slightest limitation of national sovereignty on the other hand. It was

suggested that there would be difficulties in making general conventions applying to various parts of the world the same régime, owing to the difference in the geographical problems. The discussions on this point brought out the fundamental difference between questions of international right, such as of the navigation of international rivers or of freedom of transit and questions of international administration. Generally speaking, apart from international rivers, where physical considerations may render a certain measure of international administration essential, especially where there are several riparian States, the general trend of opinion was against international administration except in very special cases where political considerations rendered it inevitable, and then only in virtue of agreements to which the State or States territorially interested are parties. A most important development was the general acceptance of the principle of compulsory arbitration by the League of Nations for all disputes arising out of the Peace Treaties on transportation questions and the inclusion of the same principle in the draft General Conventions. Transit and transport questions are particularly susceptible to arbitration, and it may well be hoped that the experience gained by the successful application of the principle to transportation questions may create a valuable precedent for its extension to other matters. At the stage to which General Conventions were carried by the Ports and Waterways Commission, the outstanding differences were not such as to create insuperable difficulties in arriving at an agreed text.

Events have, however, justified the view of the American delegates as to the impracticability of embodying in the Treaties international agreements which were a wide departure from any previous experience in American foreign relations, and for which, therefore, they felt that the American nation were not well prepared, quite apart from the intrinsic merits of the proposals. It was this same feeling which precluded American participation in some of the more important European river commissions, notwithstanding the cordial invitation of the interested Allied riparian States.

ARTICLES AFFECTING INTERNATIONAL RIVERS 107

RÉSUMÉ OF SOME OF THE SPECIAL PROVISIONS

Articles affecting International Rivers.

22. (i) The following international rivers are dealt with specifically in the treaties under review, Elbe, Oder, Niemen, Danube, with certain of their tributaries included in a general definition, and the Rhine. It will be noted (331) that the general definition referred to only comprises navigable tributaries themselves serving more than one state, and excludes the portion of such tributaries situated above the last frontier. On the other hand this definition can be expanded under Article 338 to conform with any future general convention, and as regards the Danube additional sections of tributaries can be included by agreement at any time (Austria 291).

(ii) Except for the latter part of Article 332, the provisional charter for the first four rivers (332-337) does not impose any obligation which is not equally accepted by all the contracting parties, and this also applies to the navigation provisions of the Rhine.

(iii) On the above rivers the administration will, or, in the case of the Niemen, may be controlled by international commissions on which non-riparian States will be represented. These provisions had been strongly criticized in the German observations, and were dealt with fully in the Allied reply, which pointed out that the rivers in question were already international as defined by the Congress of Vienna and by later conventions, that the general canal system of Germany was not affected as alleged, that the powers of the Commissions in each case extended to the territory of at least one of the Allied and Associated Powers, that the functions of the Commissions are limited to the practical application of the principles laid down in Articles 332-337, this being in accordance with all precedents, and finally that the non-riparian States were expressly included in the general interest of freedom of navigation and to act as a check on the strongest riparian State abusing her predominating influence to the detriment of others.

(iv) In the case of the Danube, the European Commission which is one of the conspicuous instances of the successful working of an international body, has been revived, with a provisional limitation of membership to Great Britain, France,

Italy, and Rumania (346). At the same time a second Commission has been formed for the whole of the Danube, and the tributaries referred to, above the sphere of the European Commission, this Commission replacing five independent pre-war administrations (347, 348). This second Commission takes over the administration of the cataract section previously carried out by Hungary. As it was felt that the whole question of the Danube was too complicated to settle definitely at such short notice, it has been provided that a conference of certain Allied and Associated Powers will take place within twelve months to determine the permanent statute of the Danube (349). Representatives of the enemy States may be present at this Conference.

(v) As regards the Rhine two neutral riparian powers are involved, and an understanding will be necessary, especially with Holland. Delegations from the Dutch and Swiss Governments were heard by the Commission. The Mannheim Convention, which is, on the whole, an extremely liberal one, has been provisionally maintained, subject to certain modifications necessary to assure equality of treatment to all flags (354, 356), and to important alterations in the composition of the Central Commission, both by the inclusion of several new States and by according unequal numbers of votes to the States (355). Except, however, in certain matters mentioned in the Treaty in which Germany is obliged to confirm the decisions of the Commission, the varying number of votes has a moral rather than a practical significance in view of Article 46 of the Mannheim Convention, under which the decisions of the Central Commission are only valid after the approval of the respective Governments. France is given the exclusive right to construct 'lateral' canals and to develop the water power from the Rhine where it forms her frontier, also to improve the navigation above Mannheim, but the interests of navigation are amply safeguarded, and Germany will receive half the net value of the power obtained (358, 360). The sphere of the Commission can be extended in certain circumstances to the Moselle, to the Rhine above Basle, to lateral canals, and to further tributaries if covered by a future General Convention.

(vi) *Rhine-Meuse Canal.* Provision is made for the construction of a Rhine-Meuse Canal, at the request of Belgium, under equitable conditions for sharing the cost of construction,

the administration to be under the Central Commission of the Rhine (361).

23. *Equitable Readjustments resulting from Territorial Changes.* An important series of clauses, designed to facilitate the resumption of normal conditions, is based on the principle of equity in the adjustment of questions such as (a) the re-distribution of rolling stock and river craft and installations, resulting from territorial changes, and from the conversion by the enemy States of the gauge of some of the Polish railways; and (b) the working of certain railways intersected by the new frontiers (339, 357, 371, 372, see also Austria 300).

24. Freedom of transit to the Adriatic is accorded to Austria and to Hungary (Austria 311).

25. *Hydraulic Régimes, Telegraphs, Telephones, Electricity.* In addition to dealing with ports, waterways, and railways, the Commission was at a later date called upon to submit articles referring to international telegraphic and telephonic communication; to hydraulic systems cut by the new frontiers; and to electricity and domestic water-supply in cases where a new frontier separated the source of production from the consumers.

The telegraphic and telephonic clauses are framed to accord continuity of the facilities for transit messages and to bring this under compulsory arbitration in the case of differences, as these points are not covered by the existing telegraph and telephone conventions. Certain stipulations were necessary to prevent increased charges which might, under the present agreements, have resulted from the territorial changes.

These latter stipulations are subject to modification by agreement, or after ten years by arbitration (Austria 311, 326, 327).

The Hydraulic Clauses (Austria 309, 310) are of great importance owing to the new frontiers having in several places cut across considerable hydraulic systems (canalization, irrigation, reclamation, etc.) on which the economic life of the territories depends. It is essential that existing water rights and obligations in both parts of such systems should be preserved and that every facility should be accorded for the joint regulation of such systems to avoid loss to all parties which will result if they are not treated as a whole. The same observations apply to areas which are cut off by the new frontiers from installations hitherto

supplying them with water for domestic purposes and with electricity. The special provisions in the case of Hungary are dealt with in paragraph 19 of this Part.

26. *Railway Tariffs to Adriatic Ports.* An important transitory provision (last para., Austria 312) provisionally maintains the existing régime of tariffs to the Adriatic ports, thus giving time for the best arrangements possible to be made to safeguard the interests of these ports under the new conditions.

27. *Railway Running Powers for Czecho-Slovakia.* Running powers under equitable conditions have been provided for Czecho-Slovakia over certain Austrian and Hungarian railways. The articles providing for these powers (Austria 322-324) form a good illustration of the principle adopted, whenever possible, of making clear the intention of the stipulations, leaving the details to be settled in agreement by the technical administrations concerned subject to arbitration on any points of difference.

28. *Transitory Facilities for Transport.* Article 375 provides for the necessary facilities being accorded for the diverse objects of

(1) The movement of troops and military stores resulting from the Treaty.

(2) The measures taken by organizations such as the Supreme Economic Council for the restoration of normal conditions in Central Europe.

29. *Revision of Transitory Stipulations. Future Reciprocity.* In order to safeguard the interests of States during reconstruction from the effects of the War and during the transition period of the new conditions, certain stipulations of a transitory nature were imposed. For various reasons it was found impossible in some cases, notably in certain general articles affecting railways, to separate or even to distinguish between the provisions which should govern the permanent relations between the signatories of the Treaty and the stipulations imposing transitory obligations on the enemy in favour of the Allied and Associated Powers. It was, moreover, felt that certain provisional stipulations which might at first appear to be onerous, would as the result of a trial be found to be mutually advantageous. With the object, therefore, of continuing provisions of proved utility with such modifications as experience might have shown to be justified in the common interest, an article was framed (a) permitting the revision of certain articles

by the League of Nations at any time after five¹ years, (b) failing such revision the benefits of the stipulations in these articles after five years, or such longer time as the League of Nations might prescribe, can only be claimed if reciprocity is accorded in respect of such stipulations (378).

30. *Revision of Articles referring to a Permanent Administrative Régime.* A further degree of flexibility was attained by an article providing that the League of Nations might recommend at any time the revision of any article relating to a permanent administrative régime (377).

31. *Disputes referred to League of Nations.* Attention has already been drawn to the importance of Article 376 which refers all disputes with regard to the interpretation and application of the preceding articles to the League of Nations.

32. *Revision to conform to future General Conventions.* Care was taken that on all general questions the stipulations—after the temporary period of non-reciprocity—should not stand in the way of more general arrangements arrived at through subsequent general conventions, whether entered into between the Allied and Associated Powers, in the first place, or through the auspices of the League of Nations. For this reason it was stipulated that the Central Powers should subscribe to such general conventions as might be agreed to with the approval of the League of Nations within five years of the coming into force of the Treaty (379).

In the case of the various river régimes, it was expressly stipulated that any general convention approved by the League of Nations would supersede the provisions of the Peace Treaty (338, 343), and the stipulations in Articles 377 and 378 between them would render possible the revision of any of the other articles which may be found to clash with general conventions.

33. *Transit and Communications in War.* It will be noted that there is no reference in the general transportation clauses of the Peace Treaty, to the international transit and transportation rights of neutrals or belligerents in case of war. The subject was not lost sight of in the discussions, but as it early appeared that the stipulations regarding transit and transport could not affect the rights and duties of neutrals and belligerents in time of war, it was not considered necessary for the Ports, Waterways and Railways Commission to deal with this question.

¹ Three years in the case of Austria, Hungary, and Bulgaria.

34. *Judgment on Result.* The transit and transport clauses of the Peace Treaties will be judged in the future by the standard set in the treaties themselves in Article XXIII (e) of the Covenant of the League of Nations, which reads as follows :

‘ Subject to and in accordance with the provisions of international conventions existing and hereafter to be agreed upon, the Members of the League.

(e) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connexion the special necessities of the regions devastated during the War 1914-1919 shall be borne in mind.’

The combined product of a number of delegations, whose outlook varied with national temperament and circumstances, is obviously not the ideal exposition of the views of any one of them. Nevertheless it is believed that in the light of the circumstances briefly indicated in the above review, the verdict will be that the section of the treaties dealing with transit and transport is a consistent whole which is founded on the principle of the greatest possible freedom of transit and communications ; that such derogations of this principle as were admitted to meet temporary conditions are transitory, and that these intentions of the framers are reflected in the stipulations assuring the flexibility necessary to enable the articles to conform, in the future, with altered conditions or to eliminate any features, which as a result of experience may be generally recognized as being contrary to the spirit of the League of Nations.

CHAPTER II: SECTION I

THE PRINCIPLES—APPLIED TO GERMANY

PART I

THE MILITARY OCCUPATION OF GERMANY

1. *The Campaign of 1918.* In the winter of 1917-18, after the collapse of Russia and the Italian defeat at Caporetto, the military situation of the Central Powers had improved considerably. It looked as if the War might well end in a stalemate, with German, Austrian, and Bulgarian armies in occupation of wide stretches of Allied territory. There was, however, the danger of an economic collapse; the German people were tired of the War, and had been suffering severely from the blockade for three years: their allies were still more war-weary, and could only be kept going by German military successes and promises of an early and victorious peace. It was certain that, if the immense resources of the United States were allowed to come into full play, the Central Powers must eventually be defeated. Everything depended, therefore, on forcing the European Powers of the Entente to conclude peace before America's full strength could be developed.

Under the influence of these considerations, and with full confidence in the power of the submarines to prevent the arrival of American reinforcements in sufficient force to weigh down the balance, the German Supreme Command determined to undertake an offensive on the Western Front in the early spring of 1918, which was to crush the Franco-British Armies and to force the Entente to acknowledge defeat. For four months the result was in doubt, until Marshal Foch's counter-stroke on the 18th July finally arrested the German offensive. The great British victory on the 8th August was the death knell to enemy hopes, and enabled the Allied armies to begin their advance, which soon became almost general along the whole line from Lorraine to the North Sea, and, after three months' desperate fighting, resulted in the defeat of the German Armies on the entire front of attack. Meanwhile, Germany's allies had

collapsed like a pack of cards, and, by the beginning of November, had all surrendered practically unconditionally. The defeat of the German Armies, the utter exhaustion of the German people, and the hopelessness of further resistance brought about a German revolution early in November, and forced them to sign the Armistice on the 11th November 1918.

The above short sketch should enable the reader to appreciate the actual conditions present at the time of the Armistice.

2. *Objects of the Armistice of 11th November.* The complete collapse of Germany, both military and political, enabled the Entente to dictate her own terms to the enemy, who was powerless to resist and would have been forced to accept any conditions, however severe.

The main objects of the Armistice were :

- (a) To prevent all possibility of a renewal of the War by Germany.
- (b) To place the Allies in a position to impose their will on Germany.

Under the terms of the Armistice, Germany was deprived of all power of effective resistance by the cession of so large a proportion of her guns, machine guns, trench mortars, and aeroplanes, as to place her in a position of hopeless inferiority. Further, Germany was compelled to hand over 5,000 locomotives, 150,000 railway waggons, and 5,000 motor lorries, which entirely crippled the mobility of her armies. Finally, the occupation by the Allies of German territory up to the Rhine, the last line of defence against their advance, and of the bridge-heads at Mainz, Coblenz, and Cologne, gave them the power to invade Central Germany at their will. Other conditions of particular military importance were the evacuation by Germany of all the invaded countries, including Russia, and the repatriation by Germany without reciprocity of all prisoners of war.

The handing over of all submarines, and of a large proportion of Germany's best surface warships, as well as the demobilization of the remainder of her fleet, rendered Germany completely innocuous at sea.

3. *Effect of the Armistice.* The result of the terms of the Armistice was to leave the Allies complete freedom to work out the conditions of peace to be imposed upon Germany, in full knowledge that the Germans were powerless to attempt any

further military action. At the same time, in spite of the partial disarmament of Germany and the utter war-weariness of her people, it was imperative for the Allies not to reduce their military strength too early, and to maintain sufficient forces in the field to check any attempt to profit by their demobilization. They had three main weapons at their disposal, viz. :

(a) The blockade of Germany. This was gradually relaxed during the spring of 1919, and considerations of humanity forbade its re-imposition, except as a last resort.

(b) The large numbers of German prisoners in our hands, whose repatriation could be delayed as a means of punishing Germany or of bringing pressure to bear upon her.

(c) The threat of further occupation of German territory. No resistance in Western Germany was at all likely, and indeed no effective opposition would have been possible in view of the numbers and condition of the German Army and of the war-weariness of the people.

4. *Germany during the Peace Negotiations.* As the months dragged on, and the demobilization of the Allied armies proceeded, scares arose from time to time, especially in the Press, and it was said that Germany was preparing for a fresh blow, to be struck as soon as the Allies had demobilized to a sufficient extent. Such scares were unfounded, for neither the German Government nor people were ready for, or desirous of, waging a fresh war.

In point of fact, the situation in Germany was extremely dangerous throughout the winter months and in the early spring of 1919, owing to the sporadic outbreaks of Spartacism all over the country, which threatened to develop into Bolshevism. The British and American policy was to strengthen the hands of the existing German Government, and to enable it to restore law and order. It may safely be said that it was largely owing to the efforts of the British Military Authorities and the excellent information they possessed as to the real state of Germany, that food supplies were sent into Germany as early as April—probably just in time to save the country from anarchy and possibly Europe from a serious catastrophe.

During the summer, conditions in Germany improved gradually, but, although the Peace Treaty was duly signed on the 28th June, the opposition to its signature was strong, and was only overcome by adroit tactics on the part of Herr Erzberger,

assisted by certain concessions made by the Allies, i. e. a plebiscite in Upper Silesia, slight relaxation of the time limit in the military terms, etc. But Herr Erzberger's efforts to obtain the signature of the Treaty were no guarantee of the execution of its terms, or even of his intention to acquiesce in them. They merely meant the adoption of the tactics of passive resistance instead of the issue of a direct challenge. Herr Erzberger may be right or wrong in his views and methods, but there is no reason to suspect him of treachery to his country, and his cleverness, ambition, and unscrupulous character render him a dangerous opponent. There were plenty of examples to encourage the German Government in a policy of resistance to the demands of the Peace Conference, e. g. the successful defiance of the authority of the Supreme Council by Béla Kun from May to July, the Fiume incident, and the Allies' failure to enforce their will with regard to the Baltic States.

5. *The German Attitude to the Peace Treaty.* There can be no doubt that, since the signature of peace, as well as on the eve of its final ratification, Germany's rulers and the great majority of her people have been bitterly hostile to the Peace Treaty and to the Entente Powers. They consider the peace terms to be harsh and unjust, and will do their best to avoid carrying them out. They have certain valuable allies, of whose help they are sure to take full advantage, viz. (1) Time: the Armistice was signed on the 11th November 1918, but the Peace Treaty had not come into force a year later; and the final ratifications were much delayed. (2) Dissensions among the Allies: these were, on the whole, remarkably small, but it was almost inevitable that occasional differences of opinion should arise. (3) International trade and labour questions, which rendered economic pressure by the Allies difficult. (4) The war-weariness of the Entente Powers and the difficulty of providing sufficient troops to ensure the execution of the terms of the Treaty. (5) The chaos in Russia, which has delayed the definition of a common Allied policy there, and has allowed Germany a certain latitude in evading the terms of the Treaty regarding Russia.

6. *German hopes of evading the Terms of the Treaty.* The majority of thinking Germans were, in general, opposed to the Treaty, but they seem to have realized that any immediate attempt to upset its provisions by force, at any rate in Western

Germany, must end in absolute failure in view of their military, naval, and economic inferiority. Germany's plans in the West are based on the hopes of dissensions between the Western Powers, on the probability of labour and political troubles in France, Belgium, and Great Britain, and especially on the increasing opposition shown by the German population in the area occupied by the French. The existence of this latter movement has already been shown by the opposition to the creation of the Rhineland Republic, and in general to the French local authorities in the Palatinate, Birkenfeld, and the Saar district, and finally by the German nationalist propaganda in Alsace-Lorraine.

The immediate danger, however, to the Peace Treaty arises on the Eastern frontier of Germany. It is in East and West Prussia and in Pomerania, that reactionary and monarchical, and consequently nationalist, feeling is at its strongest. German reactionaries look to a restoration of the monarchy in Russia as a step to the revival of the monarchy in Germany; and also look forward to Germany's future expansion in the East as a set-off to the losses incurred in the present War. Germany can therefore be expected to make every possible use of any internal weakness in either Poland or Czecho-Slovakia, in order to free the German population allotted to these States by the Peace Treaty, and, if possible, to reduce these States to the position of mere appendages of Germany. Similarly she will welcome any desire on the part of Austria for entry into the German Confederation as soon as the present accord between the Entente Powers shows any signs of weakening (see also vol. I, chap. 8 (iii)). It may also be regarded as certain that Germany will continue to support the Baltic-German minority in Latvia and in Esthonia, to secure the future economic and political control of these States. This movement is intimately connected with the German desire for the future exploitation of Russian trade.

The trend of Germany's Eastern policy has been clearly shown by the events of 1919:

(a) The policy of Generals von der Goltz, Eberhardt, and other Prussian Officers of the old régime in the Baltic States is of too recent a date to need further comment, and indicates the aims of the Prussian military party in that region.

(b) In June 1919, prior to the acceptance of the Peace Treaty, there existed a widespread military conspiracy, with the object

of setting up an independent East and West Prussian State, and of the resumption of war with Poland. It will be a matter of great difficulty for the Prussian military and Junker party to accept the cession to Poland of large slices of territory which had been German before the War, even though the majority of the inhabitants may be Poles.

(c) In June 1919 the Germans were actively supporting the German nationalist movement in Bohemia; had further operations against Germany become necessary, it is probable that the Germans in Bohemia would have risen against the present Czecho-Slovak Government then at grips with the Hungarian Bolsheviks. Such action, though it must have ended in the eventual victory of the Allies, would have increased the difficulty of the situation in Central Europe, and affected the final settlement with Germany.

Taking all these points into consideration, there is good reason to believe that the Germans will do their utmost to evade the execution of the terms of the Treaty, both in the economic and financial clauses, in relation to the Baltic States, and with regard to the provisions as to the military training of their manhood. It is therefore desirable for the Allies to maintain at least one weapon for the longest possible period, i. e. to have a sufficiently large and mobile force in military occupation of German territory, and in such a position as to be ready and able at any time to advance into Germany and enforce their will upon her.

7. *The Allied Advance into Western Germany after the Armistice.* When, after the signature of the Armistice, the Allied Armies moved forward into Germany, their advance took place on the front actually occupied at the time, viz. by the British in the north, with some Belgian troops on their left flank, by the Americans in the centre, by the French on the right. This was, from the administrative point of view, the most convenient arrangement, as it suited the existing positions of the various Armies and facilitated their subsequent lines of communication.

The terms of the Armistice included the Allied occupation of the three bridge-heads of Cologne, Coblenz, and Mainz, the evident object of which was to enable the Allied Armies to concentrate safely on the right bank of the Rhine if a further advance became necessary. Cologne was allotted to the British

sphere, Coblenz to the Americans, and Mainz to the French, the whole force remaining under the orders of Marshal Foch.

8. *Military Administration of the Occupied Territories.* The administration of the occupied territory was at first carried on by the Allied military commands, with the co-operation of the local German authorities; later on it was assisted by a civilian Inter-Allied Rhineland Commission which, working in close touch with the Supreme Economic Council in Paris, undertook the arrangements for feeding the civil population, and acted as an advisory body on financial and economic questions. This system has been in force since the signature of the Armistice in November 1918; it worked well, and was singularly free from friction or serious troubles. Germany's attitude was in general apathetic, and her people were glad to be able to rely on the maintenance of order, as opposed to the chaos which prevailed in unoccupied Germany during the early part of 1919. Strict discipline was maintained in the whole German territory under occupation and, although reasonable liberty was granted to the inhabitants, all strikes and other disorders were put down with a firm hand.

The Armies of the Rhine were always held in readiness to move at short notice, in view of the possibility of their being required to advance into Germany. In the second half of June, when it appeared possible that the German Government would refuse to sign the Peace Treaty, all preparations for an advance were made. Although the Allied Armies had German formations in front of them, these were small in number and of little fighting value, so that no serious resistance could have been intended; the best of the German troops were in the neighbourhood of Berlin and on the Eastern Frontier, where a regular Polish-German battle front existed throughout the spring and summer of 1919.

Originally the military occupation of German territory was intended to enable the Allies to carry out the terms of the Armistice, and to render Germany powerless for further resistance. As the deliberations of the Peace Conference progressed, it became clear that a continued occupation would be necessary, both to ensure the fulfilment of the conditions of the Peace Treaty and to guarantee France against an attack from Germany on the departure or serious reduction of the other Allied troops.

9. *Civilian versus Military Administration.* When, towards the end of April, the Supreme Council decided that the temporary military occupation of the left bank of the Rhine was to be a definite part of the Peace Treaty, a set of rules had to be framed to regulate the administration of the occupied territory. Such rules had already been drawn up by the military authorities, guided by their experience during the period of occupation. In view of the fact that their administration had been highly successful up to date, and for military reasons, the soldiers considered that their control of the occupied territory should continue and, moreover, were of opinion that this was the most effective solution of the question.

On the other hand, the Supreme Economic Council, acting on the advice of civilians who had been connected with the Rhineland administration, put forward the proposal that the administration of the territory under occupation should pass into civilian hands after the signature of the Peace Treaty. They expressed their disapproval of the rules framed by the soldiers, and produced a rival code, drawn up by civilian officials.¹

Opinions on the merits of the two cases were divided among the French and British, but the Americans were strongly in favour of civilian control. After a mixed Committee of soldiers and civilians had been set up, and had failed to come to an agreement, the matter was finally settled in favour of the civilians by the Supreme Council; their scheme was consequently accepted, and the Convention for the occupation was drawn up by them. The actual administration of the occupied territory will therefore be in civilian hands.

10. *The Inter-Allied Rhineland Commission.* In view of the fact that, after final ratification of the Peace Treaty, the German occupied territory will be administered by the civilian Inter-Allied Rhineland Commission, it is of interest to examine the work of this body since its creation. It was formed in May 1919, to co-ordinate the dealings of the Armies of the four zones

¹ In view of these arguments it is noteworthy that, in October 1919, the British Commissioner, Sir Harold Stuart, informed General Sir William Robertson that, in his opinion, if the High Commission were not constituted when the Treaty came into effect, he could safely continue to administer the British zone of occupation under the Military Orders and Regulations then in force. This fact seems to show that the military administration was considered by both German and Allied civil authorities to be thoroughly satisfactory, and in no way unduly harsh or offensive. For civilian side, *v. vol. I. p. 819.*

(Belgian, British, American, and French) as regards economic and industrial matters: each of these nations was represented by a commissioner within the area occupied by its respective armies. It took the place of the Luxemburg Economic Committee, which had been an almost entirely French organization working directly under the Allied High Command. The Commission was entirely civil, and its functions were at first purely advisory; it could not issue any orders, and its rôle was merely to advise the High Command in cases where the action of the various Army Commands was at variance with economic requirements and desiderata. In the early stages, therefore, the scope of the Rhineland Commission was small and limited.

After the signature of the Rhineland Convention and the appointment of the German *Reichskommissar für die besetzten Gebiete* (High Commissioner for the Occupied Territories) in Coblenz, the four Commissioners were instructed by their Government to prepare for the formation of the High Commission, which is to be the Supreme Allied Administrative Executive in the Occupied Territories after the final ratification of peace. This entailed the gradual taking over by the Commission from the military authorities of all remaining Allied organizations for the control of food, coal, etc. The German *Reichskommissar*, though not officially recognized by the Commission until the final ratification of peace, is yet authorized to communicate with them on all matters connected with the preparation for the High Commission.

The Commission has a series of Sub-Committees, each dealing with one particular branch of the work, and each Sub-Committee consists of one expert from each of the four countries represented on the Commission. These Sub-Committees prepare all matters for decision by the Commission, unless they themselves are empowered to decide. The relations between the four nations on these Committees have been good throughout, and, in spite of the divergent views of the English-speaking and French-speaking members, they have rarely failed to reach a workable and satisfactory decision.

11. *General Considerations.* Now that the Peace Treaty has come into force, it remains to be seen for how long a period military occupation of Germany will be necessary. In the interests of trade and of the early resumption of normal conditions in Central Europe, the occupation should not

be unduly prolonged. On the other hand, it is essential that Germany should be held to the terms of the Treaty, and that the Allies should retain an effective weapon in their hands, to insist on Germany's fulfilment of her undertakings. We know perfectly well that most Germans regard the Peace Treaty as one of violence and injustice—as a *Gewaltfrieden*—and we may be quite certain that Germany will evade its conditions whenever she sees a loophole for escape. Until we have reasonable proof of a change in her attitude, it is unlikely that we shall be able to relax the measures of occupation.

In this connexion it is well to remember that France and Belgium are far more directly interested in the question than the United States or Great Britain. Most Frenchmen believed—and indeed still believe—that France was entitled to a real and permanent guarantee against German aggression. They had little confidence in the League of Nations, and considered that the Rhine should be utilized as a protective barrier against a Germany which would always be greatly superior numerically to France, and might be expected to regain her strength in a comparatively short time. When the course of the discussions in the Peace Conference made it clear that the Rhine could not be made the western frontier of Germany, and that the German provinces on the left bank of the Rhine must eventually be restored to Germany, uneasiness and disappointment were naturally great throughout France. The French sense of security was to some extent restored by the Treaty under the terms of which the United States and Great Britain pledged themselves to come to France's aid in case of need: on the other hand, this Treaty has not yet been ratified by the American Senate.¹ It is only natural that France, both in the interests of her own safety and to ensure the execution of the Peace Treaty, will desire to carry out to the full the conditions relating to the military occupation of German territory and will strenuously oppose any relaxation in favour of Germany. In this she will no doubt receive strong support from Belgium.

¹ This Treaty was signed on the 28th June 1919 between France and Great Britain, the United States executing a similar instrument with France. *v. Appx. III. pt. 2 Annexes 1 and 2, Vol. III.* After quoting Arts. 42, 43, 44 of the German Treaty this Treaty states that, in case these stipulations 'may not at first provide adequate security and protection to France, Great Britain agrees immediately to come to her assistance in the event of any unprovoked movement of aggression against her being made by Germany'.

The conditions of the Treaty contemplate military occupation of German territory up to 15 years, with power to delay evacuation if the Germans do not observe their obligations. For the first five years the whole of the German territory west of the Rhine, together with the bridge-heads, is to be occupied: at the end of this period, if Germany has faithfully carried out the conditions of the Treaty, the Cologne bridge-head and the northern portion of the West Rhine area will be evacuated. Five years later, the Coblenz bridge-head, plus a further slice of territory west of the Rhine will be handed over to Germany, the Mainz and Kehl bridge-heads, with the remaining territory west of the Rhine, being evacuated at the end of 15 years. This method of gradual withdrawal was not the outcome of military advice, and in fact offers few advantages from the military point of view. The best method of bringing pressure to bear upon Germany in the future would naturally be the occupation of the Ruhr Valley, with its coalfields and great industrial establishments; for this purpose the Cologne bridge-head should have been the last returned to Germany. If a purely defensive attitude were intended, affording a good guarantee against German aggression, the line of the Rhine should have been held as long as possible from Alsace-Lorraine to the Dutch frontier. Commercially it is advantageous for Germany to obtain control of the northern area with the least possible delay. Politically, on the other hand, it is desirable for France to retain her hold on the southern area for the full period, in order to protect Alsace-Lorraine and the Saar Valley from German influence and interference. Should Germany comply with all her undertakings before the expiration of the period of 15 years, the occupying forces will be withdrawn immediately.

The Army of Occupation will consist mainly of French troops, though it is intended that Americans, Belgians, and British should also be represented. The cost of the Army of Occupation is a first charge on the payments to be made by Germany. The Allies will of course do all in their power to respect the liberty of the people and the economic interests of the occupied territory, and will endeavour to interfere as little as possible with trade relations between the occupied areas and the remainder of Germany.

PART II. THE MILITARY TERMS

A. GENERAL CONSIDERATIONS

1. *Armistice of 11th November 1918.* Under the terms of the Armistice of the 11th November 1918, the Germans were forced to hand over a considerable portion of their material and transport, including the following :

- 5,000 guns (2,500 heavy, 2,500 field),
- 25,000 machine guns,
- 3,000 trench mortars,
- 1,700 aeroplanes (fighters and bombers),
- 5,000 motor lorries,
- 5,000 locomotives,
- 150,000 railway wagons.

A large part of Germany's surface warships and all her submarines had to be surrendered. All Allied and United States prisoners were to be repatriated immediately, without reciprocity.

As she had been abandoned by her allies, and deprived of so large a proportion of her military, naval, and air material, Germany was placed in so hopeless a position of inferiority that Marshal Foch did not consider it necessary to insist on the demobilization of the German Army.

2. *Assembly of the Peace Conference in Paris.* When the Peace Conference first assembled in Paris, in January 1919, the demobilization of the Allied Armies was already in full swing, and it became necessary to consider if any measures should be taken with regard to Germany. Although the majority of the German soldiers had already disbanded themselves, and the discipline and *moral* of almost all units had fallen very low, it was considered advisable to take early steps to render Germany innocuous. It was first proposed to do this by altering the conditions of the Armistice, but this was not done, chiefly owing to American and British opposition, and also because it became more and more apparent that Germany was totally incapable, as well as completely undesirous, of attempting any aggression on her Western Front.

On the 12th February, at a meeting of the Supreme Council, Mr. Balfour proposed that a set of Naval, Military, and Air terms should be drawn up, and presented to Germany as a

Preliminary Peace, the intention being to allow the general demobilization of the Allied Armies to proceed, whilst renewing the Armistice periodically as required. This proposal was accepted, and a Committee appointed to draft Naval, Military, and Air Terms for presentation to Germany as a Preliminary Peace, leaving the remainder of the Treaty to be settled subsequently. The Committee set to work at once, but, before they had had time to frame their proposals, the Supreme Council reversed their former instructions, and decided to present the entire Treaty to the Germans *en bloc*.

3. *French point of view with regard to Guarantees.* Before discussing the Military Terms in detail, it is well to examine the point of view held by the French, who were most directly interested in the question.

France and Belgium having suffered very heavily through the German invasion of their territory were naturally and rightly determined to secure the strongest guarantees against the possibility of similar aggression in the future. In reviewing the question, the French argued that the League of Nations would not provide an adequate safeguard against invasion, mainly owing to the cumbrous nature of its machinery, and to the fact that time would be lost by the United States of America and Great Britain being obliged to transport their armies across the sea to come to France's assistance. Besides, the League of Nations as yet existed on paper, and it was impossible to foresee its future power and scope; in any case, Germany would not and could not be admitted to it for some considerable time, and might organize a rival coalition. They pointed out the difficulty of ensuring the execution of any measures relating to the limitation of German armaments. For, as Napoleon had failed to achieve this between 1806 and 1813, it was at least doubtful whether the Allies would now be able to effect it. They drew attention to the potential strength of Germany for purposes of aggression, i. e. in her well-trained staffs, in the huge numbers of her trained officers of reserve, in her millions of soldiers inured to war, in her large population with its large pre-war excess of births over deaths, in her enormous manufacturing capacity; to control so vast and complex a system would be a gigantic task, especially when Germany's duplicity and her complete unreliability as regards the fulfilment of her engagements and promises were remembered.

They argued that the League of Nations and the limitation of German armaments only provided doubtful guarantees for the future security of the peoples of France and Belgium, whose losses and sufferings during the War entitled them to certainty as to their future safety from aggression. Such certainty could, in their opinion, only be provided by the occupation by Allied troops of the line of the Rhine, the sole natural barrier against a sudden German invasion. They proposed, therefore, as an essential part of the conditions of peace, that

(a) the western frontier of Germany should be established on the Rhine ;¹

(b) the bridges over the Rhine should be occupied by Allied troops ;

(c) the above measures were not to involve territorial annexations for the benefit of any Power.

4. *Attitude of the Allies regarding Guarantees.* The French proposals merited and received serious consideration from the Allies. The great difficulty was, however, to dispose of the provinces west of the Rhine in such a way as to meet the French requirements. These provinces were German, and they wished to remain German, although there was a movement in favour of separation from Prussia. A small party of Rhinelanders were indeed in favour of complete autonomy, but their action developed prematurely, and met with the disapproval of the great majority of the German population. It was impossible, in the interests of fairness and justice, to include in the Peace Treaty any clause involving the separation from Germany of the German provinces west of the Rhine, unless the inhabitants of these provinces had expressed a desire for separation. Such a solution would have been contrary to the principles of a just peace, and could not have been durable:

It was inevitable that the peoples of the United States and of Great Britain would refuse consent to any arrangement by which millions of purely German subjects were compelled to accept a régime to which they were hostile. At the same time, it was essential to recognize the legitimate desire of the French people to receive adequate guarantees and to acquire the certainty of permanent security against German aggression.

¹ This does not mean that the French eastern frontier should extend to the Rhine, but that the German State west of the Rhine should be separated from the influence of the Government at Berlin (*v.* also vol. I, chap. 5, § 11) p. 184 *n.*

France has no sea to protect her frontier, and it was only natural that she should demand some obstacle or zone of safety which, if not offering a safeguard equivalent to that of a sea, would at least enable her to delay the advance of her numerically superior enemy and to gain time for the armies of her Allies to come to her assistance. The solution of the problem was found in the compacts between the United States and Great Britain on the one hand, and France on the other, by which the United States and Great Britain bound themselves to come to the assistance of France in the event of hostile aggression against her, and in the Military Terms of the Peace Treaty which, as long as Germany abides by their conditions, render her incapable of renewing her attack on France with any hope of success. Further guarantees were given by Articles 42-43, forbidding Germany to maintain fortifications or armed forces either on the left bank of the Rhine, or on the right bank to the west of a line drawn 50 kilometres to the east of the Rhine, and by Articles 428-32, involving the military occupation of certain portions of German territory for periods extending up to 15 years, or longer if necessary.

5. *Principles of the Military Terms.* The main principles which guided the Allies in framing the Military Terms were :

- (a) To render possible the initiation of a general limitation of the armaments of all nations.
- (b) To make Germany, which had been the cause of the colossal growth of armaments, begin the process of limitation.
- (c) To prevent the danger of future aggression by Germany.
- (d) To leave Germany with a military force sufficient to maintain internal order.
- (e) To avoid all ambiguity, which might hereafter give Germany a pretext for evading her obligations.

6. *Compulsory versus Voluntary Service.* The Committee, which had begun its labours about the middle of February, soon found itself confronted by a serious divergence of opinion. Whilst the Allies were unanimous as to the necessity of reducing the German military forces to the utmost possible extent, their views varied considerably regarding the best method of solving the problem. The most important question was undoubtedly that of compulsory short service as against a voluntary long

term of enlistment,¹ and on this point our views were diametrically opposed to those of the French.

Universal compulsory service has a great deal in its favour. A national army provides a splendid training-ground for the whole manhood of a people, in discipline, patriotism, loyalty, unselfishness, intelligence, initiative, and in many other moral qualities, whilst its influence on the physique of a nation is enormous. Provided it is well administered, universal service need not interfere with the commercial or industrial life of a State; on the contrary, its effect on efficiency and productive power may be most valuable.

There is really only one valid argument against universal military service, that it increases the chances of war by developing the martial instincts of nations, and by placing in the hands of ambitious rulers a powerful instrument for imposing their will on weaker Powers. Such was Germany's attitude before the War; the strongest military Power in the world, she was always ready to invoke her military strength in order to achieve her political aims. Germany's past record, above all, the existence of the Prussian Junker class and military party, caused this last argument to outweigh all the rest. The British Prime Minister and General Staff thought it suicidal to allow Germany to continue a system of universal compulsory service, by which her entire manhood could be trained for war.

This was the reason for British opposition to the French proposals, which had at the outset the support of all our Allies, who were unanimous in supporting the continuance of the principle of universal compulsory national service. Nor is it difficult to understand the attitude of the representatives of these countries, most of whom had studied the effects of national service in the light of long experience, and who realized the serious loss which its abandonment, if also applied to them, would mean.

It is more difficult to accept the French contention that a voluntary long-service army will, if maintained in accordance with the terms of the Treaty, prove a greater menace to the peace of Europe than a compulsory short-service army, in which, sooner or later, the entire manhood of Germany would be trained for war.

¹ The principle of the Swiss militia system does not appear to have been considered as a practical alternative, since its applicability to the armies of the Great Powers offered considerable difficulties.

COMPULSORY VERSUS VOLUNTARY SERVICE 129

The main object of the Peace Treaty was to conclude an early and durable peace, which was necessary for the safety and welfare of Europe. As this object could only be attained by the abolition of universal military service in Germany, the British Delegation regarded the latter as an essential condition of the Peace Treaty.

B. THE MILITARY TERMS IN DETAIL

7. *The First Draft of the Military Terms.* The second half of February was a busy time for the Committee. Each Delegation drew up its recommendations, and frequent meetings were held to settle the details of each of the points under discussion. The Delegations were in general agreement, except on the all-important question of compulsory or voluntary service. Eventually, in the absence of Mr. Lloyd George, of Field-Marshal Sir Henry Wilson, and of Major-General Sir William Thwaites, the French gained the support of the other Delegations to the principle of universal compulsory service, and, after the numerous questions of detail had been decided, Marshal Foch presented the Military Terms to the Supreme Council on the 3rd March. The compulsory short-service system was adopted as the basis of the scheme, but a note was made of the British objection to it. The maximum number of troops allowed to Germany was to be 200,000 men, organized in not more than 15 infantry and 5 cavalry divisions. Further, the amount of arms, ammunition, etc., which Germany was to be allowed to keep, was definitely fixed at a low scale. In the absence of Mr. Lloyd George the discussion of the scheme was postponed.

8. *The Adoption of the Voluntary Service System.* On the 5th March Mr. Lloyd George returned to Paris. He at once objected to the principle of compulsory service on the grounds that the question was political, rather than purely military, and was a matter for the decision of the heads of the Governments. On the 7th March the British Prime Minister proposed, and, with the support of M. Clemenceau, carried a resolution to the effect that the Naval, Military, and Air Terms should be based on the principle of voluntary long service. The Military Committee received instructions to frame a new report accordingly.

9. *Strength of the new German Army.* When the Committee reassembled it immediately became clear that the French would

not accept the figure of 200,000 men for the strength to be allowed to a German Army under the voluntary long-service system. It was only after considerable discussion that agreement had been reached as to this figure of 200,000 men; an original suggestion had been 500,000, and the British Military Delegation were of opinion that Germany should be permitted to retain a standing army of 400,000 men, temporarily at any rate. The French regarded a voluntary long-service army as the potential cadre of a national army, and therefore as a standing menace to their security. They insisted therefore on its reduction to the lowest possible figure. It was felt, on the other hand, that this reduction should not be carried below the strength necessary to maintain internal order in Germany, and to protect her against Bolshevist aggression from the East. After much discussion it was agreed to propose 140,000 men as the strength to be allowed, and a fresh draft with this alteration was laid before the Supreme Council on the 10th March. The French were still dissatisfied, and contended that this force was too large. Their view was accepted by Mr. Lloyd George, with the result that the maximum strength of the German Army was reduced to 100,000 men, to include 4,000 officers, and not more than 7 infantry and 3 cavalry divisions. The remainder of the draft was passed, with slight alterations, for embodiment in the Treaty. On the 17th March, a few minor amendments were made, and later on, in April, two further clauses were added, viz., Articles 172 and 179.¹

10. *Presentation of the Treaty and German Counter-Proposals.* When the Treaty was finally presented to the Germans on the 10th May, they accepted the Military Terms with comparatively few objections. They urged that the time-limit of three months, which had been fixed for the reduction of the existing German Army to 100,000 men, was altogether too short, and that, unless

¹ Article 172 provided that the German Government should reveal to the Allies the nature and mode of manufacture of all explosives, toxic substances, etc., used in the War, or prepared for the purpose of being so used, within the period of three months from the coming into force of the Treaty.

Article 179 states that Germany agrees, from the coming into force of the Treaty, not to accredit or send to any foreign country any military, naval, or air mission, and to take the proper measures to prevent German nationals from leaving her territory to become enrolled in the army, navy, or air service of any foreign Power, etc. The Allied and Associated Powers agree not to enrol German nationals in, nor attach to, their armies, naval, or air forces. There is a reservation as to the right of France to recruit for the Foreign Legion in accordance with French military laws and regulations. v. Text of Treaty, Vol. III, § III, pt. 2.

this demand were modified, grave internal troubles might result. This request appeared reasonable, especially as it was not then realized how long a delay would ensue before the final ratification of the Treaty. The British Military Delegation recommended that concessions should be made on this point, suggesting a gradual reduction to a strength of 200,000 men, at which figure the German Army should be allowed to remain, at all events until the European situation had become more stabilized. As a result of the British recommendations, the Supreme Council decided to extend the time-limit to the 31st March 1920, by which date the strength of the German Army was, however, to be reduced to 100,000 men; the reduction was to be gradual, but the number was to be down to 200,000 within three months of the coming into force of the Treaty, the reduction of officers, guns, etc., being made in the same ratio.¹ With the exception of a few unimportant alterations in the Article on Fortifications, the Military Terms were accepted by the Germans without further demur.

11. *Personnel, Recruiting, and Military Training.* In drawing up the terms of Chapters I and III, it was of the greatest importance to avoid all ambiguity, and to eliminate loopholes, by means of which the Germans might evade the conditions regarding enlistment, length of service, and military training.

The provisions of Articles 174 and 175, limiting the discharges of officers and men before the expiration of their total term of enlistment, and fixing minimum periods for the length of service of all ranks, should be sufficient for the purpose.

A long-service army recruited by voluntary enlistment must necessarily be expensive. This is, on the one hand, a drawback, since it reduces Germany's power of complying with our financial demands; it is, on the other hand, an advantage, as it will render it difficult for Germany to make any material increase to her army in the future. Under the present system of 12 years' consecutive service for N.C.O.'s and privates, the pay must be high, as the men will be unfitted for ordinary trades at the end of their period with the colours; it will be easy, however, to provide them with Government employment, on the railways or other State service. The German Government is unlikely to experience any serious difficulty in recruiting an army of 100,000 men, either in officers or the other ranks.

Article 160 lays down the future maximum strength of the

¹ v. Supplementary note at end of chapter, p. 140.

German Army, and contains a paragraph to the effect that 'The maintenance or formation of forces differently grouped or of other organizations for the command of troops or for preparation for war is forbidden.' This paragraph is of considerable importance, for it is essential to prevent from the outset the creation of any semi-official military organizations, such as the *Einwohnerwehren* (local defence forces), and others.

The *Einwohnerwehren*, *Zeitfreiwillige* (temporary volunteers), and *Sicherheitspolizei* (security police) were all formed for the maintenance of order, and as a guarantee against Spartacist outbreaks. The *Einwohnerwehren* are local forces, liable for service in their own communes, only in the event of local disturbances. They carry on their civilian occupations and are practically civic guards, not unlike the British Special Constabulary, except that they are armed with rifles. They are organized in companies, under leaders elected by the men. Their rifles are kept in dépôts. In some cases they are armed with machine-guns. The *Zeitfreiwillige* also carry on their civilian occupations normally, and act as reserves to the *Reichswehr* for the preservation of order in Germany. They are organized in companies, affiliated to different regiments of the *Reichswehr*; they are liable to be called out in aid of the civil power in the event of disturbances. Their arms are kept in local dépôts, ready for issue when required. The organization and armament of the *Einwohnerwehren* and *Zeitfreiwillige* undoubtedly bring them under the heading of 'associations occupying themselves with military matters', which are prohibited under Article 177 of the Peace Treaty.¹

The fact that Germany is allowed a maximum number of only 102,000 rifles and carbines, is clear proof of the illegality, under the terms of the Treaty, of local organizations—official or semi-official—armed with rifles.² The maximum stocks authorized by Table III of the Treaty are calculated on the strength of the regular army, and preclude the lawful existence of other forces armed with rifles.

¹ Article 177: 'Educational establishments, the universities, societies of discharged soldiers, shooting or touring clubs and, generally speaking, associations of every description, whatever be the age of their members, must not occupy themselves with any military matters.

'In particular they will be forbidden to instruct or exercise their members, or to allow them to be instructed or exercised in the profession or use of arms. These societies, associations, educational establishments, and universities, must have no connexion with the Ministries of War or any other military authority.'

² *Vide* Table III, printed as an Annex to Articles 160 and 165.

The *Sicherheitspolizei* is largely recruited from N.C.O.'s of the former German Army, to supplement the police forces. It is mainly intended for action in big towns, with the object of dealing with organized disturbances on a large scale. The men are specially trained for street and house-to-house fighting, are quartered together in barracks, and are armed with all modern weapons.

Although the original formation of such organizations as *Einwohnerwehren* and *Zeitfreiwillige* may have been justifiable in the interests of the protection of the inhabitants against Spartacists, etc., their continued existence is a danger, and it must be made clear to Germany that they are contrary to the terms of the Treaty. If the German Government can prove that the national safety demands a larger force than 100,000 men, they should be made to refer the question of its increase to the Allies, but should on no account be allowed to create local semi-official organizations, of which it is impossible to foretell the ultimate development. It would be far preferable to authorize the maintenance of a larger force of regular long-service troops, i. e. 200,000 men, than to tolerate local levies, whose existence would permanently violate the military terms of the Peace Treaty. Their only justification would be on the grounds of economy, for local police forces would naturally be far less expensive than State long-service troops. The existence of such forces, however, involves too great a danger for this plea to be admitted.

The provisions of Article 177¹ constitute a further attempt to prevent the formation of semi-official organizations of military character and value. The loyal execution of this Article is a matter of considerable importance, and will require careful attention, not only by the Commissions of Control, but after their departure from Germany. This Article lays down that no societies, associations, and educational establishments are to have any connexion with the Ministries of War or any other military authority. It is noteworthy that the *Einwohnerwehren*, *Zeitfreiwillige*, *Sicherheitswehren*, and other local bodies have been placed under the Ministry of the Interior, which may denote an attempt to evade the provisions of this Article. It must not be forgotten that Article 162 forbids any increase in

¹ See note, p. 132.

the establishment of Germany's police forces. This does not forbid the existence of *Sicherheitspolizei*, but definitely limits their strength.

Under the terms of the Treaty (Article 160) the German Army virtually became a police force, to 'be devoted exclusively to the maintenance of order within the territory and to the control of the frontiers.' At the same time it was not intended to deprive Germany of the power of home defence against unprovoked aggression by small States. A policy that left Germany so helpless as to prove a tempting prey to the new and warlike nationalities on her eastern and southern borders would be dangerous, and could only sow the seeds of future trouble.

Though a small General Staff will still be retained, the abolition of the Great General Staff was a natural consequence of the reduction of the Army.¹ The Great General Staff—the thinking department which had formulated Germany's aggressive plans in time of peace and had executed them during the war—had become an organization of such influence and power that its disappearance was a matter of necessity.

In general, it may be said that Chapters I and III of the Military Terms, those regarding personnel, recruiting, and military training, have been so carefully worded that their meaning can admit of no ambiguity. Any non-compliance or attempt at evasion on the part of Germany can have no legal justification, and can be stopped by the Allies as long as they retain sufficient control over Germany.

12. *Armament, Munitions, and Material.* The importance of Chapter II on Armament, Munitions, and Material, is really even greater than that of Chapters I and III. Whatever we may do to reduce the strength of the German Army, and to prevent the military training of the people, there are, and will for some time continue to be, in Germany several millions of men trained and inured to war. Similarly, there are large numbers of regimental and staff officers, with ample war experience. These are accomplished facts, which we are powerless to alter. On the other hand, it is quite possible to deprive Germany of the arms, ammunition, and material necessary for the equipment of a

¹ Extract from Article 160, Section 8: 'The Great German General Staff and all similar organizations shall be dissolved and may not be reconstituted in any form.'

great army. Articles 164–172, with Tables II and III, have been drawn up with this object in view, and if their conditions are executed, in conjunction with the Naval and Air Clauses of the Treaty, no aggression by Germany will be possible for a long time.

The German Army is only allowed to retain 204 field-guns and 84 field howitzers :¹ no heavy guns may be kept except the armament of a few forts and fortresses, and the number of these is restricted by the provisions of Article 167. It should be easy to ensure the handing over of guns, especially those of large calibre. A certain number have already been surrendered, and the balance should be fairly easy to trace, as it is known approximately how many Germany possessed at the end of the war.

Similarly, the total number of machine-guns and trench-mortars remaining in Germany was known with fair accuracy, and these arms would not be easy to conceal—at all events on a large scale. With regard to rifles, the matter is less simple. Our knowledge of the exact number in existence at the end of the War must have been somewhat vague, and their disposal during the last year cannot be known, even to the German authorities, with anything like accuracy. Many soldiers kept their rifles on demobilization, and considerable numbers have since been distributed to the various local forces. “It is difficult to imagine that it will be possible to reduce the stocks of rifles and small-arm ammunition in Germany to anything approximating to the exact numbers allowed in Table III, i. e. 102,000 rifles and carbines, and 56,208,000 S.A.A. rounds, including machine-gun ammunition. But, although the number in excess may be considerable, it will be small in comparison to the enormous numbers required for modern warfare.

Article 168, ordering the closing down of all factories or arsenals not authorized by the Principal Allied and Associated Powers, is of great importance, as the rigorous enforcement of its provisions would make any renewed German aggression impossible. Articles 171 and 172 are also most important, but their strict execution will be more difficult to check and enforce, especially as regards the manufacture of gases or similar materials.²

¹ Articles 164–172, Tables II and III.

² For Article 172 see note on p. 130. Article 171 : ‘The use of asphyxiating, poisonous or other gases and all analogous liquids, materials or devices

13. *General Effect of the Military, Naval, and Air Terms. Dismantling of Fortifications.* It is clear that the effect of Chapters I, II, and III, together with Tables I, II, and III, of the Military Terms, are such that no German aggression will be possible as long as the Allies have sufficient strength to enforce their loyal execution by Germany. Similarly, the Naval and Air Clauses of the Treaty will, if faithfully carried out, prevent all danger of a successful attack by sea or in the air.

It has been argued that all aeroplanes or dirigibles, built for commercial or civilian purposes, will be available for use in war. Up to a certain point this is true, as the conversion of the machines would not be difficult, although the pilots and observers would lack military training. Should Germany ever succeed in taking the lead in aerial navigation, she might be in a position to undertake bombing raids on a large scale on enemy towns, arsenals, and the like. But even so, her frontiers and coast-line would be practically defenceless and at all times open to attack if the Military and Naval Terms had been carried out. In this connexion it must not be forgotten that Chapter IV of the Military Terms provides for the dismantling of all fortifications in Western Germany, whilst Articles 42-44 forbid the maintenance of fortifications or troops in this area, thus leaving Western Germany open to invasion by Allied troops, and enabling the Allies—or members of the League of Nations—to carry out speedy retaliation for any unprovoked attacks such as bombing raids.

C. EXECUTION OF THE TERMS OF THE TREATY

14. *Inter-Allied Commissions of Control.* When framing the Military, Naval, and Air Clauses it was clearly necessary to set up adequate machinery to ensure that they would be effectively carried out. Articles 203-210 contain the provisions for the powers of the Inter-Allied Commissions of Control, which are charged with the duty of supervising the complete execution by Germany of the Military, Naval, and Air Terms of the Treaty.

being prohibited, their manufacture or importation are strictly forbidden in Germany. The same applies to materials especially intended for the manufacture, storage and use of the said products or devices. The manufacture and the importation into Germany of armoured cars, tanks and all similar constructions suitable for use in war are also prohibited.'

Each of the Principal Allied and Associated Powers has nominated an experienced senior officer as its representative on each of the main Commissions, which are again divided into a number of Sub-Commissions. The personnel of the Commissions, which has been supplied in varying proportions by the Principal Allied and Associated Powers and by Belgium, has been carefully chosen, and the work will extend over the whole of Germany.

These Commissions of Control, whose duties begin on the coming into force of the Treaty, have been provided with ample powers to investigate conditions in Germany, and on their work depends the execution of the terms of the Treaty. Supported as they will be by the moral force of the Allies and by the proximity of the Armies of the Rhine, they should be in a position to ensure the execution of so considerable a part of the terms of the Treaty as to leave Germany powerless for aggression for many years. It is unfortunate that the delays in the ratification of the Treaty should have enabled the Germans to utilize, sell, or otherwise dispose of much of the material to be handed over, but, in so doing, the Germans have not exceeded their legitimate rights in accordance with the terms of the Treaty.

Article 206 stipulates that the German Government must give all necessary facilities to the Commissions of Control for the accomplishment of their duties. Article 207 lays down that the cost and upkeep of the Commissions of Control, and the expenses involved by their work, shall be borne by Germany. The Military, Naval, and Aeronautical Commissions of Control act as direct representatives of the Governments of the Principal Allied and Associated Powers, and the German Government is bound, by the provisions of Articles 208-210, to furnish them with all such information and documents as they may require for the execution of their duties.

It is unnecessary to emphasize the importance of the work to be carried out by these Commissions of Control, whose duties are certain to extend over a minimum period of fully six months, and may not be completed in less than a year.

15. *Prospects of future Peace.* The Military Terms of the Treaty have been drawn up with the greatest care and ability, and should succeed in attaining their objects, as far as it is humanly possible to do so. In view of the fact that they were evolved by men belonging to five different Powers, whose ideas

and objects could not be expected invariably to coincide, the result can justly be regarded as highly satisfactory. Their effect cannot fail to render future aggression by Germany a matter of the greatest difficulty, and this is a great step towards the attainment of the aims of the Peace Conference, whose main object was to secure an early, just, and durable peace.

Apart from minor details, there appears to be only one point which affords reasonable ground for criticism. It remains to be seen whether the authorized strength of 100,000 men, as fixed for the German Army, will be enough to maintain internal order and to protect and control the German frontiers. This appears extremely doubtful, and, if so, it is a defect in the Treaty, for it is undesirable to leave Germany with an inadequate armed force, and still more undesirable to acquiesce tacitly in the existence of the local forces, such as the aforementioned *Einwohnerwehren*, etc. With a regular army of only 100,000 men for a nation of 60 millions, constant attempts are likely to be made to create local forces, the formation of which may be a real necessity for the safety of the people and to maintain order. There may be no present danger in the existence of such organizations, but they can well become 'the thin end of a wedge' and their potential menace in the future is too serious to neglect.

There is no suggestion of Germany being allowed to keep a large regular long-service army which she does not want, and in any case cannot afford. It is, however, a matter for consideration as to whether she should not be allowed to retain a force of 200,000 men until her internal situation has improved, or until she is admitted to the League of Nations. One method of reducing Germany's expenditure would be to allow her to keep a proportion of her armed forces in reserve, as has been done in the case of the new Austrian Army, the total of troops with the colours and with the reserves not being allowed to exceed 200,000 men.

With this possible exception, there is no ground for any alteration or relaxation of the Military Terms, which must be enforced strictly and completely. Owing to the unforeseen and regrettable delays in the ratification of the Treaty, the Germans have had frequent opportunities of evading the terms, as they do not become operative until the Treaty comes into force.

Although the present German Government has generally shown good faith in the performance of its engagements, it may be unable to resist the military party, headed by men like Ludendorff, Hoffmann, and Lossberg, which we know cannot be trusted. Ample evidence of this untrustworthiness has been provided by the German operations in the Baltic Provinces, which have been carried on by an elaborate system of intrigue, practically against the orders, though hardly without the knowledge or connivance of, the German Government, which stood greatly in need of the support of the military leaders, and dared not expose or thwart their plans. The long delay since the 28th June 1919, has also facilitated various transactions in Russia, or with Russians, which a prompt final ratification might have avoided.

There seems to be no visible prospect of fresh German aggression in the near future. The German people are tired of war, and will not willingly take up arms again—they require rest and the rehabilitation of their trade and industries. If Germany has no weapon ready at hand, she will have little power or inclination to enter upon the long and difficult process of forging one of sufficient strength to renew the struggle in which she has been so decisively beaten. There is only one factor which may change the situation in the near future, and that is the existence of a desire for revenge so intense as to obliterate all other feelings. The great majority of the German people now realize that the War was caused by the criminal ambitions of their Prussian ruling caste, and that, as they acquiesced in the War and welcomed it, they must bear the punishment and burdens of defeat. The punishment must be stern and the burdens heavy, but the German people must feel that they are dictated by justice and not by malice or hatred.

Without powerful allies, it would be absurd for Germany to attempt a fresh war of aggression for many years. Russia might provide her with the requisite men and material, but she is as tired of war as Germany. Only a strong feeling of hatred and revenge against the Allies could unite Russia and Germany against them.

The friendship and co-operation of Russia are necessary to complete the work of the Peace Treaty. For a successful solution of the Russian problem will alone make possible that general limitation of the armaments of all nations, for which

the disarmament of Germany, in accordance with the Military, Naval, and Air Clauses of the Peace Treaty, is to provide the essential first step.¹

¹ The future military organization was arranged by the following resolution, which was passed at a meeting of the Supreme Council, held at the Quai d'Orsay on 10th January 1920 :

'That the Inter-Allied military organization shall continue under the Presidency of Marshal Foch at Versailles, and shall have for terms of reference : (a) to act as advisory council to the Allied and Associated Governments in the military questions arising out of the execution of the Treaty of Peace with Germany ; (b) to execute the orders given it by the Allied and Associated Powers in matters concerning the Commissions of Control and the Allied Forces of occupation in the Rhineland and plebiscite areas.

'It was further decided that, should the occasion arise, the Council could be consulted upon all military questions of common interest to the Allies which the latter might be agreed to submit to it.'

Supplementary Note.—It was announced in the Press on the 18th February 1920 that Mr. Lloyd George, as President of the Supreme Council, had informed the German Government that they recognized the difficulty of completing the reduction of 'the army of the States constituting Germany' to 100,000 by 31st March 1920 under Art. 160. 'As this Article was drafted on the assumption that the Treaty of Versailles would have been ratified at a much earlier date, the Supreme Council have decided to permit that the German forces should be reduced to 200,000 by April 10 1920 ; that is to say, three months from the coming into force of the Treaty as provided for in Art. 163, and to 100,000 men by July 10 1920.'

CHAPTER II: SECTION II

THE PRINCIPLES—APPLIED TO GERMANY (*continued*)

PART III

THE NAVAL CLAUSES—TERMS

1. *Terms of the Armistice.* Right up to the date of the Armistice, in spite of the overwhelming superiority of the Allies in above-water craft,¹ the enemy's submarine warfare remained a grave menace to our maritime position.

The naval conditions of the Armistice signed by Marshal Foch and Admiral Rosslyn Wemyss removed this menace and signified the entire collapse of German naval power.

All submarines in existence were to be surrendered at ports specified within fourteen days of signature. German surface warships designated by the Allies to the number of 10 battleships, 6 battle cruisers, 8 light cruisers (of which 2 were to be minelayers) and 50 destroyers were to be dismantled and interned in neutral or Allied ports designated by the Allies. All other surface warships were to be completely dismantled and placed under the supervision of the Allies and United States. Vessels specified for internment were to be ready to leave within seven days of signature. These were the principal conditions.

The Allies also demanded the right to sweep up all mines outside German territorial waters, and free access to the Baltic to be secured by the occupation of all German forts and batteries and defence works between the Cattegat and Baltic. The Blockade was to continue. Aerial forces were to be concentrated and immobilized in German bases specified by the Allies.

In the evacuation of the Belgian coast all materials, ships, and stores were to be left intact. The Black Sea ports were to be evacuated; all Russian warships taken in the Black Sea were to

¹ On 11th November the Allied and Associated Navies numbered 66 battleships, 16 battle cruisers, 138 light cruisers, 477 destroyers, 356 submarines, to a German and Austrian strength of 22 battleships, 6 battle cruisers, 41 light cruisers, 134 destroyers, and 239 submarines.

be surrendered, and all neutral merchant shipping seized in the Black Sea released.

All merchant ships in German hands belonging to Allied and Associated Powers were to be restored to ports specified without reciprocity.

No destruction of ships was to be permitted and no German shipping was to be transferred to a neutral flag.¹

2. *Execution of the Terms.* With some minor exceptions, the principal conditions were fulfilled in the great surrender of the German Fleet at Rosyth on 21st November² and by the delivery of their submarine forces at Harwich between 17th and 21st November. One battle cruiser, the *Mackensen*, which had been asked for, was reported as not yet completed, and an additional battleship, the *Baden*, was demanded instead and left Germany to be interned in January. The principal point in dispute at this time was the status of Allied vessels duly condemned by German prize courts, which the German Government refused to deliver up as having passed outside the category of Article XXX (i. e. vessels belonging to Allied and Associated Powers) on condemnation.³

Between 3rd and 20th December a Naval Armistice Commission made a tour of inspection in the principal German ports and took account of 64 submarines capable of putting to sea or being towed and 125 other submarines in various stages of completion, as also a number of others at Danzig and in smaller Baltic ports. In view of this report it was considered that the German Navy still retained a considerable capacity for submarine offence, and in the renewal of the Armistice on 16th January the German authorities were required to agree that all submarines which could put to sea or be towed, were to be surrendered immediately and to proceed forthwith to Allied ports, including submarine cruisers, minelayers, lifting vessels and docks. Submarines which could not be surrendered or were under construction were to be totally destroyed or taken to pieces under the supervision of Allied Commissioners, and all submarine building was to cease forthwith.

The whole of the German fleet was also to be placed 'under

¹ Terms of Armistice with Germany, 11th November 1918, Articles XX—XXXIII.

² These included 10 battleships, 5 (instead of 6) battle-cruisers, 6 light cruisers, and 50 destroyers. The number of submarines finally surrendered numbered 156.

³ German answer to note of 12th December.

the control and the flags of the Allied Powers and the United States, who shall be assisted by a German delegate.’¹

3. *Essential Conditions of Peace.* Under these circumstances German naval power practically collapsed, and it was only left to the Admiralty to ensure that these conditions should be definitely embodied in the forthcoming Peace Terms.

In considering the terms of peace there were two dominant considerations to be taken into account—the severe limitation of Germany’s Navy and the confiscation of any of her colonies which might serve as naval *points d’appui* against the commerce of the world.

Her naval forces fell into two categories—surface ships and submarines. So far as the latter were concerned, it was considered by the Admiralty that the surrender of the whole of Germany’s submarine fleet was essential to our naval security, and the policy of a general international interdict on the construction of submarines was viewed with a considerable degree of favour. The fate of the German High Sea Fleet was regarded at this stage as of less importance. If her submarines were surrendered, Germany could not challenge our maritime position for a number of years, by which time her present High Sea Fleet would be a creation of the past.

The disposal of the German colonies was also a matter of supreme interest to the Navy. During the war enemy surface ships had destroyed some 600,000 tons of shipping, and in spite of our favourable position we had never been able to prevent entirely the escape of German raiders. It would be much more difficult to prevent their escape from bases overseas, and enemy bases at Duala in the Cameroons, Rabaul in New Guinea, Dar-es-Salaam in German East Africa, Walfisch Bay in German South-West Africa, and Apia in Samoa would offer immense opportunities for a world-wide campaign of commerce destruction. Under these circumstances it was considered that the security of the world’s trade routes involved the taking from Germany of her possessions oversea.

The essentials of peace, then, so far as the Navy was concerned, required that :

- (a) All completed submarines should be surrendered.
- (b) All submarines building in German yards should be destroyed.

¹ Convention prolonging the Armistice, 16th January 1919.

- (c) All German surface warships interned under the Armistice should be surrendered or destroyed.
- (d) No German oversea possessions should be returned.

There remained the question of the German fortress of Heligoland and the Kiel Canal. The former presented peculiar difficulties. The war had shown its enormous value to Germany as an advanced naval base and as a fortress, severely restricting the operations of the British fleet in the 'wet triangle'.¹ Its retention by the British would, however, be a matter of great difficulty in time of war, and one solution offered was to raze it to low-water mark, which would have required the expenditure of some 2,000 tons of high explosive. It was finally thought sufficient to demand the destruction of all fortifications and harbour works. The Kiel Canal constituted a great naval asset to Germany, but it could be of little use to her if she had no fleet, and it was considered sufficient to demand that it should be open to commerce at all times.

There remained the question of the Dardanelles, where naval requirements called for :

- (a) Free passage to all ships under international guarantee.
- (b) Complete destruction of all forts and other defences.
- (c) Administration of lighting and buoyage by Commissioners.

The replacement of the enormous amount of mercantile tonnage sunk by Germany was a question also affecting the naval position of the Empire, and the Admiralty were of opinion that the whole of existing German-mercantile tonnage should be surrendered to the Allies to be controlled by the Allied Maritime Transport Council, who would allocate a portion of it to German use. Many other subsidiary questions presented themselves, such as the possibility of an international convention prohibiting submarine construction and the limitation of armaments, but these had no direct bearing on the terms of peace with Germany. There were also numerous territorial questions with a naval aspect such as the status of Antwerp and the Scheldt, of the Aaland Islands and the maritime situation in the Adriatic and Asia Minor, the North Sea declaration of 1908, and the future of the Baltic, but the question of prime importance was the reduction of German naval power to a minimum.

¹ Cuxhaven, Wilhelmshafen, Wangeroog.

The Admiralty accordingly asked that all German vessels interned during the Armistice and the nine¹ remaining Dreadnought battleships should be surrendered and sunk in deep water within three months of the signature of peace, and all warships interned in neutral ports should be dealt with similarly within three months of delivery. All vessels building and sufficiently advanced for launching should be surrendered and sunk, and all others should be broken up under Allied supervision within three months of signing the Treaty. Similar conditions were suggested for submarines, namely, that all submarines surrendered should be sunk within three months and all in course of building should be destroyed under Allied supervision. These were the principal conditions put forward by the Admiralty when the Conference opened in January, conditions sufficient to ensure the complete collapse of the whole structure of German naval power which had been for a score of years challenging British naval ascendancy in the North Sea.

4. *League of Nations and Freedom of the Seas.* Outside the actual terms of Peace, two questions loomed in the foreground of the Conference, both with an important bearing on future Naval Policy. These were the formation of a League of Nations and the assertion of the Freedom of the Seas.

The former became an integral part of the Treaty, and the latter, though it never actually materialized, had been one of Wilson's fourteen points, and was a doctrine exercising a vast prospective influence on the conduct of naval war.

The phrase was open to various interpretations, but was generally taken to mean complete freedom of passage to all neutral shipping in time of war. As its more extreme exponents also asked for immunity of passage to all enemy private property at sea, it might be regarded as including freedom of passage to all enemy and neutral trade. In both senses the acceptance of the doctrine must severely handicap naval war.

Admiral Mahan had already formulated the principle that 'property' belonging to private individuals, but embarked in the process of transportation and exchange, which we call commerce, is like money in circulation. 'It is the life-blood of national prosperity on which war depends, and as such is national in its employment, and only in ownership private.'

¹ As stated above, one of these, the *Baden*, was handed over in January in place of the *Mackensen*.

Nothing can be clearer than the fact that war is an endeavour to exert pressure on an enemy, and that the primary object of victory at sea is to exert such pressure either by the strangulation of trade or by means of invasion. If trade in the form of so-called private property were to continue unchecked, the naval battle would be nothing more than a gladiatorial combat and would cease to have any real significance. The primary purpose of a Navy is to bring pressure to bear on an enemy by means of maritime power, and any convention which permits supplies of war to pass unrestrictedly to an enemy must break down when vital issues are at stake and an opposing navy is able to dispute their passage. Though the question did not come prominently before the Conference, it called for an answer. The Admiralty were generally opposed to any restriction of the traditional modes of war, on the grounds that any attempt at restriction was based on a profound misconception of the nature of war. Their view may be summed up as follows :

- (a) A belligerent is entitled to bring every possible pressure to bear on an enemy, consistent with due regard for innocent neutral trade and in accordance with accepted dictates of humanity.
- (b) A belligerent has the right to prevent oversea supplies reaching an enemy which may assist him in the prosecution of the war, and to attack his credit and resources by restricting his exports.
- (c) The government of a neutral state must refrain from assisting belligerents or shielding them from the pressure of an enemy's hostility, but the responsibility of preventing trade in contraband rests with the belligerent concerned.

The whole case for Freedom of the Seas may be regarded as based on a deep-seated fallacy, which regards naval war as a combat between two opposing fleets, operating without any ulterior object. It is as absurd to ask for a free passage of supplies by sea in neutral ships as it would be to ask a general to permit supplies to reach an enemy on the plea that the goods were neutral and were being transported in neutral vehicles.

The larger question of a League of Nations was only a naval question in its commitments and methods of application. So

far as its commitments were concerned, until the League became an effective instrument wielding naval and military forces sufficient both in numbers and training to ensure the peace of the world, the responsibility of the Admiralty for the sea communications of the Empire would remain undiminished, and if His Majesty's Government were under obligation to go to war for any other considerations, and could not look for effective naval co-operation, then the responsibilities of the Admiralty would be increased and must lead to an increase in the estimates of naval requirements, which it would be difficult to reconcile with any agreement for the restriction of armaments.

It was clearly not possible to increase our responsibilities and at the same time enforce a drastic reduction in naval strength. Again, so far as the restriction of armaments was concerned, this must be largely dependent on technical considerations. For instance, the limitation, by international agreement, of Germany's Dreadnought fleet to half its strength in 1912 would not have affected her submarine campaign, which constituted the principal menace to the world in 1917.

From an Imperial point of view the situation and circumstances of the British Empire are unique. No other Power is in the same position or in anything like the same position, and it is difficult for any other Power to understand our position in all its aspects. The loss of the British Navy would mean the extinction of our national life, and the Admiralty were not prepared to agree to any proposals for the reduction of armaments which would mean placing in the hands of an international tribunal the responsibility of determining the naval force required for the protection of the Empire.

A further grave disadvantage lay in the general constitution of the League. The obligation to take concerted naval and military action with other Powers required something in the nature of a 'League Naval Staff'. But it is clearly impracticable to constitute such a body, for until the emergency arises the various Powers do not know with whom they will be associated, and it will be impossible under ordinary circumstances for members to formulate any general plans of which a subsequently recalcitrant member would not be cognizant. These large questions, however, were settled by the Supreme Council and remained outside the purview of the Naval Advisers.

5. *Disposal of German War Vessels.*—The question which

occupied the attention of the latter from the very first was the disposal of the German war vessels, which gave rise to considerable discussion, in which France found herself in general disagreement with the other Powers. In the case of surface craft the French adopted the view that while other countries had been in a position to make good their losses and even to increase their naval strength, France had been compelled by her vast military commitments to stop all work on Dreadnoughts under construction and to countermand orders sanctioned before the War. The French naval delegates were therefore in favour of sharing the German vessels among the Allied and Associated Powers in the ratio of their losses, to be disposed of as each might think fit. Powers such as the United States and Great Britain, whose increase in naval strength rendered such contributions superfluous, might then either destroy them or offer them to less fortunate Allies.

The great bulk of the naval losses had been borne by Great Britain,¹ and on this ratio Great Britain would be entitled to some two-thirds of the German battleship force, and France to about one-third. Great Britain, on the other hand, was in favour of sinking or demolishing all the surrendered vessels. Italy was in favour of demolition, as the materials could be usefully employed in her steel works and the fittings in the construction of merchant ships. The French naval staff put forward various later proposals based on the warship tonnage added to each fleet during the War. On this basis England had added some 20 per cent., the United States some 30 per cent.; France alone of all the combatants had hardly increased her tonnage at all, and her net loss amounted to some 100,000 tons. Excluding submarines the German tonnage surrendered, or to be surrendered, was reckoned at some 750,000 tons, and, in view of the substantial decrease in the French Navy during the war, the French asked for some 270,000 tons in the form of 5 battleships, 3 battle cruisers, 8 light cruisers, and 40 destroyers.

In the case of the submarines the Naval Advisers of all the Powers except France were in favour of their being broken up, but the French adopted the same attitude as in the case of surface craft, and asked for some to be added to their fleet.

¹ For instance, Great Britain had lost 13 battleships, 3 battle cruisers, 13 light cruisers, 65 destroyers, and 54 submarines. The corresponding figures for France were 4, nil, nil, 11.

The consideration of these proposals engaged the attention of the Naval Sections at the Conference during the whole of 1919, and no decision as to the final disposal had been arrived at in June 1919, when the Peace Terms were signed.

6. *Naval Terms of Peace.*—The naval conditions of the Peace Terms, signed in June, comprised 17 Articles, the first of which, Article 181, provided that within two months of the Treaty coming into force, the German naval forces in commission were not to exceed 6 battleships of the *Deutschland* type,¹ 6 light cruisers, 12 destroyers, and 12 torpedo boats. No submarines were to be included in the above. Article 182 required Germany to keep in commission such number of minesweeping vessels as the Allies might fix. Article 183 stipulated that the total personnel of the German Navy, including the reserves of the fleet, coast defences, signal stations, and other land reserves, was not to exceed 15,000 officers and men. Articles 184 and 185 dealt with all surface craft and stipulated that, from the date of the Treaty coming into force, all German surface warships not in German ports should cease to belong to Germany, and vessels interned in the ports of the Allied and Associated Powers were to be regarded as finally surrendered. Vessels interned in neutral ports were to be then surrendered to the Governments of the Allied and Associated Powers. Further, within two months from the same date, 8 Dreadnoughts,² 8 light cruisers, 42 modern destroyers, and 50 modern torpedo boats, were to be surrendered, disarmed, but with all guns on board. This would leave Germany with some obsolete battleships, most of which were disarmed, 6 light cruisers, and some 70 obsolescent destroyers. Article 186 dealt with surface warships under construction, stipulating that from the date of the Treaty being enforced the German Government should undertake their demolition under the supervision of the Governments of the Principal Allied and Associated Powers. Under Article 187 auxiliary cruisers³ were to be disarmed and treated as merchant ships. Article 188 dealt with submarines, and required that at the expiration of one month from the Treaty coming into force, all German submarines,

¹ i. e. a pre-Dreadnought type. The article goes on 'or an equal number of ships constructed to replace them as provided in Article 190'.

² *Oldenburg, Thüringen, Ostfriesland, Helgoland, Posen, Westfalen, Rheinland, Nassau.*

³ Four were specified as interned in neutral countries, and 28 lying in German ports.

submarine salvage vessels, and docks for submarines were to be handed over to the Governments of the Principal Allied and Associated Powers, and such as could proceed or be towed were to be taken by the German Government to Allied ports indicated. The remainder, and those in course of construction, were to be broken up entirely by the German Government under Allied supervision, the demolition to be completed within three months at most of the Treaty coming into force. Article 189 stated that all articles and material arising from the break-up of German warships were to be utilized only for purely industrial or commercial purposes, and were not to be sold or disposed of to foreign countries. Article 190 represents the final issue of the German Navy Law of 1900, which for twenty years had inspired Germany with the idea of naval power. No warships were to be constructed or acquired other than those intended to replace the 6 battleships, 6 light cruisers, 12 destroyers and 12 torpedo boats provided for in Article 181. The tonnage was limited to 10,000 tons for armoured ships,¹ 6,000 tons for light cruisers. Units of the different classes were only to be replaced at the end of a period of twenty years in the case of battleships and cruisers, and fifteen years in the case of the destroyers and torpedo boats.

Under Article 191 the construction or acquisition of any submarine, even for commercial purposes, was forbidden in Germany.

Under Article 192 the allowance of munitions for the warships in commission was to be fixed by the Principal Allied and Associated Powers, and within a month from the date of such quantities being fixed all munitions and war material in excess, including mines and torpedoes, were to be surrendered to the Allies, at such places as might be indicated, to be destroyed or rendered useless. All other stocks, dépôts, or reserves of army munitions or naval war material were forbidden, and their manufacture in German territory for foreign countries was also forbidden.

Article 193 laid down that Germany should sweep up the mines in the areas to the east of longitude 4° 00' East, between the latitudes of 53° 00' N. and 59° 00' N., and to the northward of latitude 60° 30' N.

¹ This precludes in practice the building of Dreadnoughts. Destroyers were limited to 800 tons, torpedo boats to 200 tons.

Article 194 enforced the principle of long service in the German Navy, and stipulated that its personnel was to be recruited entirely by voluntary engagements for a period of twenty-five consecutive years for officers and warrant-officers, and twelve consecutive years for petty officers and men.

The personnel discharged was not to receive any further training, and no officers or men of the German mercantile marine were to receive any training in the Navy.

Articles 195 and 196 dealt with fortifications and fortresses. Article 195 provided that, in order to ensure free passage into the Baltic to all nations, Germany was not to erect any fortifications in the area between the latitudes $55^{\circ} 27'$ N. and $54^{\circ} 00'$ N. and longitudes $9^{\circ} 00'$ E. and $16^{\circ} 00'$ E. of the meridian of Greenwich,¹ nor instal any guns commanding the maritime routes between the North Sea and the Baltic. The fortifications existing in this zone were to be demolished, and the guns removed under the supervision of the Allied Governments, within periods to be fixed by them. All hydrographical information was to be placed at the disposal of the Principal Allied and Associated Powers.

Under Article 196, all fortified works and fortifications, other than those mentioned in Section XIII (dealing with Heligoland)² of Part III (Political Clauses), and in Article 195, at the time established, within 50 kilometres of the German coast were to be considered of a defensive nature and were to be permitted to remain in their existing condition.

No new fortifications were to be constructed; the particulars of the present armament were to be communicated to all European Powers, and the stocks of ammunition were to be reduced and maintained at a maximum figure of 1,500 rounds per piece for guns of 4.1 inch, and 500 rounds per piece for guns of higher calibre,

¹ That is on any of the Baltic coast of Germany as far east as a point about half-way between Rügen Island (Pommern) and the Gulf of Danzig.

² Under Article 115 (Section XIII) the fortifications, military establishments, and harbours of the Islands of Heligoland and Dune were to be destroyed under the supervision of the Principal Allied Governments by German labour at the expense of Germany within a period to be determined by the said Governments. The term 'harbours' was to include the north-east mole, the west wall, the outer and inner breakwaters and reclaimed land within them and all naval and military works, fortifications and buildings constructed or under construction. These fortifications and military establishments and harbours were not to be reconstructed nor any similar works constructed in future.

Article 197 stipulated that during the three months following the Treaty coming into force, the German high-power wireless stations at Nauen, Hanover, and Berlin were not to be used for the transmission of messages concerning naval, military or political questions of interest to Germany or any State allied to Germany in the War, without the assent of the Governments of the Principal Allied and Associated Powers, but their use for commercial purposes was not prohibited.¹

A protocol of the same date provided for a Commission to be appointed by the Principal Allied and Associated Powers to supervise the destruction of the fortifications of Heligoland.

The conditions of the Treaty of Peace with Austria followed the same lines.² All Austro-Hungarian warships, including submarines, were declared to be finally surrendered, as well as all the armed vessels of the Danube flotilla. Her auxiliary cruisers and fleet auxiliaries were to be disarmed and treated as merchant ships. All warships, including submarines under construction, were to be broken up. The construction or acquisition of any submarine was forbidden. All arms, ammunition and other naval war material, including mines and torpedoes, was declared to be finally surrendered.

The high-power wireless station at Vienna was not to be used for the transmission of messages concerning military, naval, or political questions during the three months following the Treaty coming into force.

7. *The Scapa Flow Incident and its Consequences.* Before the signatures to the Treaty had been attached, the whole question of the disposal of ships was greatly complicated by the scuttling of the German ships at Scapa on the 21st June.

There were interned at Scapa on that date 11 battleships, 5 battle cruisers, 6 light cruisers, and 50 destroyers.³

The surplus crews had been embarked for Germany on the

¹ Treaty of Peace between the Allied and Associated Powers and Germany at Versailles, 28th June 1919.

² Treaty of Peace between the Allied and Associated Powers and Austria at St. Germain-en-Laye, 10th September 1919, Naval Clauses, Articles 136 to 143.

³ Battleships : (Baden), Bayern, Friedrich der Grosse, Grosser Kurfürst, Kaiser, Kaiserin, König, Kronprinz Wilhelm, Markgraf, Prinzregent Luitpold.
Battle-cruisers : Derfflinger, Hindenburg, Moltke, Seydlitz, Von der Tann.
Light cruisers : (Emden), (Frankfurt), (Nürnberg), Cöln, Dresden, Karlsruhe, Bremse, Brummer.

Destroyers : 50 (20 salvaged or afloat, 30 sunk).

NOTE.—Brackets indicate vessels salvaged.

17th June. The period for signing the Peace Terms was about to expire, but had been extended to the 23rd June, of which, however, the German Admiral von Reuter was apparently ignorant. The action was evidently part of a pre-arranged scheme, for which definite instructions had been issued by the Admiral and for which preparation had been made by the German officers unknown to the men.

At about 11.15 a signal was made by the *Emden* ordering the instructions previously given to be carried out. The men, finding the ships sinking beneath them, began to take to the boats, which was the first symptom of any unusual occurrence. The ships began to settle down, and, though every effort was made to salve them, the attempt was fruitless except in the case of the *Baden* and the smaller craft, for in the larger ships the inlet valves were not so immediately accessible, and the watertight doors were much more numerous and had been jammed to prevent closure. It was hoped at first that the *Hindenburg* might be saved, but she sank at about 4 p.m. as she was being towed ashore. The efforts to salve the smaller craft met with some success. The crews in several cases had been driven back on board by rifle fire, and made efforts to delay the sinking on their own behalf, and this, in conjunction with the greater facility for reaching the inlets in smaller craft, enabled three light cruisers and a number of destroyers to be saved.

The question of the actual disposal of enemy surface vessels had now to take into account the fact that 9 battleships, 5 battle cruisers, 5 light cruisers, and some 30 destroyers were lying at the bottom of Scapa Flow. The United States adhered to the view that all ships should be sunk or broken up. Great Britain was in favour of breaking up, but was prepared to place in one pool all the German ships to be surrendered, including those scuttled at Scapa, to be distributed on a basis of losses during the War, the tonnage lost at Scapa to be included in Great Britain's share, who would thus bear the whole brunt of the Scapa incident.¹ France was still anxious to have some ships to compensate her for her retardation in building, and claimed 5 capital ships, 6 light cruisers, and 32 destroyers to add to her Navy.

¹ The enemy surface ships proposed for surrender numbered at this time 27 battleships and battle cruisers, 20 light cruisers, 111 destroyers; of which there had been scuttled at Scapa 15 battleships and battle-cruisers, 5 light cruisers, and 32 destroyers.

Italy remained in favour of demolition, but, in the event of any ship being allotted to France, wished for a similar share. The Japanese were not opposed to the ships remaining at Scapa being given to the French, but, in the event of any further distribution to France or Italy, they thought it right that they should have a share.

In the case of submarines the United States, Great Britain, the British Colonies, Italy, and Japan, had been unanimous in recommending that all submarines, submarine salvage vessels, and docks surrendered by Germany should be broken up, a policy chiefly based on the undesirability of increasing submarine armaments by a distribution of submarines when the menace of the German fleet had been removed, and a general reduction of armaments was imperative. The French, however, were in favour of differentiating between those submarines which had taken part in the war on commerce and those which had not. The former they suggested should be destroyed, the latter should be divided among the Allied and Associated Powers, according to their losses during the war.

The British were in favour of allotting the submarines to the different Powers, on condition that they should be sunk or broken up. The question was still undecided late in the year, the French adhering to the view that they should be free to incorporate vessels in their Navy, and that their heavy sacrifices on land entitled them to special consideration.

After the surrender of the submarines in November 1918, it had been agreed that some should be sold to break up, but when 54 had been sold, the Supreme Council decided that no more should be broken up, pending the decision on the whole question of the disposal of enemy ships.

Further, some 40 submarines had been supplied to Allied Powers for propaganda purposes, and the situation of enemy submarines in November 1919, was :

Great Britain 49 (and 54 sold to break up)	. . . . .	103
France . . . . .	. . . . .	46
Italy (18 Austrian, 10 German)	. . . . .	28
U.S.A. . . . .	. . . . .	6
Japan . . . . .	. . . . .	7
	Total	<u>190</u>

The opinion in favour of breaking up was practically unanimous, except in the case of the French delegates, who

were insistent that France should be allowed to incorporate some of them in her fleet; and it was finally decided that all should be broken up except ten to be handed to France.

The question of the disposal of the surface ships was still unsettled at the end of October 1919. Great Britain adhered to the policy of breaking up and distribution on a basis of losses sustained, but was prepared to let France have the *Baden*, the 3 light cruisers and 14 destroyers which were not sunk, or had been salvaged, and also to allow France and Italy to embody in their navies the vessels thus falling to their share.

France refused to withdraw her claim to the right of free disposal of whatever ships she received, and asked that the distribution should be on a basis of military value as well as tonnage, and that her share should be selected from the best units in view of the consecration of her naval arsenals during the war to the military needs of the Allies. With regard to the scuttling of the ships at Scapa, the Admiralty were of the opinion that reparation should be made for the loss of ships whose break-up value would have been considerable, for the cost of the salvage operations and the buoyage of the wrecks, and if this could not be settled on a financial basis, reparation should take the form of a surrender of floating docks and other material.

The Naval advisers therefore asked that, in the case of the capital ships, floating docks should be delivered equivalent to the tonnage sunk, that is to say, about 370,000 tons; that for the light cruisers sunk the light cruisers¹ remaining to Germany should be surrendered, and that for the 50 destroyers, small floating docks, cranes, tugs and dredgers should be demanded corresponding to their tonnage of some 42,000 tons, and in order to ensure the execution of this demand, the German Government should undertake to supply a complete list of all such material within ten days of ratification.

It was now the end of October. The French had gradually abandoned the idea of attaching to their fleets German capital ships of a type entirely different to their own; but the United States, late in the year, added to the points at issue by putting forward a proposal that in the event of it not being possible to agree to the sinking of surrendered ships, the distribution should

¹ The only warships of naval value left were the five light cruisers *Graudenz*, *Königsberg*, *Pillau*, *Regensburg*, *Strassburg*.

be on the basis of national effort,¹ as the surrender of the ships was the final outcome of all the efforts of the Allied and Associated Powers, military and naval, throughout the War.

8. *Decision as to Distribution of German Navy, December 1919.* The decision of the Supreme Council was made in December, very much on the basis suggested by the majority of naval advisers. The enemy tonnage of surface warships was to be divided up between the Allied and Associated Powers in accordance with the losses sustained in the War, viz.: Great Britain 70 per cent., France 10 per cent., Italy 10 per cent., Japan 8 per cent., United States 2 per cent.,² Greece, Rumania, and Portugal were each given a small vessel to compensate them for minor losses which they had sustained.

Enemy tonnage was to be allocated for breaking up or sinking under the superintendence of the Inter-Allied Commission, and the ships were to be sunk or rendered incapable of service within eighteen months.

Great Britain was prepared to bear the loss arising from the Scapa incident, but if compensation was made in the form of serviceable material, such compensation should be divided in a similar proportion to that adopted for surface warships.

France and Italy were each to receive 5 light cruisers and 10 destroyers² for use in their fleets in compensation for the cessation of their building during the War.

Each of the Principal Allied and Associated Powers were to receive 1 battleship, 1 light cruiser, and 3 destroyers on loan from the Inter-Allied Commission (presumably for experimental purposes) to be broken up or sunk at the expiration of one year.

Under Article 185 it had been stipulated that vessels surrendered should be disarmed, but France pointed out that this would seriously affect the military value of the vessels allotted to her for fleet service. This matter was adjusted, and the final outcome was the Protocol presented and signed at Paris on the 10th January.³ This stated that the Allied and Associated Powers could not allow to pass without penalty such a violation of the Armistice as the destruction of the German Fleet at

¹ The standard was to be based on men enrolled, losses in the War, loss of material, cost of operations, and financial assistance. The war expenditure was estimated at:—Great Britain 88 per cent., France 26 per cent., United States 22 per cent., Italy 13 per cent., Japan 1 per cent.

² France also received 10 submarines for incorporation in her fleet. The United States subsequently refused to accept her share.

³ Protocol signed by Germany, 10th January 1920, at Paris.

Scapa Flow, the destruction of U. C. 48 off Ferrol, and of various submarines in the North Sea on their way to surrender. Germany was to hand over, therefore, within 60 days from the signature of the Protocol, 5 light cruisers—*Königsberg*, *Pillau*, *Graudenz*, *Regensburg*, *Strassburg*—and within 80 days, in good condition, floating docks, floating cranes, tugs and dredgers, equivalent¹ to a displacement of 400,000 tons,² and to dispatch within 10 days a complete list of all German property of this description. Finally, to deliver within 10 days the engines and motors of U. 137 and U. 138 as compensation for the destruction of U.C. 48.

The responsibility for the execution of the terms was laid upon the Inter-Allied Commission, who were given instructions in December to supervise the transfer of ships, which were to be held in trust by them till definitely allocated, to make agreements with the naval authorities concerned to have ships sunk or rendered incapable of service, to arrange for visiting the yards where the breaking up was in progress, and generally to take all necessary steps to carry out the decisions of the Supreme Council.

9. *Conclusion.* The collapse of German naval power in 1918 was so complete that it is still difficult to see it in a clear perspective. The view is still blurred, but the scene enacted off the Forth on the 21st November 1918, when the *Cardiff* led the German fleet in between the massed lines of the British fleet looming dimly through the mist has no precedent in naval annals, or in the history of the world. It had been achieved by economic pressure and internal disintegration, based in its turn on the pressure of maritime power exerted by a superior fleet. There had been no overwhelming victory; but there can be no doubt that, had the great bulwark of the Grand Fleet once been broken, our supply system would have been paralysed, and our ships swept from the sea. Our position had been seriously menaced by the submarine campaign, and there had been moments when it appeared only a matter of time before we would reach the limit of our endurance, but the sands of that time never ran wholly out. Germany, strangled by sea power, and with a vast military spearhead levelled at her heart, collapsed,

¹ In lifting power, in the case of floating docks. *Vide* also for treatment of this incident, Vol. I, chap. 8, pt. 3, § 12.

² Reduced to 300,000 tons, 192,000 tons of which were to be delivered immediately. *v.* published letter of Clemenceau dated 10 Jan. 1920.

and by a strange fortune the year 1920, which was to have seen the final consummation of the Naval Law of 1900, in the form of a serried line of 61 large capital ships, 40 small cruisers, and 144 destroyers, saw the whole structure of German naval power shattered and destroyed. The finest vessels of her fleet were lying, sunk by her own officers, at the bottom of a desolate harbour in the north, the remainder were under the hammer of destruction, and the Emperor who had inspired the birth of German sea power, and who had fostered it from the first, was a fugitive in a foreign land, while a Commission, sitting in his capital, made arrangements for the destruction of the remnants of his fleet. The German officers had been taught to look forward to the 'Day'—a day of prospective triumph and victory—but neither they nor any one in Europe had ever seen the real day waiting for them in the misty approaches of the Forth.

The question naturally arises : Is it possible for Germany to recover any portion of her former naval position ? The answer is plain for the next ten or fifteen years. She has practically no navy, and it will be the business of those who signed the Peace Terms to see that her present navy is rigidly restricted to the limits laid down in it. It is entirely possible for them to do so by entering her rivers and sinking any vessel built beyond the numbers prescribed, for vessels of any size cannot be hidden away in nooks and corners of the coast. It may be that as years pass, the battleship may be discredited; and maritime power may pass to the air. But that day has not yet arrived, and till it does arrive the Peace Terms signed at Versailles are sufficient to ensure the quiescence of German naval power for a score or so of years.

Disposal of German Commercial Fleet

Note.—According to official sources, *Times*, 20th February 1920, the tonnage of German vessels of over 1,000 tons surrendered was 1,824,828 gross tons, of which 1,384,610 tons to Great Britain, 421,335 tons to France, 2,691 to Italy, unallocated 43,900 gross tons. A revised estimate (*Times*, 20th April 1920) gives Great Britain 1,330,000 gross tons and 450,000 gross tons of prize and detained ships ; and states that the U.S.A. still holds 575,000 gross tons of enemy shipping. (*v.* Vol. III, Treaty, pt. 8, Annex III for details of surrender).

CHAPTER III

THE TERRITORIAL SETTLEMENT OF EUROPE

PART I. THE SETTLEMENT OF THE WESTERN FRONTIERS OF GERMANY

I. ALSACE-LORRAINE

1. *Historical Sketch of French Administration up to 1871.* Alsace-Lorraine was acquired by the French through the methods which have led to the consolidation of most modern States, namely, conquest, trickery and cession. The method of acquisition and the ethnological and linguistic character of the population are, however, irrelevant to the question of rightful ownership. It is indisputable that the inhabitants became in a very short time 'more French than the Parisians',¹ owing to the liberal policy pursued by the French Government from the time of Louis XIV. The Intendants were carefully selected, the administration was good, and no attempt was made to substitute French for the German patois, then as now generally in use. The Revolution bound the two provinces even more closely to France. Strasbourg in particular welcomed the new ideas from the very first. The abolition of the rights belonging to the Princes of the Empire in 1790 snapped the last links which connected Alsace-Lorraine with Germany. The wars of the French Empire shed great glory on Alsatian troops, in whom Napoleon placed especial reliance. The number of Marshals and Generals supplied by the district was out of all proportion to its population.

In 1815 the influence of Wellington frustrated the effort made by Hardenberg to persuade the Congress of Vienna that retrocession to Germany was an act of justice, which alone could secure the future peace of Europe.

The period between 1815 and 1870, politically uneventful, was occupied by a steady economic development, which reached its height during the Second Empire. Mulhouse, the centre of

¹ An expression used by Baron Schmettau, the Prussian Plenipotentiary, in a memorandum handed to the Allies at the Hague in 1709.

the cotton industry, nearly trebled its population between 1844 and 1870. Half the existing railway system and most of the existing canals were completed under French rule.

Before the war of 1870 German military opinion viewed with alarm the presence of the French on the Upper Rhine. German Nationalists, led as often by professors, called for the emancipation of these old German lands from the foreigner, and produced in support of their demand those arguments drawn from anthropology, language and culture, which aroused the amused contempt of Bismarck. There was, however, no popular demand for a war with France to recover the two provinces, except possibly during the crisis of 1840-41.

2. *Bismarck's views on Alsace-Lorraine.* When Bismarck said in his *Reminiscences* that 'A war with France lay in the logic of history', he meant that he required war :

(i) to prevent France from keeping Prussia to the letter of the Treaty of Prague and thereby perpetuating that dualism in Germany, which has always proved the opportunity of France ;

(ii) positively to ensure a political and military union between Prussia, the North German Confederation, and the South German States.

The war of 1870 had therefore at its inception to be presented to Germany as a purely defensive war ; this was the only way by which Germany could be united against France. The folly of Gramont gave Bismarck the exact opportunity which he sought, as France appeared to be following up a diplomatic success by an unjustifiable attempt to humiliate a conciliatory king.

It was only after the first French defeats that Bismarck decided to insist on annexation as one of the indispensable conditions of peace.¹ Thenceforward he never wavered in his view :

¹ Compare the remarks of Busch, Bismarck's confidential secretary, written on 22nd August 1870 : 'There is no longer any doubt that we shall take Alsace and Metz with its environs. It is astonishing how freely this idea of the Chief now flows from one's pen. What looked like a miracle ten days ago seems now quite natural and a matter of course' (Busch, *Bismarck : Some secret pages of his history*, Vol. I, pp. 99-101, Eng. ed. 1898). At the end of August 1870 Count von Bismarck Bohlen was appointed Governor of the two provinces, which were thus marked out from the rest of the occupied territory ; and a map was prepared by the General Staff giving their requirements which was used as a basis for the subsequent cession. (See Article 1 of the Preliminaries of Peace signed at Versailles, 26th February 1871.)

(i) that annexation was necessary and could be defended only on strategical grounds :

(ii) that viewed from the standpoint of nationality it would be a source of weakness, and trouble to Germany.

Bismarck affected to believe that no durable peace with France was possible, since the French would begin a war of revenge as soon as they felt strong enough. It was therefore of primary importance to obtain a frontier which would secure Germany against such aggression. In consequence, he consistently placed the responsibility for the terms demanded on the General Staff. He expressed his personal opinion that Metz ' would bring too many Frenchmen into our house ', but justified himself by saying that ' the military will not let Metz slip and perhaps they are right, as it is a glacis behind which the French could assemble 100,000 men '.

In a similar spirit he told the Alsations, when speaking in the Reichstag, that while he hoped they would be happy they had not been annexed for that reason ; and reminded them that they shared with the remainder of France the responsibility for the late war, which had resulted in their change of masters. The exceptional character of the Government, which, as will be shown, he consistently maintained in the Reichsland, proved that he meant what he said. How highly he rated the economic value of Alsace-Lorraine is uncertain. It was impossible to foresee the paramount importance of the great Lorraine iron-field to Germany, as the Minette ore could not be profitably turned into steel until after the discovery of the Gilchrist method in 1879. It is noticeable, however, that the only concession granted to France during the negotiations by which Belfort and its surroundings were relinquished, was paid for by the counter-cession of some of the richest mining communes round Moyeuivre. Further, a mining expert, von Hauchecorne, was included in the German Frontier Commission, who disputed every inch of ground in the iron areas, where the curiously twisted contour of the frontier showed on the map the covetousness of the conqueror. The annexed territory had a further importance for the newly founded German Empire. In Delbrück's words ' The Reich will grow out of the Reichsland '. Alsace-Lorraine became the symbol of the triumphant Empire, the precious pledge of blood shed in common for a common German aim. For this reason Bismarck defeated all

proposals either to annex it to Prussia, or to divide it among the South German States, and gave it a unique position in the federal system of Germany.

3. *The Protest at Bordeaux; Contemporary Opinion in Europe.* The intensity of bitterness provoked both in France and in Alsace-Lorraine permitted of no doubt. As is well known, the war was prolonged for five months owing to the refusal of the Provisional Government, which came into power after Sedan, to cede 'an inch of our soil or a stone of our fortresses'.

Bismarck, who afterwards bitterly regretted his action, allowed elections to be held in Alsace-Lorraine for the French National Assembly, which met at Bordeaux in February 1871. Gambetta, the partisan of war à l'outrance, was elected in each of the four departments affected. Every one of the fifteen deputies was pledged to vote against the proposed cession. They made their famous and touching protest in the Assembly on the 16th February 1871, in which they declared that they held in advance 'as null and void any act, treaty, vote or plebiscite which should abandon to the foreigner all or part of Alsace-Lorraine'. They proclaimed 'the right of Alsatians and Lorrainers to remain members of the French family to be for ever inviolable', and called upon Europe not to permit 'the seizure of a people like a vile herd of cattle'.

Though the wisdom of the annexation was doubted in Europe, few foresaw its future influence on international relations. The Germans were thought to have made a high-handed use of the rights of conquest, but not to have outraged the moral sense of civilized peoples. The Germans pointed plausibly to the numerous invasions by the French during the last two centuries. They claimed to possess 'the key to their house'. They would not or could not perceive that a united Germany, whose population was rapidly increasing, was in itself the best guarantee against attack by a stationary France. A mutilated France alone would be dangerous to Germany, since she would always be allied with Germany's enemies. The real object of the annexation was not so much to prevent a French attack as to make it possible for Germany to attack France at will. France was to be prevented by threat of war from pursuing an independent policy. Bismarck's whole attitude, and in particular his actions during the spring of 1875 prove this, and the same policy was continued by his

successors in the series of incidents which disturbed the peace of Europe between 1905-11. The main importance of Metz is offensive. It is no more a defensive necessity to Germany than the possession of the Southern Tyrol to Austria. The configuration of the Austrian frontier forced Italy for many years to be a member of the Triple Alliance against her natural interests. There can be little doubt that Bismarck hoped that the possession of Metz would give Germany a similar advantage over France. For this reason he carefully cultivated friendship with Russia, for he saw that a Franco-Russian alliance would most effectually break up the work of 1870.

Further, the method of annexation by simple transfer was anachronistic. It was the old method, which had appeared normal and natural at the Congress of Vienna. But the doctrine of 'nationality', as expounded and practised by Napoleon III, had made it normal to consult by a preliminary plebiscite the populations whose future it was proposed to alter. This course had been taken during the last ten years in Savoy and Nice, in Italy and Rumania. Bismarck had even allowed such a provision to be inserted into the Treaty of Prague for the benefit of the inhabitants of Northern Schleswig.¹ The refusal to take a similar course in 1871 was diplomatically retrograde and a confession of moral weakness.

4. *Character of the German Administration.* Finally German public opinion completely under-estimated the devoted attachment of the inhabitants to France. They were believed to be German at bottom, 'unconscious Germans', who had only to experience and appreciate the superiority of German Government and culture in order to renounce their false gods. Hence there was much goodwill towards the Alsätians immediately after the annexation, which turned all the more readily to hatred and contempt, when their continued faithfulness to France seemed a proof that they were sinning against light.

It is clear that the only method by which Alsace-Lorraine could be reconciled with Germany was by permitting the fullest possible expression of its individuality within the federal system. The view of the Imperial Government, however, was that the Alsatians could not be trusted with greater liberty, until they had become better Germans. Thus events moved in

¹ He never permitted it to be carried into effect, and the clause was expunged from the Treaty in 1879 with the consent of Austria.

that vicious circle so common in the relations between unsympathetic rulers and unwilling subjects. The German Government was not especially cruel or oppressive. The Statthalters, especially Manteuffel and Hohenlohe, were men of high character and good intentions, who enjoyed a measure of personal popularity. But the Alsatians were never allowed to choose their own constitution, and the successive doles of self-government meted out in 1874, 1879, and 1911, could be at any moment withdrawn by the Reichstag. The Statthalter, who was appointed and removable by the Emperor, could overrule the elected representatives of the Reichsland. Until 1902 the 'Dictatorship Paragraph' enabled him to proclaim at will a modified form of martial law, if he considered the public safety to be in danger.

5. *Effect of German Administration on the Inhabitants, 1871-1914.* The first elections to the Reichstag in 1874 had confirmed Bismarck in his view that the Alsatians could not be trusted. All their representatives, with one exception, renewed in the Reichstag their protest of 1871, and demanded a plebiscite. As late as 1887 the Protesting Deputies, as they were called, secured every seat and polled 247,000 out of a total of 314,000 votes. The subsequent repression which was rendered more violent by the belief that a war with France was imminent, was successful in changing the character of the constitutional opposition. The two provinces had become knit together in adversity far more closely than when they formed part of three French departments. Realizing that an attitude of blank protest would not aid them to return to France but must hinder their constitutional and economic development, the new Autonomist party devoted their energies towards securing the full status of a Federal State.¹ The repeal of the 'Dictatorship Paragraph' and the Constitution of 1911 were the fruits of their partial success.

The German official attitude towards Alsace-Lorraine has always varied in accordance with the relations prevailing between France and Germany. Therefore during the ten disturbed years which preceded the war there was a notable recrudescence of active pro-French sentiment in the Reichsland which led von Dallwitz, the Statthalter, to declare in the

¹ The leaders of this party expressly declared that they adopted this policy without prejudice to their French sympathies.

spring of 1914 that French influence and sympathies were stronger than ever.

The experiment of 1871 was, therefore, at the outbreak of war an acknowledged failure. Germany had, it is true, done much for the material prosperity of the country; but always in the interests of Germanization. The local officials were for the most part capable and honest, but they were almost without exception German. The educational system was extremely efficient, but the French language was shut out of all primary instruction, except in a few frontier communes of Lorraine. The University of Strasbourg was one of the finest in Germany; it received an annual Government grant of 1,800,000 marks, but almost all its professors and a majority of its students were Germans. The superb railway system was dominated by strategical rather than commercial considerations. Government orders were refused to firms, like the Grafenstaden locomotive works, which were believed to be animated by French sympathies. The jealousy of Bavaria and Baden was permitted indefinitely to shelve the construction of a lateral canal on the left bank of the Rhine, which was proposed by the Strasbourg Chamber of Commerce as early as 1871.

The ordinary native, who took little interest in political questions, was continually irritated in the course of his daily life, and felt that he was regarded as a foreigner or at best as 'a second-class German'. The garrison of 75,000 men, of whom two-thirds were Prussian, acted as if, in the words of von Jagow, 'they were camping in an enemy country'. When Colonel Reuter instituted a senseless reign of terror in Saverne in 1913, he was congratulated by the Crown Prince and upheld by the military authorities, whose only mark of censure consisted in transferring the regiment to another district.¹

The Alsatian conscript, on the other hand, was seldom allowed to spend his military service in his own country. He was generally placed in a Guard Regiment at Berlin to complete his Germanization. He was the object of official suspicion, and consistently refused promotion.²

¹ New regulations governing the co-operation of the military with the civil authorities in putting down disturbances were, however, approved in April 1914 and made applicable to Alsace-Lorraine. They laid down that the military should not intervene independently unless the civil power was not in a position to demand their aid.

² It has been asserted on good authority that during the whole period 1871-1914 only 13 Alsations became active officers and 12 reserve officers.

In civil life he could not get his children taught French, he was prohibited from putting up a French signboard over his shop, or placing a French inscription on the gravestone of his relatives. If he belonged to an athletic or social club he was at once suspected of conspiracy against the German Government. It is therefore not surprising that the minority which was won over to Germany was very small. It consisted of a certain number of officials, part of the Protestant clergy, and a few of the *petite bourgeoisie* and peasants of Alsace.

In spite of the economic prosperity of their own land, a constant stream of emigrants has left the country. The total number since 1871 cannot, on German official figures, be less than 400,000; their place was taken by an even larger influx of Germans and foreigners, who formed in many of the industrial towns of Lorraine an actual majority of the population.

6. **Alsace-Lorraine during the War.* The War proved to demonstration the irreconcilable hostility of Alsace-Lorraine to Germany. As early as the 28th July 1914 martial law was proclaimed, and several hundreds of inhabitants who figured in the police lists as suspect were deported. To speak French or to read a French newspaper was punished as 'a sign of hatred for Germany'. A lady of Mulhouse received ten months' imprisonment for reading *La Gironde*. The enthusiastic reception which the French troops met in their abortive invasion of August 1914 showed that the general feeling was too strong to be restrained by considerations of prudence.

Ludendorff has admitted in his *War Memories* that Alsatian troops proved completely unreliable on the Western Front, and that deserters constantly carried over valuable information to the Allied Armies.¹

The repressive measures naturally became more complete as the War went on. In 1917, a German Socialist complained in the Reichstag that the system of delation employed in the Reichsland recalled the worst days of the Roman Empire. Count Hertling, when Chancellor, expressed himself in favour of a partition between Bavaria and Prussia, while Ludendorff pressed strongly for its incorporation with Prussia.² The eleventh-hour proposal of Prince Max to set up the Federal State, so often demanded in vain before the War, came too late

¹ Ludendorff, *War Memories*, ii. 642, &c. (English translation).

² Ludendorff, *loc. cit.*, ii. 473, 535.

either to be translated into practice or to affect minds rendered entirely obdurate by four years of military oppression. Count Czernin has expressed his opinion that the War could have been ended at any time by the German consent to cede Alsace-Lorraine; he alludes in particular to the tentative peace proposals of Austria in the early spring of 1918, and it will be remembered that the Emperor Charles made a serious attempt to this effect in the previous year. To hold such a view is to ignore the German character. Bismarck's intention had been fulfilled in fact. The Reichsland had become to all except the Minority Socialists the symbol of victory and of unity, which could not be surrendered except in the extremity of defeat.¹ Moreover, a compromise, which provided for the retrocession of the French-speaking districts of Lorraine, was equally impossible both strategically and economically, since it would have deprived Germany of the whole of the invaluable iron-fields, and of Metz.

7. *Strategic and Economic effects of recovery of the Provinces by France.* France had never contemplated provoking a war for the recovery of her lost provinces, as German writers constantly assert. On the contrary, she was often reproached by patriotic Alsatians, especially after 1887, with having abandoned them for Colonial expansion. But their possession by Germany had proved a standing menace to France and to Europe. It was therefore just and inevitable that after war had been forced upon France, she should insist upon their recovery as one of the indispensable conditions of peace. The justice of this claim was acknowledged in President Wilson's 'Fourteen Points',² and consequently by the Germans when they accepted them as the basis of peace.

The French refused to allow the return to be contingent on the vote of a plebiscite, and they were right. In M. Pichon's words, 'the question of Alsace-Lorraine is a question of right, and therefore not a French question but a world question'. To allow a plebiscite was to admit that it was an open question whether a wrong was committed in 1871. The burden of proof lay with the Germans, and it was impossible for them in

¹ Ludendorff, loc. cit., ii. 442.

² 'The wrong done to France by Prussia in 1871 in the matter of Alsace-Lorraine, which has unsettled the peace of the world for nearly fifty years, should be righted, in order that peace may once more be made secure in the interest of all' (Point VIII).

November 1918 to produce any evidence to show that the inhabitants wished to continue their connexion with Germany in any form. Moreover, even if the French had not objected on principle, they had conclusive reasons of detail for refusing in this case. For if the 400,000 immigrant Germans were allowed to vote, their votes would almost inevitably have been cast in favour of Germany; if so, the presence of such a large hostile minority in the polling returns would have led to misconstruction by the great majority of the world who read figures without troubling to analyse them. On the other hand, if they were excluded from the poll, the unfair methods of the French would have been proclaimed to the world by German propaganda. In any case the votes of the emigrants could not be collected; most of whom had been led to emigrate simply by the warmth of their devotion to France.

The Germans themselves have admitted that the welcome shown by the natives to the advancing French troops after the Armistice was universal and spontaneous beyond all cavil; and that the Landtag was expressing the manifest desire of the population in passing a resolution for reunion with France. On the other hand, the French have been officially accused by the German Government of carrying out wholesale expulsions and sequestrating the property of Germans resident in Alsace-Lorraine. Such charges are doubtless exaggerated, and there is evidence that certain Germans have been fomenting a 'Neutralist' conspiracy, the object of which is to create out of Alsace-Lorraine a neutral state, under the guarantee of the League of Nations.

The French have received back Alsace-Lorraine free of all public debts (Art. 55);¹ they acquire without payment of

¹ In their observations on the Peace Treaty, the German delegates complained of this. The Allies replied (16th June 1919): 'It is easy to justify the exception made in favour of France to the general principle admitted in the Treaty, according to which the State receiving territory takes over part of the public debt of the ceding State and pays for the property of the said State in the ceded territory. In 1871, Germany, when she seized Alsace and Lorraine, refused to take over any part of the French debt; she paid nothing for any French State property, and Herr von Bismarck boasted of this in the Reichstag on May 25th 1871. To-day the Allied and Associated Powers mean France to recover Alsace and Lorraine under exactly the same conditions, and consequently that she should take over no part of the German debt nor pay for any State property. This solution is just, for if German State property includes railways, the French owners of which Germany compensated in 1871 by sums drawn from the war indemnity, and if these railways have been developed since 1871, Germany on the

compensation all property and estates belonging to the German Empire or to individual German States (Art. 56), as well as all the Imperial Railways¹ (Art. 67) together with all the bridges over the Rhine (Art. 66), and have stipulated that the frontier railway stations shall be constructed on the right bank (Art. 67). They have thus carried out with logical completeness the principle that the wrong of 1871 demanded simple restitution; which is further emphasized by dating back the retrocession to the Armistice, 11th November 1918. Those provisions of the Treaty, which primarily affect the Alsatians themselves, will be dealt with later.

The restoration of Alsace-Lorraine will give France a vigorous hard-working and increasing population of nearly 2,000,000, which more than balances her total losses during the War, though it is of course only a fractional compensation for a man power diminished by 1,400,000 deaths. Strategically, the balance of advantage is very considerable. The frontiers of 1871 only permitted the French to rely on holding one solid defensive line in front of Paris, the line of the Meuse and Upper Moselle from Verdun through Toul and Epinal to Belfort. If this was forced, no natural obstacle bars the way to the capital, towards which on the contrary several river-valleys converge. The great barrier of the Vosges was at the mercy of a hazard; for as the frontier ran along the crest the whole range was liable to be overrun during the first weeks of mobilization. With the present frontier it is true that the French would probably be compelled to abandon Strasbourg and Mulhouse at the beginning of hostilities to avoid a pronounced and dangerous salient. But they would be able to make full use of the whole range of the Vosges, which ought to be impenetrable to attack. Further north, the fortresses of Metz and Thionville would bar the way to the Briey iron-fields, the seizure of which during the first month of the War alone enabled the Germans, on their own confession, to prolong it for the next four years.

contrary not having, at that time, assumed liability either for that portion of the French debt which belonged to Alsace and Lorraine or for the State property, the loss (capital and interest) imposed on France under this head exceeds the sum to which Germany makes a claim.

¹ The capital invested in the railways was estimated in 1911 at 839,000,000 marks, which included a sum of 260,000,000 marks paid by the German Government to the private French Company who owned the railways in 1871. As, however, the railways became the property of the German Empire the French refused to pay compensation on their return to France.

The French line would be shorter, the German considerably longer; while a hostile concentration against the weakest portion of the French defences between Metz and Mt. Donon would be far less rapid than before the War.

Economically the possession of the Lorraine iron-field will place France second only to the United States in the production of iron ore. In 1913, 21,100,000 tons were produced in German Lorraine, while the total French production amounted to 21,700,000. The total French production may, therefore, be increased to 42,800,000 tons, while that of Germany sinks to 7,500,000. It is obvious, however, that the maintenance of output, and the development of the sister steel industry, depends upon an adequate supply of cheap coal. Even before the War France consumed 22,000,000 more tons of coal than she produced, the acquisition of Alsace-Lorraine will increase the net deficit by 5,200,000. The Saar coal-field will, it is true, provide about 10,000,000 tons available for use outside the district itself. This coal, however, is unsuited by character for supplying the coke necessary for the iron industry. It seems certain, therefore, that the cost of production, which before the War compared very unfavourably with that in England or the United States,¹ will become proportionately even more unfavourable. While the world shortage of coal and the heavy freight charges continue, and until the devastation in the northern coal-fields of France is repaired, it seems impossible that the vast resources of the French iron-fields can be adequately exploited.²

It seems probable that the inclusion in France of the great textile industries centred round Mulhouse³ will by their competition have a stimulating effect on the mills at Lille and Rouen, as the former are better organized, obtain cheaper and more efficient labour, and before the War produced better goods at a lower price.

8. *Effect on the Alsatians and Lorrainers.* It now remains

¹ The pre-war cost price of cast-iron per ton was 21 francs higher than in England, and 25 francs higher than in the United States. The extraction of ore from the mines in German Lorraine was much cheaper than in the French area, as in the former the ore lay much nearer the surface.

² A Commission appointed by the British Ministry of Munitions in April 1919 to examine the conditions of the iron and steel works in Lorraine, stated that their dependence on Germany for fuel 'places them in a very unenviable position' (see Keynes, *Economic Consequences of the Peace*, p. 92).

³ In 1913 there were 1,750,000 spindles in Alsace employing 78,000 workers.

to consider the effect upon the two provinces themselves of their incorporation with France, and the inevitable problems which the events of the last forty-eight years have left for solution. Elaborate precautions have been taken in the Treaty to destroy the powerful influence acquired by German immigrants and German capital since 1871.¹ No German can claim French nationality unless he or one of his ascendants was domiciled in Alsace-Lorraine before the war of 1870. In all other cases French nationality can only be acquired by naturalization, which is conditioned by domicile previous to the 3rd August 1914, and by three years' unbroken residence after the 11th November 1918 (Annex, §§ 2, 3).² Permission to reside without acquiring French nationality depends upon the permission of the French Government, which has undertaken to make a separate agreement dealing with the exercise of civil rights and professions in such cases (Art. 53). The French Government reserves the right to liquidate all property held by German nationals at the same date, who will be compensated by Germany for the losses ensuing (Art. 74); also to forbid all new German participation in the management of public services, and in the ownership of mines and metallurgical establishments (Art. 70). It will thus be seen that the French possess extremely wide powers; the methods of their exercise will doubtless be determined by the behaviour of the Germans affected and the future relations between the two countries.

The Alsations themselves receive back all property belonging to them in any part of Germany on the 11th November 1918 (Art. 60); the civil population are entitled to receive compensation for all fines inflicted (under the general reparation clauses of the Treaty) (Art. 63); while all judgments given by German courts for political offences since the 3rd August 1914 are to be regarded as null and void (Art. 78). Moreover, natural and manufactured products of Alsatian origin may be imported free of customs duty into Germany for five years to a maximum of the average amount of each product imported during the years 1911-13 (Art. 68). Finally, the ports of Strasbourg and Kehl, on the left and right banks of the Rhine respectively, are to be treated for seven years as a single unit

¹ The total number of German immigrants since 1871 is at least 400,000: they formed in 1910, 12.3 per cent. of the total population.

² This applies even in the case of Germans who have been naturalized as Alsations before the 11th November 1918.

under a manager of French nationality appointed by the Central Rhine Commission. Both ports are to be free, while this régime remains in force (Art. 65).

The port of Strasbourg, the development of which before the war had been neglected for the benefit of Kehl, is at present too small to handle the products of Alsace-Lorraine. The French propose therefore to develop the port of Strasbourg, and probably to construct a canal on the left bank, which has been unsuccessfully demanded by the Strasbourg Chamber of Commerce since 1871. They have the right to request the renewal of this temporary régime from the Rhine Commission for a maximum period of three years, if at the end of the sixth year the condition of the port of Strasbourg requires such further prolongation.

9. *Conclusion.* It has been pointed out that Alsace-Lorraine was welded into a compactness under German administration which it had never previously possessed. The constitution of 1911 gave its Landtag very extensive legislative power, including that of voting the yearly Budget, while the Ministry was nominally at least dependent upon it. Now divided again into three departments, and coming under the centralized French system of administration, it must inevitably lose much of its coherence as a self-governing unit. The French are, however, fully aware of the importance of showing consideration to the special interests involved, which are being studied by the late Commissioner, M. Millerand.¹ It is probable that the assimilation of Lorraine with the rest of France will be more rapid than that of Alsace for several reasons. Alsace is shut off by the Vosges, a formidable barrier connected with the West by comparatively few passes, and by no railway between Saverne and Belfort. It seems to be designed by nature as a self-contained unit with a stable population, and no deficiency of labour. Moreover in Alsace a German dialect is almost everywhere spoken,² while a national dress and customs testify to the conservative character of the population. German Lorraine on the other hand was a purely artificial creation.

¹ It is significant that the results of his work in Alsace-Lorraine induced him to put forward in his election address a programme of decentralization in French administration, which as Premier he will now have an opportunity of putting into effect.

² In Upper Alsace 93 per cent. and in Lower Alsace 95·8 per cent. of the population habitually spoke German (or rather the local German patois) in 1910.

During the period 1871–1914 precisely similar industries developed on either side of the frontier with similar results. Small mining towns have everywhere sprung up, the cantons of Briey and Thionville have both quadrupled their population since 1871. Cheap labour has poured into both areas, and in 1910 there were nearly 50,000 Italians, almost equally divided between the two areas. It is clear that the frontier was economically an unnatural division, and that the whole industrial region between Nancy, Etain, Longwy, and Thionville has similar character and interests. Again, the French-speaking minority in German Lorraine is very considerable; and in the three *arrondissements* adjoining the old frontier there is actually a French majority.

The language question, however, is not likely to cause any serious difficulty. The French policy in this respect was, as the Germans admitted, most liberal, and was largely instrumental in winning the attachment of the inhabitants. The error of the Germans in suppressing the French language is not likely to be repeated by the French in the contrary sense. Both French and German are necessary to this frontier population, and both ought to be taught in the elementary schools.

The religious question undoubtedly presents more serious difficulties. Alsace-Lorraine is still ecclesiastically administered under the Concordat of 1801, and the elementary schools are still Confessional. The people are deeply religious and would strongly oppose any separation of Church and State on the anti-Clerical lines which inspired the French Act of 1905. One of the best-known and most devoted of the French partisans, the Abbé Wetterlé, has constantly insisted on the great importance of this fact. It is, therefore, significant that he has been returned with three other Roman priests among the first Alsatian representatives to the French Chamber.¹

There will clearly be many difficulties during the inevitable period of transition. The French legal system must be substituted for the German. The provinces will again have to adapt themselves to the changed economic conditions; since before the war about 80 per cent. both of exports and imports were exchanged with Germany. But, as has been shown, Alsatian

¹ It seems certain that the influential Protestant minority, who compose 21·8 per cent. of the total population, are equally averse to any radical changes in ecclesiastical matters.

goods are secured a free entry into Germany for five years after the Treaty.

It is easy to multiply examples of such difficulties to be faced, but it is essential to remember that in spite of them the vast majority of Alsatians passionately desired reunion with France. Alsace-Lorraine is a country of remarkably varied riches; some of which like the Mulhouse potash deposits are at present only partially developed.¹ The population is extremely hard-working and enterprising. There is no reason to suppose that its economic prosperity was dependent on its possession by Germany. On the contrary, it was the fixed principle of the Germans to get the capital and management of the chief industries into their own hands, to the detriment of the native Alsatian. The attachment of the Alsatians to France during the forty-eight years of alien rule is one of the most striking object-lessons in the meaning of nationality. Their future is henceforward bound up with the future of France.

APPENDIX

I. STATISTICS OF EMIGRATION FROM ALSACE-LORRAINE, 1875-1910

(a) Natural increase	337,250
Actual increase ²	350,300
Deduct the number of Germans and foreigners who have immigrated since 1875-	267,300
Actual increase of Alsace-Lorrainers	83,000
Deficit due to emigration	254,250 ³

The number of emigrants between 1871-5 cannot be exactly computed. About 60,000 left Alsace-Lorraine for France before 1st October, 1872.⁴

¹ The value of these before the war was calculated to be 62 milliards of marks. It has been asserted that their development was purposely restricted in the interests of the Prussian deposits.

² Allowing for conscripts from Alsace-Lorraine serving in other parts of Germany at the time of the Census of 1910.

³ This deficit is increased by (1) the children of emigrants born after emigration; (2) the children of immigrants included in the Census as natives; (3) German residents who have become naturalized.

⁴ 160,000 opted for French nationality, but only 60,000 left within the prescribed period. All other options were treated as void by the German authorities.

The figure of 400,000 may be taken as approximately correct for the total number of emigrants between 1871-1910.

The number of German and foreign immigrants during the same period is given by both French and German authorities as about 500,000.

(b) A figure of 414,470 can be reached as follows :

Excess of non-natives in 1910 over total for 1875	267,300
Excess of emigration over immigration, 1875-1910	147,170

This figure is not, however, wholly reliable as many emigrants are known to have returned to Alsace-Lorraine for their military service, and to have left again afterwards, and would thus be counted as emigrants twice over.

II. STATISTICS RELATING TO ALSACE-LORRAINE¹

A. LANGUAGE.

(i) The Census of 1910,² the latest available, gives :

	Total.	Per cent.	Districts.		Lorraine.
			Upper.	Lower.	
German speakers .	1,634,260	or 87.2	93	95.8	73.5
French speakers .	204,262	or 10.9 ³	6.1	3.8	22.3 ⁴
Bilingual	3,895				

(ii) In three *arrondissements* of Lorraine, a majority of natives speak French (after deduction of German immigrants and foreigners) :

	Total Native Population.	French-Speakers.
Château Salins	40,299	30,944
Metz-Land	69,692	52,292
Thionville-West	36,492	21,007

B. POPULATION.

(i) Growth of Population :

1871	1,549,700	1895	1,636,900
1875	1,535,700	1905	1,822,000
1885	1,566,200	1910	1,868,900

(ii) (A) Numbers of Germans and foreigners resident in Alsace-Lorraine in 1910 :

(a) Germans	295,436 ⁵ (including Prussians, 174,468)
(b) Foreigners	76,386
Grand Total	371,822

¹ All statistics are taken from the *Statistisches Jahrbuch für Elsass-Lothringen*, 1913-14, an official publication.

² The 76,386 foreigners are excluded.

³ The percentage of French speakers is increased to 13.6 if the 295,436 German immigrants are omitted.

⁴ Or 33 per cent. if German immigrants are omitted.

⁵ Including garrison of 75,498.

(B) Growth of non-Native Element in detail:¹

	<i>Alsace- Lorrainers.</i>	<i>Germans.</i>	<i>Foreigners.</i>
	per cent.	per cent.	per cent.
1875 . . .	95.1	2.6	2.3
1885 . . .	87.5	9.7	2.8
1895 . . .	86.8	10.1	3.1
1910 . . .	83.5	12.3	4.2

(c) Percentages in some towns in 1910:¹

	<i>Alsace- Lorrainers.</i>	<i>Germans.</i>	<i>Foreigners.</i>
Strasbourg . . .	68	29	3
Mulhouse . . .	80	14	6
Metz . . .	52	41	7
Thionville . . .	51	38	11
Colmar . . .	85	12	3
Sarrebourg . . .	66	31	3

II. THE TERRITORY OF THE SAAR BASIN

1. *Introductory, Course of Treaty Negotiations.* The territory of the Saar, which is an artificial creation of the Peace Treaty, is mainly formed out of the Prussian *Regierungsbezirk* of Trier, but contains also on the East a small part of Rhenish Bavaria with a total area of about 1,920 square kilometres. It includes on the West the whole territory left to France by the Treaties of 1814. Its boundaries have been drawn to coincide almost exactly with the mines and their dependent industries, and with the residences of the workmen locally employed. The population which is fairly dense (337 to the square kilometre) amounted in 1910 to 649,509, of whom 105,089 were included in the town of Saarbrücken.² The output of coal amounted in 1912-13 to 17,473,000 tons; ³ and

¹ Excluding garrison, for which figures are not available for whole of period.

² Practically all German speakers. The French-speaking inhabitants of the whole of the *Regierungsbezirk* of Trier of which the Saar territory formed part is only 3,000. Only one Commune, Hémilly in the extreme south-west of the territory, has a French-speaking majority.

³ As compared with the total production for the same year in :

(1) France	40,844,000	
(2) Germany	{ 191,510,000	Lignite.
	{ 87,476,000	

Total 278,986,000

The number of workmen employed was 72,700.

of steel to 2,080,000 tons. There are also important manufactures of glass and pottery.

The administrative régime, which has been set up by the Treaty, is an attempt to deal fairly with the various interests involved. The claims of the French for reparation, the rights of the inhabitants themselves, and the interests of Germany in a German population all gain recognition. It is probable that no part of the Treaty has met with more criticism; it is certain that no part received more anxious and detailed consideration. The work was done almost entirely by a small Commission of British, French, and American experts. Where serious political considerations were involved which it was beyond the powers of the Commissioners to decide, they were referred back to the respective Plenipotentiaries. M. Tardieu, however, the chief French Commissioner, was himself one of the French Plenipotentiaries. The Council of Four considered the various schemes, which were hammered out by the Commissioners, referred them back for further amendment, and finally approved of the report as a whole. The French originally demanded that the frontier of 1814 should be ceded to them in absolute possession, and that they should also obtain in full ownership all the coal mines situated to the north of that frontier. They produced three lines of argument in favour of their territorial claim. Historically, their case was weak, as except for Saarlouis, which was founded by Louis XIV in 1680, none of the territory had been in their possession for more than twenty-three years; and was merely a portion of the Revolutionary conquests which was left in French hands in 1814. Moreover, though it may be true that a large part of the inhabitants regretted the severance of 1815, there is no evidence that the present homogeneous German population has any desire for reunion with France. This line of argument was not, therefore, strongly pressed by the French. Strategically it was recognized that the district possessed a real defensive importance. The frontier at the North of Lorraine runs dangerously close to the Thionville and Briey iron-fields, and makes it possible for a sudden *coup* to paralyse the French industrial system, as happened at the beginning of the late war.¹ The

¹ It is true that the French now possess the additional security of the fortresses of Metz and Thionville, but:

- (i) the latter is only 20 kilometres distant from the French frontier;
- (ii) a force investing either would have almost the whole of the iron-fields under effective long-range fire.

French fears on this account were, however, adequately met by the clauses in the Treaty providing for the demilitarization of the Left bank of the Rhine, and forbidding the construction of fortresses or the maintenance of armed forces within 50 kilometres of the Right bank. The security thus gained will be still further increased by the proposed defensive alliance with Great Britain and the United States, though the latter has not yet ratified the Treaty.

2. *French Claims in the Treaty based on Reparation not Annexation.* The claims of France to the possession of this territory on historical and military grounds were then rejected, but there was a complete agreement that the French should receive the coal-mines of the Saar as partial compensation for the wanton destruction of the mines in the north of France. The acts of the Germans in this district have been of such a nature that no serious defence has been put forward for them even by the German Government itself, and to use the language of the Allied Note of the 24th May, 'The Allied and Associated Governments have chosen this particular form of reparation because it was felt that the destruction of the mines in the North of France was an act of such a nature that a definite and exemplary retribution should be exacted; this object would not be obtained by the mere supply of a specified or unspecified amount of coal'. It was agreed that the coal-mines must be placed in French hands in order to ensure the effectiveness of the proposed compensation, as it was obvious that, even if the good faith of the Germans were assumed, it would be impossible to guarantee that a steady and adequate supply of coal would be forthcoming. If, then, the French received the mines in full ownership was it necessary that the territory involved should also be annexed to France? The British and American view was that such a solution was neither necessary nor desirable, and to this the French agreed. It was, however, considered that the secure exploitation of the mines by France was incompatible with complete political control by Germany. Such a régime would be provocative of constant and inevitable conflicts.

It was agreed without difficulty that the French must obtain the fullest economic facilities for exploitation, which would include exemption from taxation on the part of Germany, full mobility of labour and freedom to develop adequate means

BOUNDARIES OF THE TERRITORY OF THE SAAR BASIN



of transport and communication;¹ and that a special political and administrative arrangement would be necessary to secure these results. This could not take the form of a Franco-German condominium which contained the germ of perpetual disputes. Three possible alternatives remained. The Saar Territory might be made into an autonomous republic, of which France would have the protectorate. This proposal did not meet with any serious support, probably because it involved the working out of a new Constitution, and might also be interpreted as a disguised form of annexation to France. Alternatively, the Territory might be handed over to the League of Nations, as a trustee, in which case the League might either nominate France to act as its mandatory or might govern it itself. The latter of these two proposals was unanimously adopted. A Governing Commission of five members representing and appointed by the Council of the League is therefore to be set up in the Saar Territory, one member of which is to be a citizen of France, one a native inhabitant of the Territory, while the remaining three are to be natives of three countries other than France and Germany.² The Commissioners are appointed for one year and may be re-appointed. This Commission, acting by a majority, will possess all the powers belonging to the German Empire, Prussia, or Bavaria, including the sole right of levying taxes and dues. This provisional Government is to continue for fifteen years, when a plebiscite is to be held, the details of which will be considered later. It is interesting to note that this arrangement was developed out of a proposal for a Commission of Arbitration similarly constituted and with a majority appointed by the League to decide such disputes as might arise between France and Germany under a suggested scheme of condominium. Such then, in outline, is the scheme of government adopted. It follows to consider in detail how the interests of France, Germany, and the inhabitants themselves are concerned.

The French obtain in absolute ownership free of all debts all the deposits of coal within the Territory, including all those for which concessions have already been granted, together

¹ See chap. i, and particularly §§ 6-8 of the Annex to the Saar Articles in the Treaty.

² The French member has been appointed by the League of Nations as the first President of the Committee.

with all accessories belonging to the mines.¹ They can improve the existing railways and waterways and create such new methods of communication as they think necessary for the exploitation of the mines. They can create schools for the children of the employees and cause instruction to be given in the French language. Finally, the Territory is to be subject to the French customs régime, and French money is to circulate without restriction within it. This arrangement has been criticized on the ground that the admitted principle of reparation requires French management only for a period of years until the damage to their own mines is repaired and the output restored. Moreover, Germany has undertaken to deliver to France for a maximum period of ten years the difference between the pre-war production of the damaged mines, and an additional 7,000,000 tons for ten years.² These deliveries, however, are to be paid for at an agreed price, and therefore do not come strictly under the heading of reparation. Moreover, it is impossible to ensure that the annual quantities will actually be provided; and, in point of fact, the German deliveries since the signature of the Treaty have reached only a small fraction of the agreed amount.

As the value of the mines will be credited to Germany, as part payment of the amount due for reparation, and as the most pressing need of France is for coal to restart an economic life, which was largely ruined by German aggression, it seems unreasonable to maintain that an act of injustice has been committed.

3. *German Sovereignty in Abeyance, the League of Nations.* The position of Germany with regard to the Saar Territory is rather ambiguous. In Article 49 of the Treaty itself no mention is made of sovereignty and the word 'government' is substituted for 'rights of administration'. The practical effect seems to be that German sovereignty is in abeyance, and that its reassertion is contingent on the result of the plebiscite.³ The League of Nations appears to act rather as the 'trustee' of the

¹ See the very comprehensive language of chap. i, § 3 of the Annex.

² See Annex 5, § 2 of Part VIII of the Treaty.

³ A distinction of language is carefully drawn between the result of a plebiscite favourable to France, and one favourable to Germany. In the former event 'Germany agrees to cede to France . . . all rights and title over the territory'. In the latter the League of Nations will 'cause the German Government to be re-established in the government of the Territory' (Annex. chap. iii, §§ 34, 35).

Saar population than as the 'trustee' of Germany. The interests of Germany are, however, secured by the provision that the laws and regulations in force on the 11th November 1918, shall be continued, together with the existing fiscal and judicial system. The existing nationality of the inhabitants is not to be affected by the new régime. It would perhaps be preferable if Germany were directly represented, like France, on the Governing Commission. It is easy to see, however, that the French would have objected to the presence of two Germans as against one Frenchman on the Commission; and justice clearly demanded that the native inhabitants should be represented. Further, it was considered desirable that all the members should be appointed by the League of Nations; and it was obviously impossible that Germany could represent a League, from which she is at present expressly excluded. If, as the result of the plebiscite, German sovereignty is re-established, all the mines situated within the area are to be repurchased by Germany. The price is to be fixed by three experts, a Frenchman, a German, and a representative of the League of Nations. It is to be paid in gold within one year, and the Reparation Commission will allow Germany to make a prior charge on her assets for this purpose. If the payment is not made as stipulated, the Reparation Commission can, if necessary, liquidate part of the mines to ensure it. These conditions may, however, be modified by a separate agreement between France and Germany.

These provisions show important changes from the contents in the Treaty as originally presented to Germany; and are an answer to a well-founded German objection. By the earlier arrangement the price had to be paid in gold within six months. As a result of failure to pay, the Territory was 'thereafter to be occupied and administered by France as an integral part of French territory'. This implied a double injustice. The Germans would probably have no gold available, which had not already been earmarked by the Reparation Commission for other purposes; while the inhabitants would be handed over to France in spite of their preference for Germany as declared by the result of the plebiscite. The present provisions on the other hand, seem both just and reasonable.

4. *The new Constitution.* The interests of the inhabitants have been most scrupulously safeguarded. Except for the

fact that they do not send representatives to the Reichstag, their position remains almost wholly unchanged. They live under the same laws, pay the same taxes, which are applied exclusively to their own needs, are judged by the same procedure in the same tribunals. No modification can be made in the existing laws, and no new tax imposed except after consultation with the local elective assemblies, all of which remain in full vigour. Their religious liberties, schools, language, and nationality are left untouched. They are free to change their nationality or to leave the territory with full liberty to sell or retain their immovable property. Their interests abroad will be protected by the Governing Commission. They will work in the mines under the German laws and regulations, while the wishes of the local labour organizations are to be taken into consideration in fixing the conditions of labour. They will always have at their disposal, whatever the total output of the mines, the proportion existing in 1913 between local consumption and total output.

After fifteen years every resident inhabitant of twenty years of age, without distinction of sex, will be able to give a vote on the political future of the district. Three alternatives will be placed before them—either maintenance of the existing régime, or union with France, or union with Germany.

The future of the Territory will then be decided by the League of Nations 'taking into account the wishes of the inhabitants as expressed by the voting'. As the voting is to take place either by commune or districts, the rights of minorities will be as far as possible protected.

No difficulty was raised in the discussions either with reference to the plebiscite or to the term of years. The third alternative by which the population could vote for the continuance of the existing régime was introduced late in the negotiations. It was perhaps a result of the effort, of which the text of the Treaty bears evidence, to create a form of government which would be very advantageous to the population. We seem, indeed, in reading it, to feel that the authors were so pleased with their work that they thought it would not be fair to deprive the population against their will of the benefits which so admirable a constitution seemed to promise. It seems, therefore, quite probable that the third may be preferred, if the work of the Governing Commission proceeds smoothly ;

as the inhabitants enjoy complete immunity from military service, and only pay such taxation as is sufficient for their local needs. Thus they escape on the one hand the compulsory service, which is still in force in France; and on the other are free from the very heavy financial burden with which the remainder of Germany is saddled.¹ Whatever opinions may be held of the motives which determined the arrangement as a whole, it is certain to operate for the advantage of the inhabitants themselves.

5. *Justice of the Solution.* It will be noticed that the whole fabric of the scheme depends upon a League of Nations in being; and that if the League breaks down a revision of the Treaty will at once become necessary. The Saar Territory probably provides the best justification of President Wilson's insistence that the League should form an integral part of the Treaty. It is very difficult to see how the conflicting interests involved could have been reconciled without some serious violation of justice, if the machinery of the League had not been available for a solution. Whether this novel experiment in international government will work harmoniously in practice remains to be seen. The Governing Commission will not be unduly hampered in any way by the action of the League. Although complete control is secured by their appointment for one year only, they are given a free hand in the executive task of government, and no appeal is permitted from their decisions to the League itself. At the same time the lines of government are laid down in the Treaty, and the Commissioners are prevented from using the inhabitants of the Saar as a *corpus vile* for constitutional experiments. As, moreover, the industrial prosperity of the Territory is equally in the interests of the French and of the inhabitants themselves, it is unlikely that any difficulties will arise out of the ownership and working of the mines, particularly as the French have not the power even if they had the desire to exploit the native labour. The French have always asserted that the output of these mines was restricted in favour of Westphalian interests; they will now have a practical opportunity of proving whether they were

¹ It is interesting to note that a petition has been sent to the League of Nations by the communes of Wadern, Weiskirchen, Losheim, and Britten, comprising a total of some 25,000 inhabitants who live just outside the area of the territory. They ask to be incorporated in the new administration on the ground that their omission will entail serious economic disadvantages.

correct in so thinking. On pre-war figures the Germans lose about 6 per cent. of their total output of coal; and the French gain about 40 per cent. It is clear, therefore, that the proportionate economic value of the mines is far greater to France (even apart from the question of reduced output owing to the war destructions) than to Germany. Though this fact does not of course justify their transference to France it proves that this form of reparation does not entail any intolerable economic hardship.¹

The Saar Territory has come into existence owing to the distinction consistently drawn by the British delegates between reparation and annexation. They are largely responsible for the final political arrangements embodied in the Treaty, and they are entitled to the credit, if, as seems probable, this proves to be in practice one of the most successful creations of the negotiators at Versailles.

III. THE GRAND DUCHY OF LUXEMBURG

1. *History to the War 1839-1914.* The present Grand Duchy owes its existing boundaries to the Treaties of 1839, which settled in the interests of Europe the relations between Holland and the new Kingdom of Belgium.² The western half was incorporated in Belgium; while the remainder continued to remain a possession of the King of the Netherlands, and a member of the German Confederation with a garrison of Prussian troops as provided by the Treaty of Paris. The Duchy, which consisted of a fairly compact German-speaking population, was not incorporated with Holland, but obtained

¹ This argument would lose much of its value if the coal mines of Silesia are ceded to Poland as the result of the proposed plebiscite. A clause of the Treaty, however, provides for the purchase of coal by the Germans at the same rates as the Poles themselves for fifteen years. (See Article 90.)

² LUXEMBURG.

Area, 2,586 square kilometres.

Population (1910), 259,891 including

Germans	21,762	Italians	10,138
Belgians	3,964	French	2,108

Religion.

Roman Catholics	250,539	Protestants	4,007
Jews			1,270

Language. French is the official language in the Chamber and the law-courts and public administration. German is predominant in the primary schools and in the press.

a separate constitution.* It entered the German Zollverein in 1842, but rapidly developed a distinct particularist individuality. In 1867 the attempt by Napoleon III to buy the Duchy from Holland as compensation for the aggrandizement of Prussia by the war of the previous year with Austria nearly led to a war between France and Prussia. The status of the Duchy was consequently altered by the Great Powers at the Conference of London. It ceased to belong to the German Confederation, the right of garrison was taken away from the Prussians, and its fortifications were dismantled. In return it was declared a neutral State and placed under the collective guarantee of the Great Powers.

In 1868 the French Compagnie de l'Est acquired a long lease of the Luxemburg railways under the guarantee of the French Government. In 1871, however, Bismarck transferred these rights to the Prussian Government, and, owing to the cession to Germany of the districts north-west of Thionville, France and Luxemburg remained without direct railway communication until 1883. Luxemburg remained within the German customs system. Its prosperity increased enormously owing to the development of the 'Minette' iron-fields in its southern extremity; which produced in 1913 $7\frac{1}{2}$ million tons, and provided the raw material for important steel works.¹ In 1890 the personal link, which connected it with the Crown of Holland, was severed by the death of William III without male heirs. The Grand Duchy accordingly devolved on the agnate branch of the Dukes of Nassau-Weilburg; whose German origin naturally induced increasing German sympathies at Court. The population, however, had no desire to change their cherished political status. Their frame of mind is quaintly expressed by two lines of their national song: 'We want to remain what we are, We do not want to become Prussian.'

2. *The War.* On the 2nd August 1914, the Germans, realizing the strategic importance of the Luxemburg railways, committed two distinct breaches of faith in invading the Grand Duchy. Germany had been one of the guarantors of its neutrality in 1867, and had also promised (by the agreements of 1872 and 1902) that the Luxemburg railways should not be used for the transport of war material. The inhabitants, even

Iron Ore.

Pig Iron.

Steel.

¹ Production in 1913. 7,333,000 tons. 2,547,000 tons. 1,330,000 tons.

if they had the desire, had been deprived of the means of resisting the invader by the Treaty of 1867, which had forbidden them to keep any military force except for police purposes. The British Government did not consider this violation of neutrality to be a *casus belli*, consistently with the opinion expressed by Lord Derby in 1867, that a 'collective guarantee' does not impose on each separate guarantor the obligation to vindicate neutrality by force of arms. There appears, however, to be no valid legal distinction between the Luxemburg and Belgian guarantees.¹

The attitude of the Grand Duchess Adelaide during the War was equivocal. She received the Kaiser, accepted a decoration from him, and paid several visits to Germany, while a younger sister became engaged to Prince Rupprecht of Bavaria. There is no doubt that the mass of the population was pro-Ally, and that the military occupation of their country intensified their traditional dislike of the Prussians.

3. *Plebiscite—wishes of the Luxemburgers.* The Chamber has since the Armistice deposed the Grand Duchess, and a plebiscite held in October 1919 resulted in the election by a large majority of her younger sister Charlotte.² It also denounced the Customs Union with Germany, and the railway agreements, and their renunciation by Germany has been incorporated in the Peace Treaty. The Luxemburgers emerged from the War with the same determined particularism. They considered quite reasonably that in yielding to a violence, which their guarantors had done nothing to avert, they had not in any way compromised their position in the eyes of the Entente. These feelings were undoubtedly a serious disappointment to the Belgians, who hoped that they would desire some form of union with their country. It is true that in 1839 the Luxemburgers, who had been *de facto* incorporated in the Kingdom of

¹ See an article by Sir E. Satow in the *English Historical Review* for July 1918 (p. 411).

² <i>Plebiscite.</i>		Votes on Register	127,775	..
		Votes recorded	90,984	
(a) <i>Dynastic.</i>	For Grand Duchess Charlotte		66,811	
	For another Grand Duchess		1,286	
	For another dynasty		889	
	For a Republic		16,885	
	Spoilt papers		5,113	
(b) <i>Economic.</i>	For an economic union with France		60,135	
	Do. Do. Belgium		22,242	
	Spoilt papers		8,607	

Belgium since the revolution of 1830, protested almost unanimously against their enforced separation. A separate existence of eighty years has, however, quite obscured the memories of their old political aspirations. Economically it seems that they would have preferred to enter into a union with both France and Belgium. As this could not be arranged, a plebiscite was held to determine which alternative should be adopted. A decisive majority of nearly three to one has chosen an economic union with France.¹ The French have employed a skilful and successful propaganda since the Armistice. The Grand Duchy fell within the French sphere of military occupation, and the selected troops chosen for this duty were careful not to wound the religious susceptibilities of the inhabitants, who are almost without exception devout Roman Catholics. French Deputies, who have visited the country, have also been active in pointing out the economic advantages which are likely to follow a union with France. It is probable that the choice made by the Luxemburgers is a wise one, as the iron-fields which form almost the whole industrial wealth of the country are part of the far more extensive French area round Briey and Thionville. As the coal-mines of the Saar basin have also been brought by the Treaty within the French Customs system the whole of this mutually dependent industrial district will now be treated, to its own great advantage, as a single economic unit. The future of the railways has not yet been settled, but it seems almost certain that they will follow the lines of the economic settlement, and that France will secure rights of management similar to those which she possessed before 1871. It is obviously desirable for both countries, in the interests of efficiency, that the railways should all be under a single control.

The Belgians are afraid that a gradual economic penetration by the French will lead finally to political absorption. Past history suggests, however, that the Luxemburgers can be trusted to take care of their own nationality; and that this picturesque little State will continue to preserve its independence. Its national sentiment, if such a term can appropriately be used of a little community of 259,000 inhabitants, is interesting for two reasons. It seems to have no share in that desire to count in the world, which has led so many little

¹ See note 2 (b), p. 186, giving details of the recent plebiscite.

States to merge their political unity in a more powerful body during the last hundred years. Secondly, it owes its origin to the purely artificial arrangement agreed upon by the Great Powers in 1839 in the interests of the peace of Europe. At that time, as has been already mentioned, the Luxemburgers protested vehemently against the independence which they have since come to regard as their most cherished possession.

4. *Strategic Importance of Luxemburg.* But the real importance of Luxemburg, which makes its future a matter of serious international interest, lies in its commanding strategical position. After its seizure by Louis XIV in 1684, it was created into one of the most formidable fortresses in Europe by Vauban, who wrote that 'it will place our frontier in such a state that the Germans will never be able to attack the Kingdom from that side'. After 1815 its garrison was entrusted to the Prussians as one of the main advanced bulwarks of Germany against French aggression. It enjoys, indeed, the singular advantage of being of almost equal value, both for offence and defence, both to France and Germany. Its importance has been enormously enhanced during the nineteenth century by the admirable system of railways and main roads which radiate from the capital. Five of the former and nine of the latter connect Luxemburg directly with all the principal strategic points round the frontiers of France, Belgium, and Germany. Offensively, its possession was of inestimable value to the Germans during the first month of hostilities; it opened the way to the gap of Stenay by which the whole of the French defences on the Meuse were outflanked on the north. It enabled the armies advancing through Belgium to be supplied by the two lines running to Liège and through Namur to Brussels. It was in fact the vital link which made close co-operation possible between the two wings of the advancing German armies in their invasion of France. Its defensive value to Germany, on the other hand, is considerable, though much diminished by the French possession of Alsace-Lorraine, as it blocks an advance down the valley of the Moselle towards Coblenz.

5. *Difficulties in the way of Neutrality.* It is clear, therefore, that both France and Belgium have vital strategic interests in Luxemburg; and that, if, as seems almost certain, the two countries arrange for a common system of defence against the possibility of a fresh German attack, the inclusion of Luxemburg

in such a system is a logical necessity. The French line in Lorraine could not be bent back so far west as to exclude the Grand Duchy, without leaving a pronounced salient further south exposing the iron mines, and lengthening the Belgian portion of the combined lines. After the experience of the late War the provision for the neutrality of Luxemburg seems undesirable in the interests of all three countries concerned. It is essential that the provisions of 1867 should be modified to allow fortifications to be constructed in Luxemburg; that the inhabitants should be allowed to take part in their own defence, and that no obstacle should be placed in the way of military conventions between the three countries, which alone could enable any combined plan of defence to be effective. Belgian public opinion has already repudiated the restrictions which neutrality placed on their country, as incompatible with national security; and the Treaty has recognized that 'they no longer conform to the requirements of the situation'. The same reasoning requires the removal of the stricter limitations on the freedom of Luxemburg which have now become a dangerous anachronism.

IV. BELGIUM

IN 1839, a series of Treaties settled the international position of Belgium and decided the territorial and economic questions in dispute between Holland and Belgium. Many of the provisions were at the time exceedingly distasteful to Belgium, but the régime which they established has remained unaltered. The events arising out of the War have led to a determined demand on the part of Belgium that they should be subjected to a comprehensive revision. As the Great Powers by their action in 1839 recognized that the question as a whole was of international interest, the Belgian demands were treated at the Conference as a part of the general work of the reconstruction of Europe. The preliminary result of their deliberations is embodied in Article 31 of the Treaty, by which Germany consents to the abrogation of the Treaties of 1839, as no longer conforming to the requirements of the situation and undertakes immediately to recognize and observe any conventions entered into by the Allies in concert with Holland and Belgium to replace those Treaties. These demands may be conveniently

divided into four sections, although the lines of division are to some extent overlapping; namely, those primarily affecting the international position of Belgium, her relations with Germany, with Luxemburg, and with Holland.

1. *International Position of Belgium.* Even before the War many Belgians disliked the perpetual neutrality which had been imposed on their country and guaranteed by the five Great Powers, which they thought both humiliating and inadequate as a security against German aggression. These arguments were pointed by the accumulation of strategic railways and great military camps on the eastern frontier, the construction of which was a clear indication of German intentions. The War has shown that in spite of the goodwill of Great Britain and France the country was at the mercy of the long-matured invasion. The Belgians, therefore, demand that all restrictions on their sovereignty shall be removed, that they shall be free to enter into such foreign alliances as they desire, and that they shall be able to arrange effectively for the combined defence of their country in conjunction with Great Britain and France. In any case, as a member of the League of Nations, Belgium will come under the mutual guarantee of territorial integrity and political independence, to which all the members are pledged. It seems, indeed, obvious that a country which has fought during the War on full equality with the Allies cannot be replaced in any position of inferiority. This feeling was expressed by the King in his speech at the opening of the Belgian Chamber in November 1918.

2. *Luxemburg.* The desires of the Belgians for some form of union with Luxemburg have been frustrated by the plebiscite recently held in the latter country, which has chosen an economic union with France.¹

3. *Relations with Germany.* Belgium has been successful in obtaining from Germany the two districts of Eupen and Malmedy² together with the small contested area of Mores-

¹ See the discussion of this question in the section on Luxemburg.

² KREISE OF EUPEN AND MALMEDY
(Census of 1910)

	<i>Inhabitants.</i>
Eupen	26,156
Malmedy	34,768
	<hr style="width: 100px; margin-left: auto; margin-right: 0;"/> 60,924

The total number of Walloons for the whole *Regierungsbezirk* of Aachen

net ¹ on her eastern frontier. These small hilly localities, with a total population of about 64,000, had formed part of the Spanish and Austrian Netherlands for about 400 years before Prussia obtained them in 1815. A majority of the inhabitants, who are of Walloon origin, seem at that period to have spoken French. A system of Germanization, however, similar to that enforced in Alsace-Lorraine and Poland, has reduced the French-speaking element to less than one-sixth, which is chiefly centred in the town of Malmedy. The inhabitants will be able to express their preference for German sovereignty by recording their opinion in registers, which will remain open for six months after the Treaty is ratified. A final decision will then be taken by the League of Nations. As the Allies point out in their answer to the German objections to the Treaty, this territory has been elaborately organized by the Germans for their invasion of Belgium by the construction of strategic railways and the camp of Elsenborn.

The little district of Moresnet has been since 1815 under a joint Prussian and Belgian territorial administration. It owed this singular fortune to the obscure and inaccurate wording of two clauses of the Treaty of Vienna. Its total population is about 3,000.

The economic value of these acquisitions consists in the extensive forests, which are expressly assigned to Belgium as compensation for the partial destruction of her own, in the valuable zinc deposits of Vieille Montagne, and the textile industries of Montjoie and Eupen.

of which these two Kreise form part is 10,034. The French-speaking inhabitants of the two whole districts must therefore be less than one-sixth of the total population. In the whole district of Malmedy 28·7 per cent. speak French, in the town of Malmedy itself 94 per cent. The number of French speakers in the Eupen district seems insignificant. The inhabitants are almost without exception Roman Catholics.

MORESNET

(a) Total population (including the 3 communes of Belgian, Prussian, and Neutral Moresnet)	3,038
Population of Neutral Moresnet	250
(b) <i>Nationality.</i>	
Prussians	1,380
Belgians	918
Dutch	308
No nationality	432
(c) <i>Language.</i> Speaking German only 48 per cent ; speaking German 84 per cent. Speaking French only 2·8 per cent. ; speaking French 48 per cent.	
(d) <i>Economic.</i> Neutral Moresnet contains the zinc mine of Vieille Montagne, which is the richest of all the deposits in the Aachen area.	

4. *Relations with the Netherlands.*¹ The questions at issue between Belgium and Holland are at once the most important, the most complicated, and the most difficult to settle. They have caused considerable excitement in both countries; the Belgians in particular consider that their strategic security, their economic prosperity and future good relations with Holland depend upon a solution favourable to themselves. They consider also that Belgium has a strong claim on the gratitude of Holland, whose independence was saved by the fight which the Belgians made for their own. The course of the negotiations, which are still in progress, has been as follows:

The Belgian case was presented to the Conference by M. Hymans, and was referred to a special Commission for Belgian Affairs whose terms of reference were to examine the neutral status of Belgium, as established in 1839, and to suggest modifications. The report of the Commission was adopted by the Supreme Council; it urged revision in order to remove the 'risks and inconveniences' which had been imposed upon Belgium, and stated that 'the territorial and fluvial articles' of the Treaties had 'seriously diminished the Belgian capacity for defence'. In communicating this view to the Dutch Government the Supreme Council invited it to send representatives to put the Dutch view before them.

The Dutch agreed to this proposal and sent their Foreign Minister, M. van Karnebeek, to take part in a Conference in Paris, which included the Foreign Ministers of the five Great Powers together with Belgian representatives. On the 4th June 1919 the question was referred back to a Commission of the five Great Powers with Belgian and Dutch representatives who were instructed to 'submit proposals which involve neither transfer of territory nor international servitudes'. The report of this Commission, which sat until the late autumn, has not yet been published, and a final agreement has yet to be reached.

It now follows to consider in detail the questions which have led to such prolonged and as yet inconclusive discussion. The natural anxiety of the Belgians about their future strategic security centres round two points, the defence of their eastern frontier, and the navigation of the Scheldt. Unfortunately in

¹ A good account of the earlier phases of the negotiations by M. Cammaerts will be found in *The New Europe*, 31st July 1919, the agreement reached in the Treaty of March 1920 awaits ratification.

both these cases they buttressed up strategic arguments with annexionist claims, the tactless advocacy of which in the Belgian press seriously affected the good relations of the two countries.

The Conference naturally decided that it was not within its province to consider any transfer of territory from a neutral State which was not represented at its sittings. The Dutch Government, no less naturally, refused to consider the possibility of any such cession, and a resolution of the 4th June definitely excluded it from subsequent negotiations. In consequence no detailed account will be given of territorial claims.

(a) The Belgians maintain that the long narrow salient of Dutch Limburg which projects southward into Belgian territory towards Liège is equally hampering to their own and to the Dutch system of military defence. This argument is theoretically valid for Belgium; since the map shows that a hostile force advancing westward through Limburg will completely turn the whole line of the Meuse. During the late war, however, it proved on the contrary an advantage to Belgium, as the Germans attached such importance to the neutrality of Holland that they made no attempt to pass through Limburg, and the effect of the salient was, therefore, to shorten the Belgian line of defence. The Belgians have dwelt with great emphasis on the incident which occurred immediately after the Armistice, when some 75,000 disorganized German troops escaped to Germany by this short route. This, however, only deprived the Belgians of prisoners and war material which they would otherwise have secured, but cannot be fairly described as a danger to the security of the country and is irrelevant to their main contention. That Limburg would be a grave danger to the Dutch in the event of invasion is obvious. It is indeed indefensible, as an enemy has only to stop the neck of the bottle in order to secure the surrender or internment of the whole of the defenders.

These considerations point, therefore, to a combined system of defence for the area between the two countries. The Dutch Government have, however, declared in the Chamber that they do not contemplate a military alliance with Belgium.

The Belgians further complain of the economic disadvantages which are imposed upon them by Dutch Limburg. They

declare that water-borne traffic between Antwerp and the Meuse is 'seriously hindered by the narrowness' of the canal where it passes through Dutch territory. This, however, is clearly a matter for private negotiation between the two countries, on which there is reason to believe that the Dutch are ready to give complete satisfaction.¹

It was perhaps natural that the Belgians should have suggested its cession, as like Luxemburg, it was both a *de facto* part of Belgium between 1830 and 1839, and protested against its surrender to Holland. But there is no evidence that the bulk of the population are now animated by the feelings of eighty years ago.

(b) The Dutch obtained control over the mouth of the Scheldt in 1648, when they were secured by the Treaty of Munster in their possession of the left bank. Except for the period between 1792 and 1814 they have maintained that control ever since. The Treaties of 1839 placed Antwerp under serious strategic and economic disabilities. The port, in accordance with the stipulations of Article XV of the Treaty of Paris of the 30th May 1814, was to continue to be *unique-ment un port de commerce*. This implied that no Belgian warships could pass up and down the Scheldt in peace or war; and that Antwerp could not become a naval base. Further, the mouth of the Scheldt was closed by the Dutch on the outbreak of war in 1914, and it was therefore impossible for the garrison of Antwerp to be either succoured or evacuated by sea. On the other hand, these restrictions also prevented the Germans from attacking Antwerp by sea, or from developing it into a submarine base after its capture; and it is probable that the balance of advantage in the existing arrangement inclined towards the Allies.

It seems then that the status of Antwerp in time of peace is a question which almost exclusively concerns the Belgians and Dutch; and that it is reasonable for the Belgians as an important Colonial power to demand that the port should be available for the Navy which such possessions beyond the sea make necessary.

In war, on the other hand, the question is essentially international, and affects Great Britain in particular hardly less vitally than either Belgium or Holland. In view of the mutual obligations imposed by the League of Nations on each

¹ v. Note 2, p. 196.

of its members, it seems certain that the final solution of the question depends on the entrance of Holland into the League. If both Belgium and Holland were members of the League, its constitution makes it impossible for Holland to refuse a passage to naval and military forces coming up the Scheldt under the authority of the League of Nations.

It is difficult to estimate accurately how far the existing régime is injurious to Belgium commercially. The navigation of the Scheldt has been entirely free since the capitalization of the dues in 1863, and the prosperity of Antwerp has been largely enhanced in consequence. On the other hand, the Belgians complain that the Dutch members of the mixed Board of Control which regulates navigation constantly block suggested improvements owing to their lack of interest in the prosperity of Antwerp, which indeed they are bound to regard as the rival of Rotterdam. The Dutch are also able to prevent the dredging of the Western Scheldt, and thereby to make the navigation of the Channel a constant danger.

As the resolution of the 4th June excludes all transfer of territory or the creation of international servitudes but condemns the existing arrangements it seems that two alternative solutions may be adopted. The Scheldt may be completely internationalized, and placed under the exclusive control of the League of Nations. This would not involve any transfer of territory from Holland, but would involve her relinquishment of the sovereignty of the mouth and the channel of the Western Scheldt, which has indubitably existed since 1839. It seems certain that the Dutch would strongly resent such a proposal. Or again, a real and complete condominium may be established for these areas, in which the sovereignty would be equally divided between Belgium and Holland. This is the more satisfactory solution. It recognizes that the islands at the mouth and the two banks of the Scheldt are inhabited by a Dutch population, which has been politically united to Holland for 270 years. It recognizes also that Antwerp makes the Scheldt incomparably more important from a commercial and economic standpoint to the Belgians than to the Dutch.¹ It is probably true, as the Dutch allege, that the disadvantages of the pre-war régime have been exaggerated by the Belgians in the hope of inducing the Conference to look favourably on

¹ Note 3, p. 196.

their earlier demand for the cession of Dutch Flanders,¹ but it is manifestly unfair that the Dutch should possess the power of interfering with the conditions essential for the development of Antwerp. There is at present much discontent in Belgium at the condition of the country. The Great Powers are accused of neglecting Belgian interests. The large acquisitions of territory secured by France, Italy, and Serbia are contrasted with the minute fragments of Prussia which have only been handed to Belgium with a reservation. The extravagant hopes which were entertained at the opening of the Conference of territorial aggrandizement at the expense of Holland have been followed by a mood of irritation. It is pointed out that although freed from her pre-war restrictions, Belgium has at present lost even the imperfect protection of the European Guarantee, since the proposed alliance between Great Britain, France, and America does not extend to Belgium. The substituted protection of the League of Nations has not yet come into being, and its success is experimental.

Summary. This discontent, though natural, is unjust to the Allies. The requested revision of the Treaties has been undertaken, and Holland has been induced to take part in the conversations in an amicable spirit. Belgian prosperity is not bound up with an increase of territory at the expense of her neighbour, but with the cultivation of closer relations, which will facilitate the satisfactory solution of any questions which may arise between them.

Alone of all the Allies Belgium has been guaranteed the repayment with interest by Germany within a period of eight years of her entire war debt. Her most pressing need is not territorial expansion but the restarting of her industrial and economic life, which will not be attended by any insuperable difficulties.

¹ It seems certain, for example, that any prejudice which Ghent may have received as a port through the unsuitability of the Terneuzen Canal is the fault of the Belgians and not of the Dutch, as the canal was built in accordance with the views expressed by the Belgian experts.

² *Note to p. 194.* The position of Antwerp will be greatly improved by the consent of the Dutch Government to the construction of two canals suitable for barges of 2,000 tons. One runs from Antwerp to Moerdijk, the other from Antwerp to the Rhine, with connexion to the Meuse by branch canal.

³ *Note to p. 195.* The Belgo-Dutch Treaty establishes a common management under a permanent Board of Control, with three representatives of each nation. The Board will manage the waterway and the technical administration and has powers to act in emergency. Provision is made for rapid settlement of all difficulties by arbitration.

CHAPTER IV: SECTION I

THE TERRITORIAL SETTLEMENT IN EUROPE (*continued*)

NORTHERN AND EASTERN FRONTIERS OF GERMANY

PART I. THE SCHLESWIG QUESTION

1. *The origin of the problem.* The Schleswig question forms one of a group which fell to the consideration of the Peace Conference in virtue of the terms upon which the Armistice was concluded.¹ By accepting the 'Fourteen Points' as a basis of peace, Germany pledged herself to the recognition of the principle of self-determination, and this was admitted by Dr. Solf, immediately after the Armistice, to Mr. Hanssen, the Schleswig delegate. But in confining the claim to self-determination to Schleswig Denmark broke with a principle rigidly insisted upon for four centuries, viz. the indissolubility of Schleswig-Holstein. It was for this she went to war with Prussia in April 1849 when, after the early Prussian successes, Denmark defeated the Schleswig-Holstein Army at Fredericia. On the diplomatic intervention of Great Britain in July negotiations were opened and peace was finally concluded at Berlin on the 2nd July 1850. This peace merely reserved to both contracting parties all the rights they had possessed before the war. The Duchies continued to fight until January 1851; but a year later were formally taken over by Frederick VII of Denmark, who promised them special constitutions with separate representative bodies included in a common constitution of the whole monarchy. The promises were not kept, and a revised constitution, which left the Duchies powerless in all matters common to the monarchy, was forced upon them in 1855. Eight years later the new Danish House, settled by the London Protocol of 8th May 1852, proclaimed a constitution by which

¹ Slesvig is the Danish form, but the majority of the province is German, so that Schleswig is the correct term for the whole province. The plebiscite will probably erect a Danish province of northern Slesvig and a German one of southern Schleswig. Throughout this article the German form, Schleswig, is used.

Schleswig became merely a Danish province, while Holstein, though retaining its independent position, was to be exploited financially in the interests of the whole Danish State. This action, involving the imposition of a Charter upon Holstein without consulting its representative, disregarded the rights of the Germanic Confederation; and by the annexation of Schleswig violated the terms of the London Protocol. Prussia and Austria, upon these grounds, declared war in January 1864. The Danes, defeated at Düppel and refusing to accept the terms suggested by the Conference of the Powers in London which, while uniting the Duchies as independent States under the sovereignty of Denmark, admitted Schleswig to the German Confederation, were compelled to agree to the handing over of both Duchies to Austria and Prussia by the Treaty of Vienna, 30th October 1864. The subsequent dispute between Prussia and Austria as to the fate of the provinces was temporarily settled by the Convention of Gastein, 14th August 1865, by which Austria undertook to administer Holstein and Prussia Schleswig. Thus, under cover of protecting the provinces, Prussia and Austria had made the first break in the historic union of the Duchies.

2. *The Peace of Prague.* But in less than a year the settlement was changed once more. Defeated at Königgrätz 3rd July 1866, Austria resigned all rights over the Duchies, which then passed by the Peace of Prague into the hands of Prussia. The effect of this peace was the formation of a Schleswig problem, and the final severing of the historic association between the two Duchies. Under the sovereignty of Denmark, Schleswig had protested its independence. Under the Germanizing policy of Prussia there developed a demand for incorporation with Denmark. This contention had been recognized by the Treaties of Vienna and Prague.

Article XIX of the former Treaty stipulated that subjects domiciled in the ceded territories had the right, within six years of the ratification of the Treaty, of opting for the Danish nationality and of transferring themselves and their families and property to Denmark while keeping their landed property in the Duchies.

Article V of the Treaty of Prague stipulated that 'the populations of the north of Schleswig shall be again united with Denmark in the event of their expressing a desire so to

be by a vote freely exercised'. As a result of these Treaties about 50,000 Danes opted for Denmark and crossed the frontier pending the plebiscite which was to restore North Schleswig to Denmark. Article V of the Prague Treaty, which had been inserted at the instance of Napoleon III, was, however, disregarded by Prussia. The Franco-German war rendered it unnecessary for her even to maintain the pretence of observing it, and in 1879 she abrogated this clause with the consent of Austria-Hungary. The Danish 'optants' had meanwhile, finding their hopes disappointed, begun to return to Schleswig, and in doing so lost their rights as Danish citizens while they did not secure those of Prussian subjects. Under German law the majority of those who had opted for Danish nationality had forfeited their rights as Prussian citizens, and this crying injustice was deliberately perpetuated by Germany as a means of inducing the recalcitrant Danish population to submit to Germanization. The 'optants' became outcasts subject to arbitrary arrest, confiscation, and expulsion, and the sufferings of these people were increased by the refusal of the Danes to permit them to settle in Denmark. This last regulation was eventually modified in 1898 by the Danish 'nationality law' in favour of the children of 'optants' born after the passing of the law. In 1907 these conditions were at last ended by a Convention between Prussia and Denmark which allowed children, born of Danish 'optants' before 1898, to acquire Prussian nationality. Although this measure has mitigated the grievances of the Danish population, the hostility between Germans and Danes in North Schleswig remains as bitter as ever; the former regarded the 1907 Convention as a betrayal of their cause and the Germanization of the territory has since then been enforced with the utmost ruthlessness. German has been substituted for Danish in churches and schools, the press has been rigidly controlled, and those who have displayed their determination to keep alive the ideals and the language of their Danish nationality have been persecuted by every means at the disposal of the State. Nevertheless, in spite of an enormous emigration, a census made in 1905 showed that out of the 148,000 inhabitants of North Schleswig 139,000 spoke Danish, while of the German-speaking immigrants more than a third spoke Danish in the first generation.

3. *The Kiel Canal.* Although Bismarck in 1864 had a

certain measure of political justification in going to war with Denmark on the question of Schleswig-Holstein, he was doubtless influenced still more strongly by the strategical results at stake.

In later years Bismarck stated that the acquisition of Kiel as a naval base and the natural starting-point of a canal connecting the North Sea and the Baltic was his object in bringing about the Danish War. The construction of the Kiel Canal was not begun, as a matter of fact, until more than twenty years later. But the resultant accretion of strength to Germany's sea-power after 1895, when the Canal was opened, testifies to the sagacity of the great statesman who systematically welded the German Empire.

The Kiel Canal has little economic importance; it has not proved productive as a commercial enterprise, nor has it conduced directly to increase the prosperity of Germany's Baltic ports. Its inception and construction aimed only at bettering the strategical position of the German Navy, and in this it has been highly successful. The defensive power of the German fleet has been greatly increased by cutting the 61-mile waterway which links the Baltic with the North Sea.

The Kiel Canal as originally constructed could only accommodate vessels of 26 feet draught, but in 1908 the work of enlarging the Canal was begun, and was completed by June, 1914, so that on the outbreak of the war the Canal could be used by the largest battleships.

In spite of various suggestions as to the internationalization of the Kiel Canal, the Treaty of Peace with Germany left that country with complete sovereignty over the Canal, only stipulating that all nations at peace with Germany shall have equal rights as regards its use. The actual terms are defined in Articles 380-6 of the Peace Treaty.

According to Article 195 of the Peace Treaty, Germany may not retain or erect any fortifications in Jutland north of latitude 54° 00' N., which means that defensive works may only be maintained to protect the Brunsbüttel end of the Canal, where it enters the estuary of the Elbe.

In view of the above considerations, it seemed doubtful whether any practical benefit would accrue by internationalizing the strip of country through which the Canal runs. The inhabitants of this territory are indisputably German, and

have evinced no desire for separation. To hand this territory over to Denmark would be devoid of any ethnic justification, and would only prove a political and economic embarrassment such as no Danish Government would now face. So far as the Kiel Canal was concerned, therefore, there was no object in extending the Danish territory of Schleswig southwards as far as the Holstein border.

4. *The Little Belt.* Apart from the question of the Kiel Canal, the most important strategical aspect of the Schleswig question is the command of the Baltic entrances. One of these channels, the Little Belt, could be completely dominated from the islands of Aarö and Alsen which lie off the east coast of North Schleswig and were annexed by Germany in 1864. The former of these islands is situated east of Hadersleben, close to the northern extremity of German territory, and overlooks the Little Belt at one of its narrower points. The fertile island of Alsen is still more important strategically; not only does it overlook the entrances to the harbours of Apenrade and Flensburg, but it contains a good harbour at Sonderburg, which was a German naval station. It was important that these strategic points should not remain in German possession, even though Article 195 of the Treaty forbade their fortification. Fortunately this transfer is completely justified on ethnic grounds. In the *Kreis* of Hadersleben to which Aarö belongs, 80 per cent. of the population is Danish, while in *Kreis* Sonderburg the Danish element amounts to 72 per cent. of the population, in spite of the existence of the German naval station. The transfer of these two islands to Denmark would go far to secure the communications between Jutland and the island of Fünen, which were formerly at the mercy of Germany.

5. *The question of a defensive frontier.* Besides the international interests involved in the possession of the Kiel Canal and the shores of the Little Belt, there remains the question of providing Denmark with a defensible frontier *vis-à-vis* her powerful neighbour Germany. The preservation of Danish neutrality is a cardinal desideratum in the policy of Great Britain and of the other Entente Powers, and the experience of 1864 showed how desirable it was to provide Denmark with a defensible land frontier which might render Jutland secure from a sudden invasion and would cover the communications between the mainland and the islands of Fünen and Zealand.

South Jutland's historic line of land defence is the old 'Dannewerk', or Danish Wall, between Schleswig and Husum, a distance of 21 miles. East of the town of Schleswig this line is continued as a water obstacle by the narrow Gulf of Schlei, some 23 miles long, while to the south of Husum the western end of the line is covered by the Eider marshes. This natural and artificial line of defence was also the southern boundary of the Danish race and language up to the end of the eighteenth century, and it was this frontier which the Danes, supported by Great Britain, sought to maintain at the Conference of London in 1850.

Even in 1864, however, when Denmark possessed the whole of Holstein and Lauenburg as well as Schleswig, the Danish Army was easily driven from the Dannewerk in a frontal attack by the Prussians and Austrians and could make no real stand south of the lines of Düppel. There seems, therefore, to be no urgent strategic reason for fixing the Danish frontier farther south than Flensburg. Although the town of Flensburg itself could hardly be defended against attack from the south, a good defensive line could be drawn from the head of the Flensburg fjord westwards for some 23 miles to rest on the North Frisian marshes south of Tondern.

6. *The Problem before the Peace Conference.* It now becomes apparent that historical facts give no clue to the solution of the Schleswig question and that the problem can be settled solely on a racial basis. The strategic considerations in no way demand a violation of ethnic principles. Although the River Eider formed the racial boundary of Denmark up till the eighteenth century, the circumstances had greatly altered by 1864, and have altered still more since that date. Without reckoning the strip of Frisian-speaking territory fringing the North Sea coast between Hoyer and Husum, and the North Frisian islands, the German race and language has gradually infiltrated beyond the line of the Schlei, and now commands a distinct majority as far north as the latitude of Flensburg. There seems to be no particular reason that the Frisians should be allotted to Germany rather than to Denmark, beyond the fact that Germany already possesses a considerable Frisian population along her North Sea coast.

The total population of Schleswig-Holstein is some 1,600,000, of which not more than 150,000 can be claimed as Danish by

race. The great majority of these live north of the latitude of Flensburg. A just international frontier could therefore only be drawn somewhere in the neighbourhood of this line, and in the case which the Danish Government laid before the Council of Ten in Paris, on the 21st February 1919, no request was made for territory to the south of the Flensburg line, unless it could be proved that the inhabitants expressed an unmistakable desire for Danish nationality.

7. *The Peace Settlement.* The Schleswig question was remitted to the Commission on Belgian Affairs on the 21st February 1919. No steps had ever been taken by Prussia or the German Empire to allow the northern districts of Schleswig to express by vote their desire for incorporation in Denmark, as provided by the Treaty of Prague; and the Commission had to consider the propositions of the Danish Government to secure that this provision should be carried out. Their point of departure was the principle that 'the frontier between Germany and Denmark shall be fixed in conformity with the wishes of the population'; but their aim was to remove all occasion for future agitation and uncertainty. It was this that led the Commission to include the so-called third zone in their recommendations. The proposals of the Danish Government comprised two voting areas and the evacuation of the third by the German troops and higher Prussian officials. The latter provision was inserted in order to secure that the voting should take place without fear or favour; but the Danish Government had no wish that voting should be extended to this strip of territory for reasons which gathered strength in the months after the Armistice. The Danish Government could not view with favour the possibility of the addition of a solid block of people who were German in language, thought, and feeling. If these people voted for the retention of German nationality the Danish minority might suffer. But as the exchange depreciated and the future economic prospects of Germany, owing to an inevitably heavy taxation, grew darker, the Danish Government feared that many might vote for incorporation in Denmark as a way of escape without thereby changing their sympathies. Vain fears they were perhaps; but they were really felt; and it is interesting to note this strange disturbing factor which in some cases, at least, might render nugatory every provision to secure a final settlement by plebiscite.

The report of the Commission presented to the Supreme Council on the 19th March constituted three zones, comprising an area of some 2,745 square miles with a population of 380,679 whose southern boundary was the historic Dannewerk line. The broader purpose of securing a final settlement which should be able to stand against future claims and counter-claims seemed to justify the inclusion of the southern area. But the Commission accepted the difference between the zones as suggested by the Danish Government. The first zone roughly follows the Clausen line (*v. map*) and includes an area over which the Danish language is supreme. With the exception of the partly German enclave of Tondern, the number of Danish-speaking people ranges from fifty to a hundred per cent. by common admission; and in this (the first zone) the result is to be determined by the majority of votes cast in the whole section. The Central Schleswig area covers a territory where the languages are mixed. In the west it is Frisian; in the centre Danish and German; and in the east, about Flensburg, chiefly German. The voting in this area is to be by commune (*Gemeinde*) (Article 109). The frontier is to be a 'line based on the result of the voting, and proposed by the International Commission, and taking into account the particular geographical and economic conditions of the localities in question' (Article 110).

A later report of the Commission carried the third zone farther south, to include the Eiderstedt peninsula where, by common consent, the people are German. This amendment was due to a Danish deputation; but it was carried in defiance of British opposition. Whatever the economic reasons for including this territory, the people are indisputably German, and on the publication of the first draft of the Treaty on the 8th May 1919, the Germans naturally objected to its inclusion in the voting area. The position at that moment was that both the Danish and German Governments objected to the voting in the third zone while the extremists on both sides desired it, the Germans presumably in the hope of providing Denmark with a disturbing factor which might result in a reconsideration of the whole question. Thus the matter stood until the 25th June, when the Supreme Council struck out the clause dealing with the third zone as amended and left the Treaty as it now stands. One immediate consequence of this summary

action is that the evacuation of the third zone which the Danish Government had desired and the Commission had accepted was no longer included.

8. *Conditions of the Plebiscite.* The Treaty provides that the German troops and higher authorities together with the Workmen's and Soldiers' Councils shall evacuate the voting area within ten days of its coming into force. The area is then to pass to the control of an International Commission composed of five members who at the request of the Danish Government were granted a small allied force to maintain order. A further provision to secure that the voting should be perfectly free is that the first zone should vote before the second, the former within three weeks after the coming into force of the Treaty and the latter in the five weeks following the first plebiscite. The right to vote is accorded to all persons without distinction of sex who have completed their twentieth year and were born in the zone, or domiciled there since a date before the 1st January 1900, or have been expelled by the German authorities.

The frontier is to be traced on the spot by a Commission of seven, including one Danish and one German member, within fifteen days from the date when the final result of the vote is known (Article 111). All inhabitants north of the frontier will acquire Danish and lose German nationality, except persons who had become habitually resident in this territory after the 1st October 1918, who require consent of the Danish Government to secure Danish nationality (Article 112). A final provision to secure the permanence of the settlement is the privilege of option. All persons in the territory restored to Denmark over eighteen years of age born in the territory 'not habitually resident' there can opt for Germany. Such persons must within twelve months transfer their residence to the State in favour of which they have opted, retaining their immovable property and removing their movable property at will. There can be few areas whose final disposition presents so complicated a problem which have received a treatment that is so just in itself and promises so full a pacification.

9. *The Result of the Plebiscite.* The voting took place in the first zone on the 10th February and resulted in a decision in favour of incorporation in Denmark. The economic factor seems to have had little if any influence on the voting and even

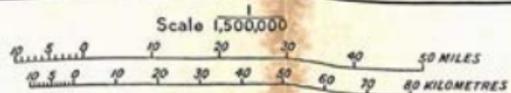
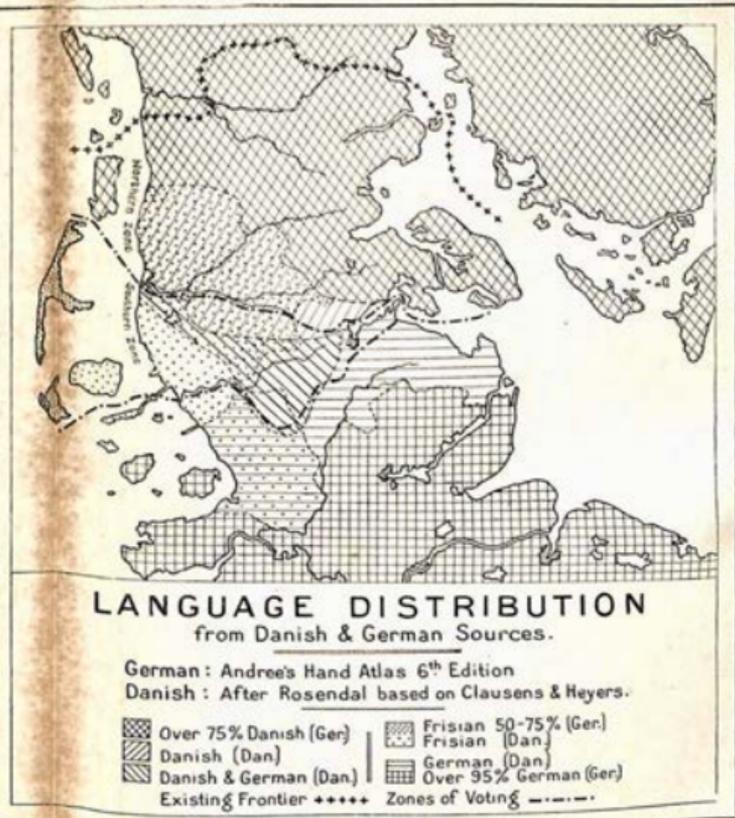
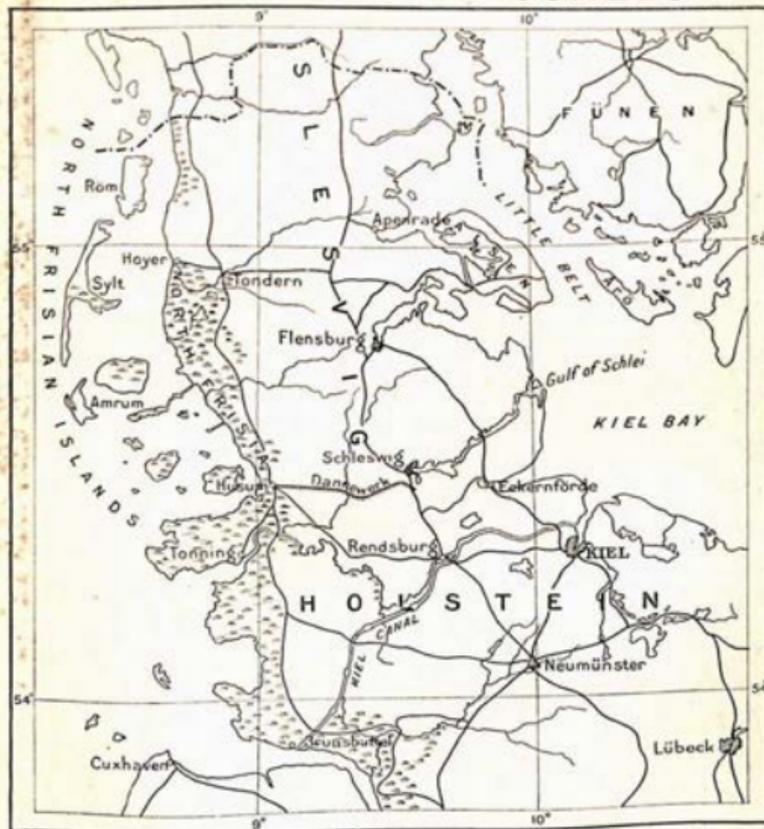
the considerable influx of voters from Denmark and Germany did not disturb the expected result.¹ The voting day passed off very quietly and the result was received with great enthusiasm in Denmark. The International Commission arranged for the voting in the second zone to take place on the 14th March, and the result was once more in accordance with expectations. The second zone voted for Germany by a greater majority than the first zone had shown for Denmark; and the result in Flensburg was decisive.² It is to be hoped that the plebiscite will form the basis of a stable solution of a question which has disturbed the relations of Denmark and Germany for over half a century.³

¹ The number of persons entitled to vote was 111,191 of whom 101,642 went to the poll, one of the biggest polls ever known in any election. Denmark obtained 75,431 votes and Germany 25,329.

² In the whole of the second zone 12,793 votes were cast for Denmark and 51,820 for Germany. In Flensburg 8,947 voted for Denmark and 26,911 for Germany. These are only the provisional figures, but there is no reason to think that they do not represent the result with sufficient accuracy.

³ The Ambassadors' Conference finally decided to confirm the result of the voting, allocating to Denmark the first zone with some slight adjustments according to the 'economic and geographical conditions'. Certain Danes showed great anxiety as to the status and liberties of those who in the second zone had voted for incorporation in Denmark. This was met by granting the privilege of opting for Denmark to all such persons as were over 18 years of age, or who had been habitually resident since 1st January 1900, in the territories remaining German.

SCHLESWIG-HOLSTEIN



CHAPTER IV

THE TERRITORIAL SETTLEMENT IN EUROPE (*continued*)

NORTHERN AND EASTERN FRONTIERS OF GERMANY

PART II

MEANING, STRATEGIC AND OTHERWISE, OF THE LOSS TO GERMANY OF POLISH TERRITORY¹

INTRODUCTORY

Sketch of Territories concerned. The territories concerned consist of the greater part of the provinces of Posnania (Posen) and West Prussia, with such portions of the plebiscite areas of the provinces of Silesia and of East and West Prussia as may be allotted to Poland.

The area ceded to Poland by the Treaty stretches from the northern boundary of Upper Silesia (*Kreis* Kreuzburg) northwards to the Baltic coast, attaining an average breadth of 80 miles. The length of this area is 260 miles, and the total population is just under 3,000,000, of which the Poles form just under 1,850,000.²

The plebiscite areas consist of :

- (a) The greater part of Upper Silesia (*Regierungs-Bezirk* Oppeln.).
- (b) *Regierungs-Bezirk* Allenstein and the *Kreis* of Oletzko.
- (c) *Kreise* Rosenberg, Marienwerder (part), Stuhm, and Marienburg (part).

The Northern Area definitely severed from Germany is sometimes referred to as the 'corridor'. It contains the lower course of the Vistula, which, together with the railway systems Warsaw - Mlava.- Deutsch-Eylau - Marienburg - Danzig, and Warsaw - Thorn - Danzig, constitutes the only direct means of communication by water and rail between Poland and the sea.

Rail connexion between East Prussia and the rest of Germany crosses this area in the north via Marienburg and Dirschau and

¹ The following sketch deals only with the purely German aspects of the Treaty. The Polish side will be dealt with in Volume V.

² For the population, according to the German census of 1910, see the tables at end of chapter.

further south via Thorn, whilst the Bromberg canal is available for water traffic from east to west.

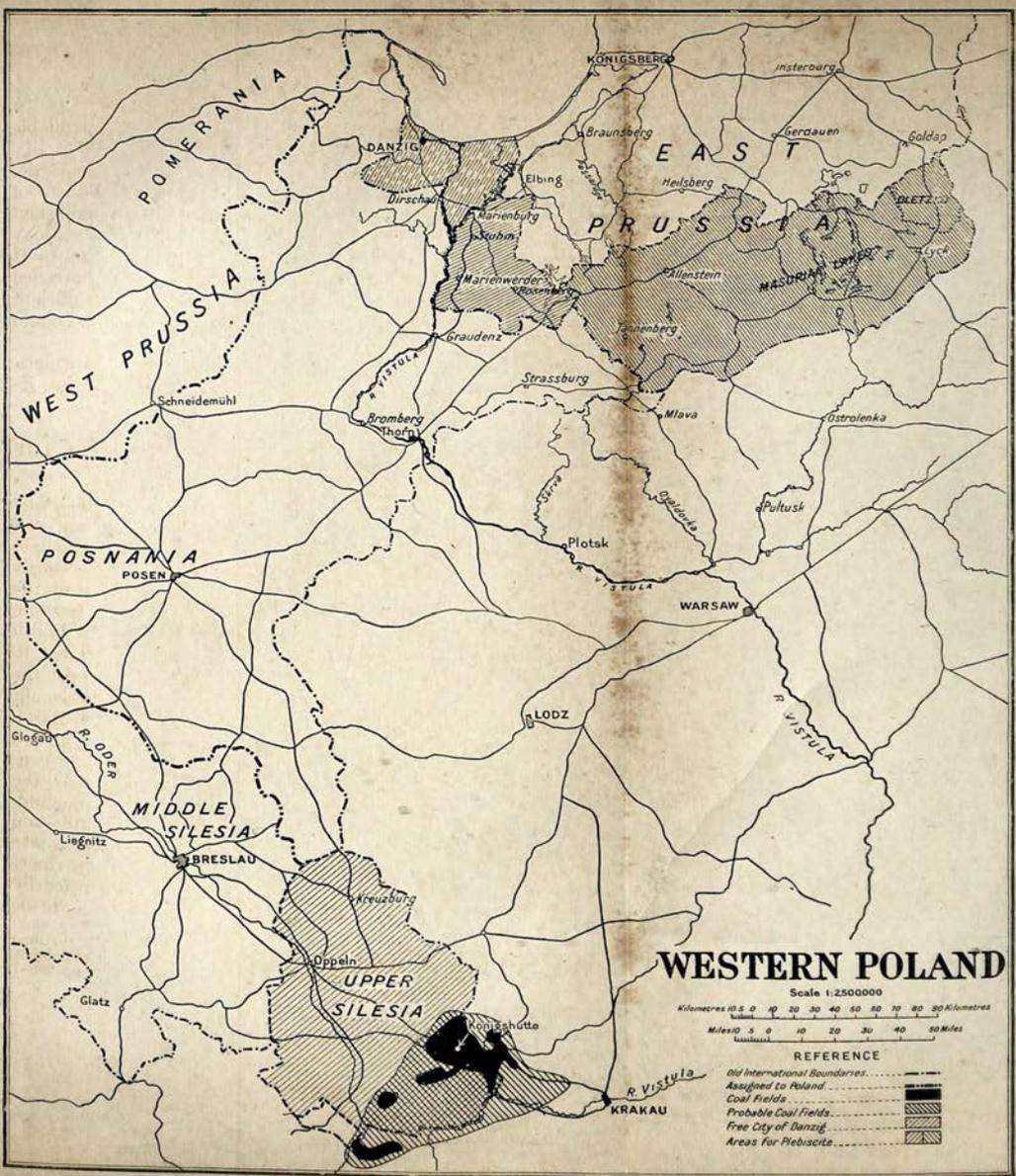
In the plebiscite area of Upper Silesia the River Oder is the principal waterway which, besides affording the products of Silesia an outlet to Stettin, near its mouth, and to Berlin and Hamburg by means of an extensive system of waterways, may also at some future date play an important part in the transport relations of central and southern Europe. Through all the ceded territory, railway and road communications are amply sufficient for local requirements, though connexions with Congress Poland cannot be regarded as adequate.

Generally speaking, Posnania and West Prussia are agricultural districts, Upper Silesia is principally noted for its industrial character, whilst East Prussia is rich in timber.

SECTION I. STRATEGICAL EFFECT ON GERMANY OF THE POLISH SETTLEMENT

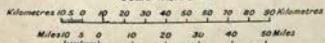
1. *The General Settlement of the Ceded Territories ; the Peace Settlement and the Austro-German Solution of 1915.* The successful re-establishment of an independent Polish State on the lines of the solution embodied in the Peace Treaty will necessarily have very far-reaching consequences on the Germany of the future. Prior to the War it had always been one of the German aims to oppose the re-establishment of an independent Polish State. After the outbreak of hostilities it became evident to Germany that it would be impossible indefinitely to resist the Polish movement, and on 11th August 1916 an agreement was concluded between the German Chancellor and Baron von Burian, under which Germany and Austria-Hungary agreed to establish an independent Kingdom of Poland with a constitutional and hereditary monarchy and a national army ;¹ the latter was, however, to be placed under German command. The incorporation of the Polish provinces of Germany and Austria-Hungary within the frontiers of the new State was specifically excluded ; in fact, the retention of these provinces by the two Central Powers was to be further safeguarded by 'frontier rectifications'. On the other hand, Vilna was to be

¹ Falkenhayn, *General Headquarters*, p. 277, says he postponed the final decision till after his resignation. The independence of Poland was publicly proclaimed on the 5th November 1916. Cf. Czernin, *World War*, pp. 200-1 sqq., Ludendorff, *War Memories*, pp. 397-8 sqq.



WESTERN POLAND

Scale 1:2500000



REFERENCE

- Old International Boundaries
- Assigned to Poland
- Coal Fields
- Probable Coal Fields
- Free City of Danzig
- Areas For Plebiscite

included in the new territory, whose frontiers were to be extended eastwards as far as possible, this being dependent on the terms which the Central Powers should be able to impose on a defeated Russia. General Ludendorff informs us, moreover, that the German Chancellor aimed at the economic incorporation of Poland within the German customs union.

A consideration of the solution of the Polish question envisaged in the agreement referred to above will show at once some of the more serious consequences to Germany of the solution established by the Peace Treaty—consequences which the Austro-German agreement sought to avoid. In the first place, a genuinely independent State has been created such as will become a buffer between Germany and Russia, whereas the Austro-German solution aimed in effect at advancing the German frontiers to the borders of Great Russian territory, as is clear from Ludendorff's Memoirs. The reconstitution of Poland interposes between Germany and Russia a State of some 25 million inhabitants, with a political orientation which cannot at any rate for a very considerable period, be inclined towards Germany. The anti-German sentiments of the Poles were clearly shown by their attitude with regard to the recruitment by Germany in 1915 for the Polish Legion, which met with no response whatever from the Russian Poles, with the result that recruits for the Legion were almost entirely drawn from Galicia. Ludendorff, himself a native of Posen, attributes the course of events with regard to Poland to the 'strong national sentiments of the Poles, and to the traditional hostility between Poles and Germans'.

The position of being a 'buffer State' always involves certain dangers for the State to which the term can be applied, and the Conference realized, perhaps better than the Polish Government, that these dangers would be increased for Poland in proportion to the number of Germans handed over to her under the Peace Settlement.

Rumania, situated between Hungary and Bulgaria on the one hand, and the Ukraine on the other, will find herself in a somewhat similar position to Poland, and it seems probable that community of interest—political, economic, and military—will result in a close union between the Polish and Rumanian States. The strategical effect of such a union can readily be deduced from the geographic situation indicated above, and it

would certainly tend to maintain the stability of the Peace settlement.

A most important consequence of the loss to Germany of the territory ceded to Poland is that East Prussia is isolated from the main block of German territory. German statesmen, when thinking of the possible resurrection of Poland, always feared that it would carry with it this eventuality, and it was to guard against this that a policy of artificial State-subsidized colonization was vigorously pursued in West Prussia and Posnania. The fact that the reconstitution of Poland coincides with a complete change in the social order and system of government in Germany may perhaps result in the population of East Prussia adapting itself more readily than would otherwise have been the case to a more or less independent régime. It is important to note that German activities in the Baltic provinces, not only during the War but prior to it, were very largely based on East Prussia, and the severance of the latter country from Germany will necessarily react on German enterprise—political and commercial—in the Baltic provinces.

From the military point of view, the establishment of the Polish 'corridor' between Germany and East Prussia gives rise to strategical problems of a new order. Taking into consideration the range and power of modern artillery, it is unquestionably a fact that such a corridor is militarily indefensible except by offensive operations resulting in a great extension of the width of the corridor in the direction of one or both of its flanks.

Regarded generally, perhaps the most important strategical effect of the Polish settlement and the cession of Germany's Polish possessions is the juxtaposition of two great salients—the Polish salient of Posnania, with its network of railways radiating from Posen, and the German salient of Middle Silesia, with a no less highly developed railway system radiating from Breslau. The narrowness of the latter salient constitutes a serious weakness from the military point of view.

2. *Strategical Aspects of the Plebiscite in the Allenstein and Marienwerder Areas.* The decisions to be made as to the frontier of East Prussia in the light of the plebiscites to be taken in the Allenstein and Marienwerder regions will have a considerable bearing on the vulnerability of the Polish 'corridor' already referred to. The Marienwerder plebiscite will directly affect the

width of the corridor, and will further decide whether the latter is to include that section of the important Danzig-Mlava railway which lies between Marienburg and Deutsch-Eylau. Should the whole of this plebiscite area be assigned to East Prussia, the latter will extend westwards to the right bank of the Vistula.

The result of the plebiscite in the *Regierungsbezirk* of Allenstein will very greatly influence the possibility of defending the Polish corridor by widening it in an easterly direction. Should this region ultimately be assigned to Poland, her northern frontier would be within fifty miles of Königsberg (instead of twice that distance), while the (militarily speaking) difficult *terrain* of the Mazurian Lake district would be situated behind the Polish frontier instead of immediately before it. Further, the attribution of Allenstein to Poland would give her excellent lateral railway facilities parallel to her northern frontier, which are otherwise lacking.

3. *Strategical Aspect of the Plebiscite in Upper Silesia.* Even before the War, German writers had laid frequent stress on the strategically unfavourable position of the Upper Silesian coalfields, and, in discussing in his Memoirs a peace settlement which he would have considered acceptable in the autumn of 1917, Ludendorff emphasized the necessity for Germany to have improved her situation in this respect. 'It was, however, strategically necessary to widen the narrow neck between Danzig and Thorn towards the South, and to provide a protective belt for the Upper Silesian coalfield.'¹ The loss of Posnania has made of Upper Silesia a German salient which is militarily far less defensible than it was with the pre-war international frontiers. Should Upper Silesia remain German, its defence in the event of a war with Poland could only be assured by a rapid and vast offensive movement resulting in the early occupation of the regions to the north and east of the salient, and the elimination of the Posnanian re-entrant.

On the other hand, the configuration of the western frontier of Poland is such as to facilitate the defence of the Upper Silesian coalfields should they be assigned to her as the result of the plebiscite, but much would depend on the width of the belt of rural territory west of the coalfields acquired by Poland at the same time.

¹ *War Memories*, ii. 520.

In the light of the experience of the late war, strategy must be largely dependent on national 'munition power', and from this point of view the loss of the Upper Silesian coalfields by Germany would not be without a very great strategical effect. In the event of her becoming engaged in a fresh war of the first magnitude, it would, if she loses Upper Silesia, be one of Germany's first objects either to obtain possession of the Upper Silesian coalfields, or of extensive coalfields elsewhere near her borders.

PART II. ECONOMIC EFFECT ON GERMANY OF THE POLISH SETTLEMENT

1. *Economic importance of the Territories definitely Ceded.* Apart from the loss to Germany of the wealth and produce of the territories ceded, the disappearance of a common Russo-German frontier will involve the re-casting of the commercial policy of Germany, which, before the War, was largely based on the contiguity of the Russian and German Empires.

The isolation of East Prussia by the establishment of the Polish corridor will necessarily affect the commercial value to Germany of that province. It must, however, be borne in mind that the most important item in the trade of East Prussia has always been the export of timber by long distance water-borne traffic from Königsberg, which will not be very materially affected by the new conditions.

As regards the produce of the Polish territories lost to Germany, it has already been stated that Posnania and West Prussia are rich agricultural districts. Their chief items of production are grain, potatoes, and beet sugar. In recent years the tendency has been to introduce intensive farming, as a result of which these provinces not only show a higher agricultural development than any other predominantly Polish region, but also compare advantageously with any country in Europe. In grain the annual export from Posnania alone from 1886 to 1908 amounted to 250,000 quintals of wheat, 410,000 quintals of barley, 2,080,000 quintals of rye, and 210,000 quintals of oats. Before the War, Germany derived annually from her Polish territories, now definitely ceded, some 170,000 tons of grain-stuffs, some 500,000 tons of sugar, and a considerable proportion of her supplies of beef, bacon, and spirits. During the War,

Germany became more and more dependent on these regions for making up the deficiency in her own production.

2. *Economic importance of the Allenstein and Marienwerder Plebiscite Areas.* The chief item of export of the *Regierungsbezirk* of Allenstein is timber. In 1911 wood to the value of over 10,000,000 marks was obtained from this area. In some districts also cattle and pigs are raised in considerable quantities.

The main economic importance of the Marienwerder region lies in the fact already mentioned, that it is traversed by the Danzig-Mlava railway, which is by far the shortest railway route from Danzig to Warsaw. The retention of this area by East Prussia as a result of the plebiscite to be held there, would leave an important section of this railway in German territory.

3. *Economic importance of the Upper Silesian Plebiscite Area.* The importance of Upper Silesia to Germany was most vigorously maintained by the German delegation which came to Paris in May 1919 to receive the preliminary peace proposals. It was asserted that without Upper Silesia Germany would be economically ruined, as the whole industry of Eastern Germany was said to depend on Upper Silesian coal. This argument does not, however, pass unchallenged, as although Germany, including Upper Silesia and Posnanian, consumed in 1913 about 60 per cent. of the total output of the coalfields, little more than one-quarter of the output went to ethnically German parts of the Empire. Given the same rate of consumption, the cession of Upper Silesia to Poland as a result of the plebiscite would mean that Germany would have to import annually from Upper Silesia or otherwise procure, some 12,000,000 tons of coal to adjust the deficiency.¹

A further loss would be suffered in regard to some 500,000 tons of zinc, *i. e.* about 75 per cent. of the total zinc-ore of Germany, and 50,000 tons of lead produced annually. Relatively little of the iron-ore used in the Upper Silesian iron works

¹ Upper Silesia contains about 23 per cent. of the total German output of hard coal, but by Art. 90 of the Treaty Poland engages to permit the export to Germany for fifteen years (free of export duties or other charges restrictive of exportation) of the products of any of the mines of Upper Silesia transferred under the Treaty. The terms of sale to Germany are to be as favourable as are applicable to like products sold under similar conditions to purchasers in Poland or any country. It is probable that, taking local circumstances into consideration, Germany will be able to buy much of the coal production of Upper Silesia, even if the plebiscite incorporates it in Poland.

(about one-sixth) is of local origin, the greater part being imported from Russia, Slovakia, and Sweden. There are, however, numerous blast furnaces which are of great importance. Upper Silesia is also a source of supply of German cement.

4. *Danzig*. Danzig, which though not ceded to Poland, has yet been severed from Germany in the Polish interest, is Poland's natural port. Both Germany and Russia had for some time before the War planned to divert German trade from this port, the former by attracting traffic to Hamburg and Königsberg by means of reduced through-freight charges, the latter by neglecting to regulate the course of the Vistula in order to restrain the river traffic. The Russian Government by this action played into the hands of Germany by enhancing the importance of Königsberg, while also benefiting export trade to Libau. Though Danzig has in consequence remained of secondary importance, it still is an important port in which are situated large naval dockyards and shipbuilding establishments. Under the Peace Settlement, which gives the authorities of the Free City of Danzig the fullest possible opportunities for developing the port to meet the requirements of Poland, the commercial importance of Danzig will be greatly enhanced, to some extent at the expense of Hamburg, Stettin, and Königsberg.

TABLES ILLUSTRATING
POPULATION OF THE FORMER GERMAN EMPIRE CEDED
TO POLAND OR FORMING PLEBISCITE AREAS

(According to German Census of 1910)

TABLE I. TERRITORY CEDED TO POLAND

	<i>Total Population.</i>	<i>Poles.</i>	<i>Germans.</i>	<i>Catholics.</i> (About)	<i>Protestants.</i> (About)
West Prussia . . .	918,000	528,000	385,000	57 per cent.	42 per cent.
East Prussia . . .	25,000	15,000	10,000	25 "	75 "
Posnanian . . .	1,955,000	1,273,000	682,000	75 "	25 "
Middle Silesia . .	38,000	28,000	10,000	40 "	60 "
<i>Total ceded area</i>	2,931,000	1,844,000	1,087,000		

Boundaries of EAST PRUSSIA & DANZIG

Scale 1:2,000,000

Kilometres 0 5 10 20 40 60 80 100 Kilometres

Miles 0 5 10 20 30 40 50 60 70 Miles

REFERENCE

- Assigned to Poland
- Free City of Danzig
- Areas for Plebiscite
- Detached from Prussia
- Old International Frontiers

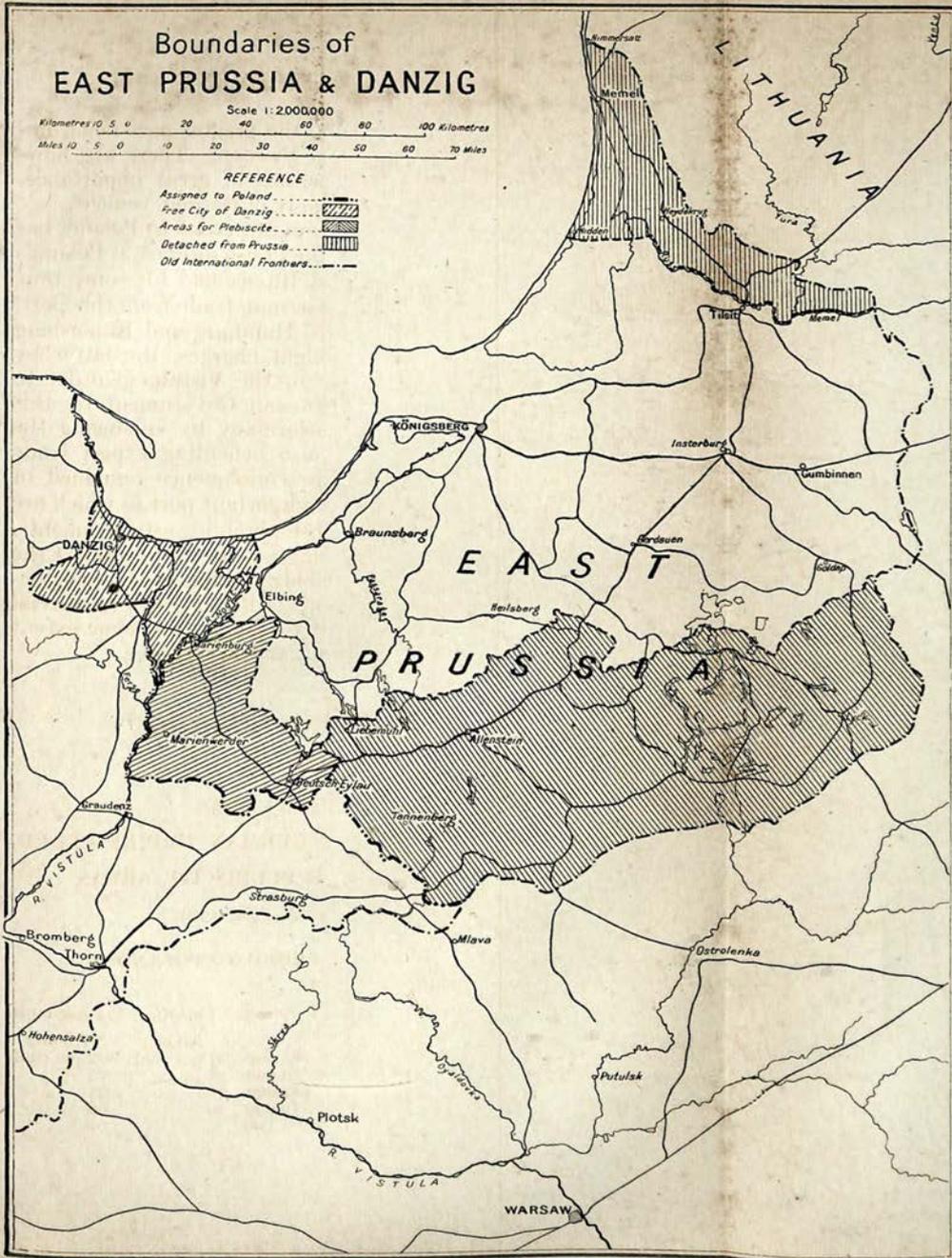


TABLE II. PLEBISCITE AREAS

	<i>Total Population.</i>	<i>Poles.</i>	<i>Germans.</i>	<i>Catholics. (About)</i>	<i>Protestants. (About)</i>
East Prussia .	556,000	268,000	288,000	14 per cent.	85 per cent.
West Prussia .	138,000	24,000	114,000	40 "	60 "
Middle Silesia .	4,000	3,000	1,000	48 "	52 "
Upper Silesia .	1,917,000	1,245,000	672,000	85 "	15 "
<i>Total Plebiscite Areas .</i>	<i>2,615,000</i>	<i>1,540,000</i>	<i>1,075,000</i>		

TABLE III. FREE CITY OF DANZIG

	<i>Total Population.</i>	<i>Poles.</i>	<i>Germans.</i>	<i>Catholics. (About)</i>	<i>Protestants. (About)</i>
Danzig .	324,000	16,000	308,000	38 per cent.	61 per cent.

CHAPTER V

THE TERRITORIAL SETTLEMENT IN AFRICA

THE DISTRIBUTION OF GERMANY'S COLONIES¹

1. *The Expansion of Europe.* The most fundamental fact in the history of modern times has been the progressive extension of Western civilization over all the continents of the globe. In this prolonged process, whose intensity varied greatly in diverse regions, there were alternating periods of rapid advance and of comparative quiescence. A period of marked expansion set in after the Congress of Berlin of 1878, when the Continent of Europe was for the time being in a state of fairly stable equilibrium. Internal problems no longer necessitated continuous attention. Consequently, the European Powers had the opportunity to look without, and they sought for means to perpetuate and to spread their special types of civilization. As it were overnight, the Continent of Europe realized the essential significance of the English colonial movement from its inception in the days of Elizabeth and the first Stuarts. Ignoring the fundamental fact that this movement had been a process of slow growth, springing mainly from individual and private initiative, the Continental Powers deliberately embarked on a course that appeared to them to be essentially similar. It is true that the mere fact that Germany and Italy appeared late on the scene was bound, in conjunction with exploration and industrial expansion, to hasten the development of colonization. None the less, both Germans and Italians became convinced that they must embark on colonial enterprises if their future part in the world was not to be relatively insignificant in contrast to the assured destinies of the English-speaking peoples and those of Russia who had spread themselves over vast areas. In result therefore the last two decades of the nineteenth century witnessed a fevered competition in 'staking out' colonial claims.

¹ It has not been found possible, at this stage, to discuss all of the problems raised by the Mandatory principle in Africa, or the attribution of the German Pacific isles and Shan-tung peninsula. These will be reserved for fuller treatment in Vol. V, which will contain a sketch-map.

2. *Factors in the German Colonial Movement.* In the German colonial movement this broad political and cultural motive was most marked. It was reinforced by the fact that in the early 'eighties emigration suddenly increased at a most rapid pace. In 1878, the emigrants from Germany numbered only 46,371, while three years later their total was 247,332.¹ Such extensive emigration was regarded as a national calamity since it not only diminished Germany's cultural and military power, but increased that of other states, mainly those of English-speaking civilization. In addition, there were some persuasive, if not wholly convincing, economic arguments. Germany was becoming increasingly industrialized. Manufacturing had been stimulated by the adoption of the protective system in 1879, and the need for additional markets had been emphasized thereby. On the other hand, with the increase of population and the growth of industry, Germany was importing more and more foodstuffs and raw materials. As German political thought carried the theory of the sovereignty of the State to its logical limit and aimed at securing complete economic and political independence of other nations, this situation became increasingly irksome. Hence the demand both for fresh markets and for new sources of supply under exclusive German control, combined with professorial and pedagogic propaganda, became so insistent that Bismarck, though far from convinced, was ultimately unable to resist it. He had originally encouraged France to colonial ventures to divert her from Europe but, when the Balance of Power was secure, Germany could afford to indulge in a similar luxury. Subsequently attracted by the idea of protecting the trading interests of Germany, he was gradually led on by professors and business men to acquiring colonial dominions. Finally he yielded and, during 1884-5 he brought vast stretches of African land beneath the German flag.

3. *German Colonial Policy.* German colonial policy was gradually dominated by economic views. On the one hand, its aim was to create in Africa a 'new Germany' on the model of the English-speaking countries that had developed in America, Australasia, and South Africa; on the other, its

¹ German emigration reached high-water mark in the decade 1880-90, but the tide steadily ebbed from 1882 onwards. The figures for 1870-80 were given as 718,182, those for 1890-1900 at 505,152.

object was to free Germany from dependence upon foreign nations for colonial wares by producing them within her own African domain. In both respects the movement was a complete failure. In 1913, there were in all the German African colonies—including South-west with 14,830—but 22,405 whites, of whom 18,362 were Germans. Of these 18,362 Germans, a very considerable proportion were members of the military and administrative staffs, and many others were only temporarily domiciled in the colonies, being employed on railroad construction.¹ The number of actual German settlers was in the neighbourhood of 10,000. Moreover, these vast areas furnished Germany with less than two per cent. of her total consumption of those products known there generally as ‘colonial wares’, such as cotton, rubber, tobacco, copra, and palm kernels. Equally fundamental is the fact that of Germany’s total foreign commerce only about one-third of one per cent. was with her African colonies. Finally, there was marked lack of success in planting the German language and civilization in Africa. In Togoland and the Cameroons, natives who had been taught German refused to speak the language of their masters and not infrequently denied their ability to do so. Herr J. K. Vietor, who was prominent in German colonial activities, reported in 1913 that during a month’s visit in the Cameroons he heard scarcely a German word from native lips, though plenty of ‘pidgin-English’. Upon addressing in German a native who had served ten years in the colonial military force, he received in English the reply: ‘Excuse me, sir, I only talk English.’

4. *General Description of the Colonies.* Germany’s African colonies comprised an area of approximately one million square miles with an estimated native population of twelve and a half millions.² Up to 1914, railroads of an aggregate length of 4,176 kilometres had been built and further extensions

¹ Distributed as follows: German colonists in 1913—total in Africa 18,362, outside Africa 5,106.

	Area.	Population.	
		Natives.	Germans.
² German East Africa . . .	384,000	7,646,000	4,107
The Cameroons . . .	290,000	3,649,000	1,643
Togoland . . .	83,700	1,032,000	820
South-west Africa . . .	322,450	231,000	12,292
	<u>1,030,150</u>	<u>12,558,000</u>	<u>18,362</u>

had been planned or were under construction. Public works of an important and substantial character—roads, bridges, ports, docks, telegraphs, telephones, and wireless stations—had been successfully carried out. The public buildings in the chief ports, such as Lome, Swakopmund, Dar-es-Salaam, and Tanga, were of an exceptionally solid and imposing character. The foreign trade of these colonies was growing rapidly, having increased from 56 million marks in 1903 to 286 in 1913. Its volume was, however, quite insignificant from the European or American standpoint, and it was even small in contrast with that of the flourishing British colonies in their proximity. The foreign commerce of British West Africa alone was more than double that of all Germany's African possessions. The exports and imports in these German colonies were about equal. In order of value the exports in 1913 included diamonds (58.9 million marks), rubber (23.1), oil-palm products (10.7), sisal (10.3), copper ore (7.7), cocoa (5.7), hides and skins (7), and cotton (3). Although no preferential import and export duties existed in these colonies, 69 per cent. of their total trade in 1912 was with Germany. In the Cameroons and South-west Africa this proportion was respectively slightly below and slightly above 82 per cent. In East Africa, Germany was creating a mixed colony, establishing small white communities in the highlands by the side of a widely scattered, but large, native population of various tribes. In the Cameroons and Togoland were purely native societies with a few whites temporarily located there to rule them and to develop their natural resources. South-west Africa, on the other hand, was a predominantly European community with large estates and mining developments like those in the adjoining Union of South Africa. Here, as has been aptly said, the German was the lord of the manor and the African his serf.

5. *Native Policy.* While the material basis for an extensive economic development had been laid in the substantial public works, the outlook was far from favourable. Until shortly before the war the German Government showed virtually no appreciation of the fact that all sound and permanent progress in Africa depends essentially upon the conservation and elevation of the native population. The natives had been decimated by frequent punitive expeditions and, in many instances, tribal lands had been confiscated and turned over to Germans

for exploitation. Instead of endeavouring to stimulate native production, its aim was to establish large European plantations on which the native was to work as a hired labourer. The sparsity of population, however, in turn, necessitated the accumulation of natives in one centre from more or less distant villages. But the native had little inducement to leave his home to seek such work, when a bountiful nature supplied most of his needs. Hence, force in various forms was constantly used to procure labour for the plantations. Moreover, the general effect of drawing workmen from a distance was to disturb, and even to disrupt, tribal life. At the same time, native production was discouraged by the authorities so that the European plantations might not run short of labour. Failure was writ large over the whole system. The only colony which paid was Togoland, which was the smallest. In general the native population was declining and the European plantations were not successful. The contrast between conditions in the Cameroons and those in the neighbouring British Gold Coast Colony was most striking and instructive. In 1912, the Cameroons produced 4,550 tons of cocoa, of which all but one-seventh was grown on plantations owned by Europeans. In 1913 the British colony supplied 51,279 tons, which was about one-fifth of the world's total crop. Since it first gained headway ten years before this date, this Gold Coast industry had been entirely in the hands of natives. It was a marked civilizing influence. No sound progress was possible along the lines to which the Germans persistently adhered until just before the outbreak of the War, when they made some efforts to profit by the experience of others.

6. *The Situation in 1914.* The new policy, associated with Dr. Solf, the Colonial Minister, showed a belated appreciation of the fundamental fact that the native is Africa's main asset. The conservation of this asset implied the cessation of forced labour and the stimulation of native production. Very little progress had, however, been made in actual practice. There was bitter opposition on the part of the German planters. The elaborate colonial debates of 1912 to 1914 in the Reichstag revealed an appalling state of affairs. The general accuracy of the picture drawn there could not be assailed. Its chiaroscuro alone was brought into question. In the first place, the European plantation system in combination with forced labour

was steadily depopulating considerable areas in the colonies. Tribal, as well as family, life had been disrupted by it. In the plantations themselves, the sanitary conditions were execrable and disease was rampant. Syphilis was a veritable scourge. In numerous instances in East Africa and the Cameroons, the labourers were procured by processes scarcely distinguishable from slave raids. They were generally treated most brutally and were by fraudulent means detained on the plantations for far longer periods than was stipulated in their labour contracts. Naturally, the death-rate on these plantations was high. In one instance, an exceptional one of course, it even reached the incredible level of 26.8 per cent. in 1912. Erzberger emphatically stated that, if these German plantations could be made profitable only by being 'manured' with the blood of the natives, it would be a curse for all the colonies and for the German Fatherland.

7. *Attitude towards the Natives.* The native was almost universally looked upon as a means to an end, never as an end in himself, and his welfare and that of the colony were completely subordinated to the interests of the German on the spot and of Germany at a distance. In general, the attitude of the authorities and of the colonists was one of open contempt and studied rudeness. The native was regarded as an inferior being whose sole purpose was to subserve the white man's wants and needs. It was a régime of systematic brutality tempered by intermittent tolerance. For the most trivial offences, severe floggings, at times with fatal results, were administered. Throughout the West African littoral, the Cameroons were known as 'The Land of the Twenty-five' from the fact that this was the regular number of blows inflicted with the heavy hide whip for minor transgressions. As a part of the normal course of administration, the doctrines of 'frightfulness' were applied to break the spirit of subject peoples and to cow their chiefs into submission. Consequently, the natives became hostile to their foreign masters and to *Deutschtum* itself.

8. *Native Sentiment during the War.* The attitude of the natives during the War was determined by thirty years of more or less constant oppression, and it is not surprising that they welcomed the elimination of German rule. In South-west Africa, tribal life in the occupied districts had been ruthlessly

'smashed' and the native was virtually the serf of the German overlord. As a result of massacres and constant abuse, the native population had been reduced to the verge of extermination. The remnants of the original population in the settled areas naturally felt no loyalty towards their German masters. In the unoccupied northern section of the colony, known as Ovamboland, the general character of German rule in the South was well known and there was every desire to be spared from it. In Togoland, the relations between the natives and the Germans were better than elsewhere, yet even here the overthrow of German rule was welcomed. In part, this was probably due to the fact that ethnically two-thirds of Togoland belongs to French Dahomey, its eastern neighbour, and one-third to the Gold Coast on its western boundary. But in greater measure it was the direct consequence of Germany's unsympathetic and contemptuous rule. As no one of Germany's tropical colonies was entirely occupied, it is impossible to make a summary statement that will apply to all districts. This is true even of Togoland, whose northern section was beyond the area of effective German occupation. It is, of course, even more true of a large colony like the Cameroons, whose people range from cannibal tribes to organized Mohammedan states, and where German administration covered actually only a small portion of the colony. The significant thing, however, is the attitude of those natives who had been in closest contact with German rule. In the coastal region, disaffection was rife. When the British and French occupied the town of Duala, according to a German partisan who was present, 'the sky rang again with an indescribable shout of scorn and rejoicing' on the part of the natives. This disaffection was increased by the ruthless methods adopted by the Germans to intimidate the natives from giving any assistance to the British and French forces.

9. *German East Africa.* In German East Africa a considerable army was formed from the German soldiers and civilians in the colony and from its indigenous population. The native soldiers, known as askaris, were drawn from the warlike tribes and were granted special privileges as regards the rest of the community in conformity with the German doctrine of the superiority of the military caste over civilians. They proved remarkably loyal. In addition, thousands of natives were

impressed for service as porters, having been seized in their villages in the manner of the Arab slave-raiders who used to infest these regions. These porters were treated most brutally. They were often chained together and in many instances were literally worked to death. As the military pressure of the British and Belgian forces increased, the treatment of these porters and of the population as a whole became more oppressive. Whole areas were depopulated by the retreating German armies, which requisitioned food regardless of native needs and compelled women as well as men to act as carriers. As a result, disaffection spread widely, and over large sections of German East Africa was hanging the dread that the Germans might be allowed to return and to wreak vengeance for the assistance given by the natives to the British and Belgian forces. The native naturally could not see why he had been asked to shed his blood in ousting the Germans, if in the end there was to be a question of again subjecting him to his foreign taskmaster. From his standpoint, nothing could be more iniquitous than such a sequel to his sacrifices during the War.

10. *The Allied Conquest of the German Colonies, 1914-18.* As far as Africa was concerned, the first shot of the War was fired in Togoland, which by the end of August 1914, after a lightning campaign, was in the hands of British forces from the Gold Coast and French troops from Dahomey. The conquest of the Cameroons followed, but was more difficult of accomplishment owing to the tangled nature of the country. British and French columns crossed the frontier respectively from Nigeria and French Congo towards the end of August but made little or no progress, the British force in fact suffering a heavy reverse on the 29th August. About the same time two other expeditions from Nigeria met with a similar fate and it was then decided to make a joint attack from the sea. This was effected by an Anglo-French force covered by warships, and Duala fell on the 27th September. From this base the Allied troops pushed their way inland and by the 1st October the Cameroons was virtually in Franco-British hands, the German troops being reduced to defensive warfare on a small scale and in a difficult hinterland. The converging attacks of British and French columns gradually swept up this resistance, and the conquest of the Cameroons was complete in the early spring of 1916.

The proximity of German South-west Africa to the Union of South Africa influenced General Botha and his colleagues in their decision to invade the territory. Scattered fighting began early in September on the south-eastern frontier of the German colony. Lüderitz Bay was reached by the 18th. Heavier fighting followed, and a considerable reverse was sustained on the 29th September at Sandfontein by the South African Mounted Rifles and the Transvaal Horse Artillery. Foul play was suspected and shortly afterwards, the Boer Commander, Colonel Maritz, in command of a Union force on the north-west border of the Cape Province, gave evidence of German sympathies and threatened an attack on the Union. The discovery of this treachery hardened a large section of public opinion in Africa. Martial law was proclaimed and Maritz's attempt at an invasion was repulsed and his commando broken up.

In certain districts of the Union, however, discontent was rife; and the rebellion which broke out in October postponed the main attack on German South-west Africa. But by the beginning of 1915 the insurrection was overcome and the Union Government resumed the campaign against the German colony. This was conducted by Generals Botha and Smuts with great skill, by means of enveloping movements, and by May the Union troops had driven the enemy into the north-east corner of the territory. The capture of Windhoek on the 12th May practically closed the campaign, which had been fought under intensely difficult climatic and physical conditions. The rounding up of the scattered German forces was finally accomplished by the beginning of July 1915.

The situation in German East Africa was different from that in West and South-west Africa, for here the German garrison was a compact and efficient fighting force, which, operating on interior lines, constituted a grave danger to British East Africa and Uganda. When war broke out, moreover, the British defence force was numerically weak and actually scattered over a wide area.

The campaign started on the 13th August 1914 with the bombardment of Dar-es-Salaam. Shortly afterwards two invading German columns were driven back from the Northern Rhodesian frontier. During the next month the fighting continued intermittently in this region, mostly in favour of the British.

The main German effort during September and October 1914 was directed across the British East African frontier. This offensive slackened with the last days of October, and after the costly British failures at Tanga (November 1914) and Jassin (January 1915) the position resolved itself into a stalemate, the honours lying with the Germans, who kept the initiative.

The second stage of the war was reached early in 1916, when General Smuts took command of a mixed force of British, South African, Indian, and native troops. The Boer General adopted the daring plan of driving the country from north to south, while his subsidiary forces, British and Belgian, moved eastward from the great lakes.

The year 1916, then, witnessed a series of turning movements to which the Germans offered stubborn and at times successful resistance. In the main, however, the progress of the Allied arms was steady if comparatively slow; and the Kilimanjaro Gap and the Ruwu crossings were forced in turn. On the western marches the Belgian force reached Kigale, while the British 'Lake' detachment compelled the enemy to evacuate Mwanza and so won a valuable base for an attack on Tabora.

By the end of September 1916, the German hold on East Africa had been reduced to the district between the Rufiji and Mgeta rivers in the north-east, and that between the Great Ruaha and Ulanga rivers in the south-west.

The 1917 operations followed the same ground plan. In January General Smuts, on being called to England to the Imperial War Conference, handed over the command to General Hoskyns who in turn was succeeded by General Van Deventer. The main centres of the country were in Allied hands, but there remained the task of rounding up a clever enemy in a country so thick that 'two considerable forces may pass within a mile unaware of each other's presence'. The months that followed General Smuts's departure proved a severe test of endurance. This most colossal 'drive', however, came to an end in the autumn, when the Belgians occupied the Mahenge plateau. Tafet's detachment made a last desperate effort to join hands with von Lettow but failed, and surrendered unconditionally at the end of November. Von Lettow, driven south-west, finally reached the Rovuma river on the 26th of this month, and crossing into Portuguese territory left German East Africa a conquered country. The rest of his operations,

which were conducted with great endurance and resolution, were not of sufficient importance to affect the ultimate future of Germany's African possessions, and General von Lettow Vorbeck and his handful of whites surrendered quietly after the Armistice.

11. *The Bases of the Colonial Settlement.* The course of military events, combined with the command of the seas, had brought all of Germany's oversea possessions under the occupation of the Allies and, hence, when the Peace Conference assembled in Paris, the Allied and Associated Governments were virtually unhampered in effecting a colonial settlement in accordance with the principles that they had announced. In the negotiations that led to the Armistice of the 11th November 1918, it was agreed that the future Peace Treaty was to be concluded on the basis of the Fourteen Points of President Wilson's Address of 8th January 1918, and the principles subsequently enunciated by him. Of the Fourteen Points, the fifth referred to the colonies and provided that there should be :

'A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined.'

In addition, in this same speech, President Wilson had stated that 'the day of conquest and aggrandizement is gone by'; and in his Address to Congress of the 11th February 1918, he had enunciated, but without any explicit or even assured implicit reference to the German Colonies, that self-determination was 'an imperative principle of action' and, further, that 'every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned'. In the Mount Vernon Address of the 4th July 1918, he likewise declared that every settlement must be 'upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people, which may desire a different settlement for the sake of its own exterior influence or mastery'. This last principle cleared up some doubts as to the meaning of the Fifth Point which, otherwise, might have been interpreted to lend support to the unsound theory that a European State needs tropical possessions so as to supplement

its own economic system. Granted equality of economic opportunity in the tropical areas, there is no such need, and insistence upon its reality is often merely the cloak covering unavowed aims of power and of prestige.

12. *Self-determination.* These principles were not peculiar to President Wilson. They were implicit in the general philosophy of the Allied cause and had, in fact, already been enunciated with even greater definiteness by Mr. Lloyd George. At Glasgow, on the 29th June 1917, he had stated that the fate of the conquered German colonies must be decided by the Peace Conference and that in determining the future trustees of these uncivilized lands, the wishes, desires, and interests of the people themselves of those countries must be the dominant factors. This principle Mr. Lloyd George re-asserted on the 20th December 1917, in the House of Commons; and, a fortnight later, on the 5th January 1918, he further stated:

‘With regard to the German colonies, I have repeatedly declared that they are held at the disposal of a conference whose decision must have primary regard to the wishes and interests of the native inhabitants of such colonies. None of those territories are inhabited by Europeans. The governing consideration, therefore, in all these cases must be that the inhabitants should be placed under the control of an administration acceptable to themselves, one of whose main purposes will be to prevent their exploitation for the benefit of European capitalists or Governments. The natives live in their various tribal organizations under chiefs and councils who are competent to consult and speak for their tribes and members and thus to represent their wishes and interests in regard to their disposal. The general principle of national self-determination is, therefore, as applicable in their cases as in those of occupied European territories.’

The practical difficulties in applying the principle of self-determination by such methods as plebiscites were insuperable, in the case of Germany's tropical colonies in Africa. None of these colonies was a social, a political, or even a real administrative unit. Each one was a *congerie* of tribes and native states and a territorial settlement based upon a systematic and exhaustive consultation of the native populations as to the re-establishment of German rule and as to the nationality of their future guardians would unquestionably have produced an impossible farrago. It was, however, well established that the natives were generally opposed to the return of their former masters. There was naturally far less unanimity among them as to who should replace them. In not a few instances they

would have preferred to be left entirely to their own devices. If the principle of self-determination could not be applied in a plebiscitary manner, full weight, however, could be given to native interests in the settlement. These were the paramount considerations. In the light of Germany's record, virtually nothing could be adduced in favour of again subjecting the natives to her rule. Hence, one of the earliest decisions of the Supreme Council of the Peace Conference was that Germany should relinquish all claims to her oversea possessions.

13. *Attitude of Germany.* The former Imperial Government had foreseen that this would be the probable outcome of Germany's request for an armistice. On the 3rd October, 1918, the Chancellor, Prince Max of Baden, telegraphed to Hindenburg asking if the Supreme Military Command was 'aware that the initiation of a peace offer under the pressure of military necessity may lead to the loss of German colonies', as well as of other German territory in Europe. However, when the decision of the Peace Conference not to restore the colonies became known in Germany, a movement of protest was started and pushed mainly by those influential in colonial circles. Though the loss of the colonies was of very minor importance in comparison with the prospective territorial losses in Europe and the impending burden of repairing some of the injuries inflicted upon the Allies, and though Germany was then in the throes of such serious social disturbances that the body politic seemed to be on the verge of decomposition, this agitation evoked considerable response. Later, after the Terms of Peace had been officially presented, the German Delegation at Versailles, in their formal observations upon them, claimed that the colonial clauses were 'in irreconcilable contradiction' to the fifth of President Wilson's Fourteen Points. In the new German Government were some of the most prominent and unsparing critics of the old colonial policy, such as Noske and Erzberger, and it was quite possible that a democratic Germany would adopt enlightened colonial methods. But as to this, there was obviously no certainty. Nor was there any assurance of the permanence of the new régime in Germany. Hence, whatever concessions might be made in the other fields, where the Allies themselves were assuming the risks, none could be made as regards the colonies, where the burden of miscalculation would fall well-nigh exclu-

sively upon the helpless natives. The Allied and Associated Governments were not justified in exposing thirteen million natives to such patent risks, even if the return of the colonies to Germany would have added to the stability of the European settlement. Such speculation at the expense of others is indefensible. Hence, the Peace Conference refused to alter the colonial clauses of the Treaty.

14. *The Colonial Clauses of the Treaty : General Provisions.* Three distinct steps were necessary in the colonial settlement. In the first place, Germany had to be dispossessed. Then a method of disposing of these colonies had to be devised and, finally, provision had to be made for their actual disposition. The Treaty of Versailles took only the first two steps and the question of their allocation under mandate was left for subsequent decision. Accordingly, there was inserted in the Treaty an article by which Germany renounced in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions. It was deemed inadvisable to provide for a mere renunciation without mentioning in whose favour it was made, as had been done in respect to Cuba in the Spanish-American Treaty of 1898. Nor could the cession be made to the League of Nations since it was not as yet constituted. Hence, the Five Principal Powers were made the beneficiaries, pending the ultimate disposition of these territories either by agreement among them or, in default thereof, by the Council of the League of Nations.¹ Mere disposition did not, however, meet all the needs of the situation. A number of other matters had to be regulated. Thus, various provisions regarding property were essential. All movable and immovable property belonging to the German Empire or to any German State in the former German colonies was transferred without any indemnification to the new Governments exercising authority over these territories.² To these new Governments

¹ Article 22, par. 8 : 'The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.' Article 119 : 'Germany renounces in favour of the Principal Allied and Associated Powers all her rights and titles over her oversea possessions.'

² Article 120 : 'All movable and immovable property in such territories belonging to the German Empire or to any German State shall pass to the Government exercising authority over such territories, on the terms laid down in Article 257 of Part IX (Financial Clauses) of the present Treaty. The decision of the local courts in any dispute as to the nature of such property

was, in addition, reserved the right to retain and liquidate all property rights and interests belonging to German nationals in the ceded areas and, in the event of the exercise of this right, Germany was obligated to compensate her nationals.¹ This last provision was in conformity with the general rule adopted for the treatment of all enemy property, but as regards liability for any part of the German debt an exception was made in the case of the colonies. The Powers to whom German territory in Europe was ceded undertook to pay such portion of the German debt of the 1st August 1914, as was equitably attributable to these territories. In the case of the colonies, however, it was provided that 'neither the territory nor the Mandatory Power shall be charged with any portion of the debt of the German Empire or States' (*Article 257*).² Obviously, it would have been highly unjust to make the natives responsible for any part of this debt. Nor could the Mandatory Powers, to whom the government of these areas was to be entrusted, be legitimately burdened with such a charge. The mandatory principle means that these Powers are to act as trustees and are not to benefit from their trust. In fact, the more faithfully this trust is executed, the larger will be the yearly deficits that these Powers will have to meet. These colonies are not financial assets, but real liabilities, and the German Empire had regularly to make good considerable deficits in their revenues. It was further deemed essential to assert the right of the new Governments to adopt whatever measures seemed advisable with reference both to the repatriation of German nationals from the colonies and also to the conditions upon which such nationals might or might not be permitted in the future to reside, hold property, or trade in these territories. This right is inherent in national sovereignty and in other areas did not require assertion, but here the case was different since the mandatory principle was not clearly defined. It was well to avoid all doubts so that the new Governments would be able to protect themselves against intrigues and possible sedition fomented by Germans among

shall be final.' See also Article 257: 'All property and possessions belonging to the German Empire or to the German States situated in such territories shall be transferred with the territories to the Mandatory Power in its capacity as such and no payment shall be made nor any credit given to these Governments in consideration of this transfer.'

¹ Articles 121, 123, 260, 297.

² See also Article 255 (3).

the natives. Finally, so as to prevent Germany in the future from blocking certain highly essential general international conventions regarding the trade in arms and spirits that were in process of formulation, Germany undertook to accept and observe these agreements upon their conclusion.¹

15. *Special Provisions.* In addition to these general provisions, the Treaty contained an article obligating Germany to pay reparation for the damage inflicted upon French nationals by German encroachments in French Equatorial Africa prior to the War. These encroachments were well established, but France had at the time refrained from pressing her claims because of apprehension that such action, in view of Germany's provocative attitude, might lead to war. The amount involved was insignificant, possibly three million francs, and it was fully realized that, as Germany's obligations in the matter of reparations already exceeded her ability to pay, this item would not increase the total amount received from her. The question was, however, not a financial one, but one of principle that concerned the dignity and national honour of France. Similarly, Germany agreed to renounce all rights derived from the Agreement of 1911, by which France had, under threat of war, been obliged to cede to Germany large areas of French Equatorial Africa, and to return to the French Government certain monies deposited with her by French nationals as a consequence of this cession. The claim was entirely legitimate, and here again the amount was negligible, some few hundred thousand francs. It should be noted that in both these instances the estimates to be presented by the French Government were subject to the approval of the Reparation Commission which was established by the Treaty to deal with all obligations that Germany and her Allies had incurred towards the Allied and Associated Powers.

16. *The Origins of the Mandatory System.* The Mandatory System was the logical outcome of a situation created by the fact that, on the one hand, the Allied and Associated Powers were pledged to refrain from annexations of an imperialistic

¹ Article 126: 'Germany undertakes to accept and observe the agreements made or to be made by the Allied and Associated Powers or some of them with any other Power with regard to the trade in arms and spirits, and to the matters dealt with in the General Act of Berlin of February 26, 1885, the General Act of Brussels of July 2, 1890, and the Conventions completing or modifying the same.'

character and, on the other, that the return of these territories to Germany could not be reconciled with the consideration due to native interests. At one time there was considerable sentiment in favour of vesting the government of these derelict peoples in the League of Nations but, before the movement had gained great headway, it was given pause by those who realized the evils that are necessarily inherent in international administration so long as nationalism continues to be the potent force that it is. The experiences in Egypt, Morocco, Samoa, the New Hebrides, and elsewhere have demonstrated conclusively that international government fomenting intrigues amongst the governors and faction and disorder among the governed. The general result of such experiences has been paralysis of action with inevitable retrogression. In 1894, in connexion with the tri-partite protectorate over Samoa, President Cleveland said that 'the present Government has failed to correct, if indeed it has not aggravated, the very evils it was intended to prevent'. Lord Cromer, in the following pregnant words based upon personal experience in Egypt, condemned the system :

'What has been proved is that international institutions possess admirable negative qualities. They are formidable checks to all action, and the reason why they are so is that, when any action is proposed, objections of one sort or another generally occur to some member of the international body. Any action often involves a presumed advantage accorded to some rival nation.'

The problem of the disposition of the German colonies could not be solved along these lines without doing the greatest injury to the natives. It was accordingly realized that concentration of responsibility was essential and that, in an existing world of sovereign States whose competitive relations as yet overshadowed their co-operative activities, the only way to dispose of derelict backward peoples, who require both outside political control and also foreign capital, is to entrust the task of administration under international mandate to one Power. Moreover, it was imperative that in this mandate should be embodied explicit provisions not alone safeguarding native interests and establishing the wide-open door, but also permitting international intervention, in case the trust were violated. International control, but not international administration, was to be the solution of the problem.

17. *Action of the Peace Conference.* This general conclusion had been reached by the American and English Delegations when the Peace Conference assembled. The problem had, however, not been exhaustively studied either in its general aspects or in its details. In the absence of clear definition, the mandatory principle meant different things to its various advocates and opponents. Mr. Lloyd George, of his own motion, proposed the application of the mandatory system in all parts of the German colonial domain which were occupied by troops from the United Kingdom, as well as in those areas which were to be separated from the Ottoman Empire. President Wilson strongly advocated its general adoption. Although French colonial circles were prejudiced against the system, fearing by false analogy that it would lead to complications similar to those that had resulted from the Algeciras Act, which Germany had used to create difficulties in Morocco, Clemenceau likewise accepted it. The only overt opposition came from the British Dominions. In part this opposition was entirely legitimate, in part it was largely due to a misapprehension of what was intended. In the minds of the Australian and New Zealand representatives there was apparently little distinction between the proposed system and an international administration like that of the New Hebrides, with whose failure they were familiar. They dreaded constant outside interference in the Pacific Islands which they were occupying and which they expected to administer in the future. The objections of South Africa to the application of the mandatory system to German South-west Africa were far better founded as, in this instance, the main concern was land, not people. It is a vast area of 322,450 square miles, about half again the size of Germany, and is virtually uninhabited. Its native population is variously estimated at from 230,000 to 280,000. Clearly the development of this territory must in the main come from the adjoining Union of South Africa, and its progress would be seriously handicapped if it were administered as a distinct entity with separate native, fiscal, and railroad policies. As, however, it was feared that an exception made in one case—no matter how valid it might be—might open the door to others, a general application of the system was insisted upon. This had some unfortunate consequences since, mainly in order to meet the special circumstances in South Africa,

a broad formula had to be adopted which was not completely satisfactory as far as other areas were concerned. On the 30th January 1919, a definite proposal based upon the discussions of the preceding days was presented to the Supreme Council, and after exhaustive debate, was provisionally accepted. This decision, with an important addition regarding the appointment of a Mandatory Commission, was subsequently incorporated in the Covenant of the League of Nations as Article 22.

18. *Article 22, The Three Classes of Mandates.* This Article¹ applied to those colonies and territories which, as

¹ Article 22: '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 situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory. (*Class A.*)

Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League. (*Class B.*)

There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population. (*Class C.*)

In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control, or administration to be exercised by the

a consequence of the War, had ceased to be under the sovereignty of their former rulers and which are inhabited by peoples not yet able to stand by themselves, the principle that their well-being and development formed 'a sacred trust of civilization' for whose performance securities must be embodied in the Covenant of the League. Furthermore, it was laid down that the best method of putting this principle into effect was to entrust the tutelage of such peoples to advanced nations acting as Mandatories on behalf of the League. Since the territories and peoples under consideration differed widely and the mandates had to conform to certain fundamental facts, such as the degree of civilization reached, economic conditions, and geographical situation, three general types were roughly defined. The first class (A) embraced those relatively advanced communities whom the War had freed from the Turkish Empire. The second class (B) included all the Central African colonies of Germany which were to be administered under conditions securing freedom of conscience and religion, the prohibition of such abuses as the slave trade and the liquor traffic, and the prevention of the establishment of military or naval bases and of military training of natives 'for other than police purposes and the defence of territory'. Concomitantly also, to all members of the League were to be secured equal opportunities for trade and commerce in these areas. The third class (C) joined together in one incongruous group the former German islands in the South Pacific and South-west Africa which 'owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances can be best administered under the laws of the Mandatory as integral portions of its territory', subject to the same safeguards in the interests of the indigenous populations as in the case of the Central African class of mandates. No provision, however, was made to secure the 'open door'. This was the direct result of conditions in South Africa. The South African Customs Union, which included not only the self-governing Dominion, but also the

Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.'

native protectorates excluded from the Dominion's jurisdiction and the larger portion of Rhodesia, gives preferential treatment to British imports. If the principle of equality of commercial treatment had been applied to German South-west Africa, either the preferential system in the adjacent territories would have had to be abrogated or a distinct customs system for the area under mandate would have had to be established. The latter would have been from the outset burdensome and wasteful and its drawbacks would have increased as economic development progressed. At the same time, it could not be expected that the slight economic interests of the outside world in an undeveloped area like South-west Africa, whose future depended mainly upon the energy supplied by the Union, would have warranted a complete change in the fiscal system of South Africa as a whole.

19. *The Basic Principle of the System.* The experience of the past affords no counterpart to the Mandatory System. Perhaps the closest analogy to it is to be found in British Imperial History. In 1884, after many years of insistence on the part of the Australian colonies, Great Britain permitted the British flag to be hoisted over the south-eastern part of New Guinea. Three years later the future administration of this area was discussed at the Colonial Conference of 1887, and it was decided that the government should be entrusted to Queensland on conditions that not only explicitly safeguarded native interests but also prohibited differential customs duties. However similar to the Mandatory System be this arrangement, its character was not international, but domestic or intra-imperial. There is also a certain analogy between the Mandatory System and that established by the Berlin Act of 1885 for the development of the Congo Basin and adjacent areas in tropical Africa.

But, in this instance, the right of foreign nations to interfere in case of abuse or alleged abuse of power, was successfully contested both by France and by Belgium. What sharply distinguishes the Mandatory System from all such international arrangements of the past, is the unqualified right of intervention possessed by the League of Nations. The mandatories act on its behalf. They have not sovereign powers, but are responsible to the League for the execution of the terms of the mandate.

20. *The Terms of the Mandates : Class C.* No attempt at elaboration was made in the Covenant. Only the broad features of the Mandatory System were roughly sketched and much was left to inference and implication. The task of elaboration was entrusted by the Supreme Council on the 28th June 1919, to a special Commission on which were represented Great Britain, the United States, France, Italy, and Japan. This Commission drew up two distinct types of mandates, called Class C and Class B and applicable respectively to South-west Africa and the Pacific Islands and to Central Africa. In view of the postponement of the Turkish Treaty it was decided to defer the discussion of the terms of the Class A mandates to be issued in connexion with the communities that formerly were part of the Ottoman Empire. The two types drawn up were in the form of an agreement between the Principal Allied and Associated Powers, to whom Germany had ceded her titles to these areas, and the future Mandatory Power, who agreed to execute the mandate on behalf of the League and in accordance with the provisions subsequently enumerated. In the case of the Class C mandates, these provisions were not elaborate, as the territory under mandate was to be administered as an integral portion of the country to whose care it was entrusted. The Mandatory Power was obligated, in the first instance, to promote the material and moral well-being of the people under tutelage. With this object in view, the slave-trade, forced labour except for essential public services, and the supply of intoxicating beverages to the natives were to be prohibited; and the traffic in arms and ammunition was to be controlled in accordance with the Brussels Act of 1890 or any Convention superseding this agreement. The military training of the natives, except for purposes of international police and local defence, was prohibited and so also was the establishment of military or naval bases and the erection of fortifications. Subject to the requirements of public order and morals, freedom of conscience and the free exercise of all forms of worship was guaranteed, and to all missionaries, who were subjects or citizens of members of the League, was secured the right of prosecuting their calling. The Mandatory Power agreed further to make annual reports to the Council of the League, and to its satisfaction, containing full information about the

territory and indicating the measures taken to carry out the obligations assumed to further the well-being of the natives. Finally, it was provided that if any dispute whatever should arise between the members of the League as to the provisions of this mandate, it should, if not settled by negotiation, be submitted to the Permanent Court of International Justice to be established by the League of Nations.

21. *Class B Type: Cameroons, Togoland, German E. Africa.* The Class B type follows this general model with some important variations and additions. In general, also, its provisions safeguarding native rights are more specific. In one instance only are its terms less stringent. In this type was omitted the prohibition against establishing military and naval bases because the needs of local defence in the case of compact masses of territory in Central Africa are far different from those of the many and variously sized islands in the South Pacific. As in the former type, the Mandatory Power received full powers of legislation and administration, but incorporation was not permitted. On the other hand, a customs, fiscal, and administrative union between the area under mandate and adjacent territory under the sovereignty of the Mandatory Power was authorized provided that the provisions of the mandate were not infringed thereby. While such a union would all but destroy the administrative identity of the area under mandate, on the other hand, it would have the great advantage of automatically extending to the contiguous territory under the sovereignty of the colonizing Power the principles of administration prescribed in the mandate. Moreover, such administrative re-arrangements would remove some of the evils resulting from the artificial boundaries in Central Africa, those straight diplomatic lines that ignorantly but ruthlessly had cut in two vital native political and social units. The personal rights of the native were protected by clauses providing for the eventual elimination of domestic slavery, for the suppression of the slave-trade, for the prohibition of forced labour, and for the careful supervision of labour contracts and the recruiting of labour. As regards that most fundamental question, native rights in land, it was provided that native laws and customs should be respected and that no native land might be transferred except between natives, without the previous consent of the public authorities. Furthermore, to

all citizens and subjects of members of the League of Nations were reserved the same rights in the territory under mandate as were enjoyed by the nationals of the Mandatory Power in respect to entry, residence, protection, acquisition of property, and the exercise of their profession and trade. All such citizens and subjects were likewise to enjoy freedom of transit and navigation, as well as complete economic, commercial, and industrial equality, subject only to the condition that the Mandatory Power might organize essential public services on such conditions as it deemed just. It was especially provided that concessions for the development of the natural resources should be granted without distinction on grounds of nationality within the membership of the League, but to the Mandatory Power was reserved the right to impose such conditions as would maintain intact its authority. As in the case of the Class C mandates, unsettled disputes were to be submitted to the prospective Permanent Court and, in addition, Members of the League were authorized to bring before this Court for decision any claims on behalf of their subjects or citizens for infractions of the rights assured to them by the mandate. This was a most important clause and obviated the necessity of a detailed definition of the 'open door' since the Court was constituted the ultimate judge of what was complete economic, commercial, and industrial equality.

22. *The Actual Situation.* These types of mandates received the unanimous approval of the Mandate Commission, except in two particulars. Japan reserved agreement to the non-inclusion in the Class C Mandates of those provisions of the Class B type securing the 'open door' and permitting freedom of entry to citizens and subjects of all Members of the League. This reservation involved not only the preferential system in South Africa, but also the 'white policy' of Australia. Article 22 in the Covenant had been purposely framed to meet the wishes of the Dominions on these points and the re-opening of the question would inevitably entail grave difficulties. In addition, France made a reservation about the provision in the Class B Mandates regarding the military training of natives, insisting that it should be explicitly stated that these troops might be used both for the defence of the territory under mandate and also for that of the Mandatory Power. This contention was contrary to the spirit of the Mandatory System and its admission

would have prejudiced, if not nullified, the system at its conception. On account of these and other difficulties, the Allied and Associated Powers made no progress during the summer and autumn in definitely issuing these mandates. In the absence of such prior agreement, according to Article 22 of the Covenant, it becomes incumbent upon the Council of the League to define in each case the terms of the mandates. But, mainly in consequence of the delay of the United States to ratify the Treaty, the League was not constituted and the Council did not meet in 1919. When it does, this matter will have to be taken up as well as other unsettled questions connected with the allocation of the mandates.

23. *The Basis of Allocation.* The prospective elimination under the terms of the mandates of exclusive economic advantages to the Mandatory Powers did not abate the eagerness of those who had claims to various parts of Germany's African domain. The purely economic factor plays a lesser part in such national ambitions than does the desire to participate in the work of raising the general level of civilization and more especially to perpetuate and to spread one's own particular type. National prestige is a more potent force than economic advantage. The attribution itself was naturally in great measure determined by the established facts of conquest and subsequent occupation during several years. This did not imply an excessive consideration of the military factor, for in virtually each instance the conquest had been effected by the adjacent Powers who were most directly concerned in the future of the German territory and whose claims to permanent occupation were most legitimate. There was, of course, no opposition to the Union of South Africa's claim to German South-west Africa. Its allocation to any other Power would have hampered its development, though such development might involve the interests of other Powers in a not remote future. Similarly France had a legitimate claim to the Cameroons, because possession of the remainder of this colony would greatly facilitate access to the Chad Basin and would promote the development of the French areas in that region. A further contention was insistently made by France, that Germany deprived her of part of this territory by duress and threats in 1911, but this is more open to question, for Germany conceded the recognition of French interests in Morocco as a partial

offset, to her territorial extensions in French Congo. Then there was considerable well-founded sentiment in influential British Indian circles in favour of retaining German East Africa as a place of settlement for Indian agriculturists. Moreover, the dispossession of Germany provided the opportunity to rectify some of the obnoxious diplomatic boundaries in West Africa. In general, the distribution was in conformity with African interests. Only in one instance, that of the Belgian claims, were extraneous considerations allowed to dominate and was the fate of the native populations determined by factors which concerned them only very indirectly.

24. *The Decision of the Supreme Council.* The actual allocation of the German colonies was not determined by the Treaty of Versailles, but on the 6th May 1919, the Supreme Council, at which were present only President Wilson, Mr. Lloyd George, and M. Clemenceau, decided that Great Britain and France should make a joint recommendation regarding Togoland and the Cameroons, that Great Britain should hold a mandate for German East Africa, and the Union of South Africa one for German South-west Africa.

25. *Togoland and the Cameroons, Class B.* Negotiations were immediately started between Great Britain and France. On the 13th September 1914, after the conquest of Togoland, an agreement without prejudice to the future had been reached as to what districts of this colony should be administered respectively by Great Britain and France. This temporary agreement was far from being fully in accord with ethnographic and linguistic facts and hence it was revised in this sense. The divisional line adopted in this new agreement between Great Britain and France, in general, attached to these countries those natives of Togoland who ethnically already formed part of British Gold Coast on the West and French Dahomey on the East. This revision was considerably more favourable to France than had been the provisional agreement. She was now to administer the entire coastal region; and, furthermore, the districts allotted to her included the three railroads. Approximately 700,000 of an estimated total population of one million were to be entrusted to her guardianship. In the Cameroons, likewise, an agreement as regards the provisional administration had been made by Great Britain and France after the conquest in 1916. This agreement was also revised

and again in a sense favourable to France. The former artificial boundary line between Nigeria and the Cameroons was altered to conform to ethnographic facts and a narrow, elongated strip of territory was detached from the Cameroons. The most important factor of the adjustment was the unification of the important native state of Bornu which, prior to the war, had been partly under British and partly under German jurisdiction. The fringe of land along the Nigerian border, which is to be under British jurisdiction, has roughly 400,000 out of the three and a half to four million people in the whole former German colony. These agreements between Great Britain and France did not, however, settle all the outstanding questions. In the first place, it was not definitely decided whether the two parts of Togoland and the British slice of the Cameroons are to be administered under mandates. From the African standpoint, these areas are very small and it would unquestionably be a burden to administer them apart from the adjacent territories to which they are united by race. This difficulty will, however, disappear if the types of mandates as already drafted are eventually put into effect, because administrative, fiscal, and customs union are allowed. In the second place, France claims the restitution to her in full sovereignty of those parts of the Cameroons which she was compelled to cede to Germany in 1911. They contain from 1,000,000 to 1,350,000 inhabitants. Finally, it is contended by France that the decision of the Supreme Council of the 6th May 1919, regarding the future of the German colonies, meant that France was not to hold either Togoland or the Cameroons under mandate but was to enjoy full rights of sovereignty in the areas to be allotted to her.

26. *The Belgian Mandate.* The decision of the Supreme Council of the 6th May 1919, allocating all of German East Africa to Great Britain under mandate aroused resentment in Belgium and led to a protest from the Belgian Delegation at Paris. Accordingly, the question was reopened and left to negotiation between Great Britain and Belgium, subject to the approval of their decision by the Supreme Council. The Belgians had taken a most active and important part in the conquest of East Africa and were occupying the north-western part of the former German colony. Already on the 30th January 1919, they had put in their claim to permanent administration of the

occupied area, but no action had been taken thereon. On the 30th May 1919, an agreement was reached between the British and Belgian representatives by which Belgium was to receive under mandate an area in north-western East Africa which embraced nearly all of the native states of Ruandi and Urundi. According to the official estimates, these states, whose area is only about one-twentieth of the entire colony, contain almost one-half of its population, three and a half out of seven millions. The Belgian claim emphasized the fact that this area consisted of highlands devoted to the raising of cattle and suitable for white settlement, which the Belgian Congo lacked. On the other hand, the area jutted across the physical backbone of Africa and its peoples were in the ethnic sense closely related to those of Uganda. Belgium was not entrusted with the care of these populous districts, solely with a view to native interests. Other considerations were also allowed to enter. For instance, no one wanted to refuse the insistent claim of a state which had suffered so seriously from Germany's aggression in Europe, and had done so much to break Germany's power in East Africa.

27. *Portuguese Claims.* Portugal had also participated in the conquest of the German colonies and entered claims based upon this fact. It was contended that if Belgium were given any mandate, Portugal was entitled to equally favourable treatment. In fact the Portuguese had been unable to drive the Germans from their territory while the Belgians had invaded German East Africa. Portuguese claims were mainly based therefore on considerations of national prestige and dignity and, as Portugal had already a larger domain in Africa than her resources were able effectively to develop, this claim was, after hearing and discussion, disallowed. Portugal, however, had an additional claim based on other considerations. The agreement of the 30th December 1886, between Germany and Portugal, provided explicitly that the River Rovuma from its mouth to a certain point inland was to separate their respective possessions in East Africa. A few years thereafter Germany laid claim to a small district to the south of the mouth of the Rovuma, known as the Kionga triangle. Portugal was not able to withstand the insistence of the German Government, which showed even more than its usual brutality to a weaker neighbour. The smaller state was eventually coerced, and in

1894 it formally agreed to the claim. In order to redress this injury, it was decided to return Kionga in full sovereignty to Portugal. The triangle is of insignificant area and its population is only some 4,000.

28. *Conclusion.* In this way was settled the fate of the twelve and a half to thirteen million people who, according to the official estimates, lived in the former African possessions of Germany. Forty-two per cent. were placed under the guardianship of Great Britain, thirty-three per cent. under that of France, and twenty-five per cent. were entrusted to Belgium. While it cannot be said that all considerations of national prestige were eliminated, still in the main the primary consideration was the welfare of the aborigines. How the Mandatory System will develop no one can foretell, but it represents a genuine and seemingly practical effort to eliminate exclusive national privileges from European administration in the sections of Africa affected and it embodies safeguards to protect native rights to liberty and to property, and to raise the native in the scale of civilization. It augurs well for the future of those backward peoples that not only was the Mandatory System adopted, but that simultaneously also were elaborated at the Peace Conference general international conventions regarding the arms traffic and the liquor trade which contained regulations that, prior to the War, would have seemed utopian.

CHAPTER VI

THE LEGAL BASIS OF INTERNATIONAL RELATIONS PRIOR TO THE RE-ESTABLISHMENT OF PEACE BY TREATIES (*continued*)¹

PARTS VII-VIII

THE PRE-ARMISTICE AGREEMENTS, THE ARMISTICE CONVENTIONS, AND THE DRAFT TREATIES OF PEACE

A COMPREHENSIVE survey of international relations prior to the re-establishment of the world's peace by means of treaties should include a study of all the draft Treaties of Peace in their relation both to the pre-Armistice Agreements and the Armistice Conventions. Certain of the fundamental questions to consider in such a survey would be these: In what particulars, if any, did the Armistice Conventions modify the terms and principles of the Agreements? What were the rights and obligations of the parties arising out of the Agreements as modified, if modified at all, by the Armistice Conventions? What were the terms and principles which the parties were thus legally or morally bound to insert in the clauses of the Treaties? How far, and in what particulars, did the clauses of the draft Treaties comply with the terms and principles of 'the agreed peace', as embodied in the Agreements and the Armistice Conventions? What were the views of the parties to the several negotiations as to the meaning and scope of the terms and principles of the agreed peace?

In the present chapter no effort will be made to survey the whole of this vast field of inquiry. Attention will be directed solely to the negotiations at the Paris Conference in reference to the Treaty of Versailles between Germany and the Allied and Associated Powers.

¹ The present chapter should be read in connexion with Chapter IX in Volume I.

PART IX

THE PRE-ARMISTICE AGREEMENT, THE ARMISTICE CONVENTION, AND THE DRAFT TREATY OF PEACE WITH GERMANY

*Interpretation :**The Conflict of Views at the Peace Conference.*

§ I. THE PRE-ARMISTICE AGREEMENT AS THE BASIS OF THE DRAFT TREATY OF PEACE

Throughout the negotiations between the Allied and Associated States on the one side and Germany on the other the pre-Armistice Agreement played a rôle of fundamental importance. Both parties to the discussion of the terms of the draft Treaty of Peace equally held that they were bound by the Agreement as the basis of the Treaty, and that, indeed, the Treaty must conform to its provisions. This attitude of the parties is clearly and unequivocally expressed many times in the documents which were exchanged between them prior to the signing of the Treaty on the 28th June 1919.¹

A. Germany's Position.

German Letter (29th May 1919): ' We came to Versailles in the expectation of receiving a peace proposal based on the agreed principles. We were firmly resolved to do everything in our power with a view of fulfilling the grave obligations which we had undertaken. . . . Germany knows that she must make sacrifices to attain peace. Germany knows that she has, by

¹ For the purposes of the present chapter the following documents have been consulted and quoted :

(1) Observations of the German Delegation on the draft Treaty of Peace (Conditions of Peace), presented to the representatives of the Allied and Associated Powers on 29th May 1919. Published by the American Association for International Conciliation (October 1919).

(2) Letter of the German Delegation (29th May 1919) accompanying (1), *supra*. Published in the *American Journal of International Law* (July 1919, pp. 541-4).

(3) Reply (16th June 1919) of the Allied and Associated Powers to (1), *supra*.

(4) Letter (16th June 1919) of Allied and Associated Powers, accompanying (3), *supra*. (3) and (4) are published Misc. 4, 1919 (Cmd. 288).

The various separate notes exchanged by the parties, apart from the above, have not been brought under review.

(5) The Draft Treaty, as published in Germany.

agreement, undertaken to make those sacrifices, and will go in this matter to the utmost limits of her capacity.'

German Observations (29th May 1919):

'Legal basis of the negotiations of peace.

'The German Delegation have entered upon the task of concluding peace in the legal conviction that the essential contents of the treaty of peace which is to be concluded, are in principle outlined by the events preceding it, and that thereby a definite platform is established for the negotiations at Versailles. This conviction is founded upon the following facts:

'On the 5th of October, 1918, the German Government requested President Wilson to take into his hands the task of establishing peace on the basis of the fourteen points contained in his message to Congress of January 8, 1918, and on the basis of his subsequent proclamations, especially his speech of September 27, 1918, to invite all belligerent powers to send delegates for the purpose of entering into negotiations and to bring about the immediate conclusion of a general armistice.

'On the 8th of October, 1918, President Wilson asked if the German Government accepted his fourteen points and if the sole object of their discussion would be to agree upon the practical application of their details. The German Government expressly confirmed this and at the same time said it expected that the Allied Governments also stood on the platform of President Wilson's proclamations. Moreover, it declared its readiness to evacuate the occupied territories, this being demanded by President Wilson as a prerequisite to concluding the armistice.

'After further correspondence President Wilson, on the 23rd of October, 1918, declared that he was willing to take up with the Allied Governments the question of an armistice. He made it known at the same time that, in carrying out this intention, he had transmitted to the Allies his correspondence with the German Government and had suggested that, in case the Allies agreed to the terms and principles of peace accepted by Germany, they point out through their military advisers such terms for an armistice as would be fit to safeguard or to enforce the details of the peace to which the German Government had agreed. Germany, it was thus expressly said, could by the acceptance of such terms of armistice afford the best concrete evidence that she accepted the fundamental terms and principles of the whole treaty of peace.

‘ The German Government having, in its reply of the 27th of October, given satisfactory information concerning further matters of internal politics which President Wilson had touched upon in his last mentioned note of October 23rd, President Wilson notified the German Government on the 3rd of November, that, in reply to the correspondence with the German Government which he had transmitted to the Allies, he had received from the Allied Governments the following memorandum : [Here follows the text of the memorandum.]

‘ On the 11th of November, 1918, the armistice was concluded. From the correspondence that led to this armistice, the following points became evident :

‘ 1. As a basis of peace, Germany has expressly accepted nothing but President Wilson’s fourteen points and his subsequent proclamations. No other bases have been demanded either by President Wilson, or after him, by any of the Allied Governments.

‘ 2. The acceptance of the terms of armistice was, according to President Wilson’s own assurance, to be the best evidence of the unequivocal acceptance of the above mentioned fundamental terms and principles of peace on the part of Germany. Germany has accepted the terms of armistice and thereby furnished the proof demanded by President Wilson. Beyond that she has with all her might endeavoured to fulfil those terms in spite of their great severity.

‘ 3. The Allies also have accepted Wilson’s fourteen points and his subsequent proclamations as a basis of peace. .

‘ 4. A solemn agreement as to the basis of peace therefore exists between the two Contracting Parties. Germany has a right to this basis of peace. By abandoning it the Allies would break an international legal agreement.

‘ The historical facts stated show that between the German Government on the one hand and the Governments of the Allied and Associated Powers on the other a *pactum de contrahendo* has been concluded which is, without a doubt, legally binding and whereby the basis for the peace is for both parties unalterably fixed.

‘ The practical application of the principles agreed upon must, according to President Wilson’s own words, be the subject of negotiation. Germany has a right to a discussion of the terms of peace. This discussion can only extend to the application of

the fourteen points and of the subsequent proclamations of Mr. Wilson. If a peace of a different character were to be forced upon Germany, that would be a breach of a solemn pledge.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): 'The Allied and Associated Powers are in complete accord with the German Delegation in their insistence that the basis for the negotiation of the Treaty of Peace is to be found in the correspondence which immediately preceded the signing of the Armistice on November 11, 1918. It was there agreed that the Treaty of Peace should be based upon the Fourteen Points of President Wilson's address of January 8, 1918, as they were modified by the Allies' memorandum included in the President's note of November 5, 1918, and upon the principles of settlement enunciated by President Wilson in his later addresses, and particularly in his address of September 27, 1918. These are the principles upon which hostilities were abandoned in November, 1918, these are the principles upon which the Allied and Associated Powers agreed that peace might be based, these are the principles which have guided them in the deliberations which had led to the formulation of the Conditions of Peace.'

C. *Comments.*

The German Delegation contended, in effect, that a solemn Agreement, a *pactum de contrahendo*, binding in international law, had been concluded between Germany and the Allied and Associated Powers prior to the Armistice; and the Powers expressly stated that in their view the German contention was sound.

It is to be observed, however, that, although the German Delegation recognized the existence of the Allied memorandum of the 5th November 1918, they do not expressly refer to it (in the passage from the Observations just quoted) as one of the essential documents containing the terms of the Agreement. This memorandum modified certain of the Fourteen Points in most important particulars: it gave an explicit interpretation of the term 'restoration', which was accepted by President Wilson, and it reserved to the Allies (though possibly not to the United States¹) complete liberty of action in reference to the application

¹ President Wilson did not state in his note of 5th November 1918, that he accepted the Allied reservation as to the freedom of the seas.

of the principle of 'the freedom of the seas'. From the juridical point of view these two principles of the Allied memorandum must be regarded as among the principles of peace agreed to by Germany and confirmed by her acceptance of the armistice conditions. By restricting the legal basis of the peace to the public utterances of President Wilson in 1918, Germany failed to take account of two of the most essential conditions of peace; and the Allied and Associated Powers very properly reminded her, therefore, that the agreed basis of the peace negotiations consisted of the Fourteen Points ('as they were modified by the Allies' memorandum included in the President's note of November 5, 1918') and of 'the principles of settlement enunciated by President Wilson in his later addresses'.

The passage from the German Observations just quoted must, however, be read in connexion with other passages of the same document. It is clear from those passages which deal with reparation that the German Delegation held themselves bound by the Allied memorandum's interpretation of the term 'restoration' to mean 'compensation' for civilian damage; but that, at the same time, they differed widely from the Powers as to the scope of that interpretation. It seems equally clear from the German Observations as a whole that Germany still adhered to the principle of the 'freedom of the seas', as it was stated by President Wilson in the Fourteen Points, and that she disregarded the reservation embodied in the Allied memorandum.

§ II. THE INTERPRETATION OF THE PRE-ARMISTICE AGREEMENT

Apart from an apparent difference of opinion as to the place occupied by the Allied memorandum of the 5th November 1918, in the pre-Armistice negotiations, both parties to the Paris Conference negotiations were united in the view that they were equally bound by the Agreement concluded before the Armistice. As to this there was no dispute. It was only when the actual 'terms' and 'principles' of the Agreement were applied to facts by the draft Treaty of Peace that controversy arose. An examination of the documents themselves will disclose the divergent views of the parties as to the rights and obligations which flowed from the Agreement and which should find practical application and enforcement in the Treaty under

negotiation. Many of the questions considered at the Paris Conference were fundamentally questions of interpretation—interpretation of the pre-Armistice Agreement. A study of the divergent interpretations by the two sets of negotiators will prepare the way for the more detailed examination of the problems and settlements of the Conference in this and subsequent volumes of the present work.

A. *Germany's Interpretation.*

In their Observations of 29th May 1919, the German Delegation drew particular attention to their main contention that there was a fundamental 'contradiction between [a] the draft of the Treaty on the one hand and [b] the legal basis agreed upon, the previous assurances of the enemy statesmen, and the general ideas of international law on the other hand.

'Relying on the legal basis agreed upon for the negotiation of peace', declare the German Delegation, 'the German people laid down their arms. They were especially confident, inasmuch as they saw in this agreement merely a summary of the fundamental ideas which had been previously expressed over and over again by the enemy statesmen. Our enemies have repeatedly professed that they are not making war on the German people but on an imperialistic and irresponsible Government. Our enemies have repeated again and again that this war without parallel should be followed by a new kind of peace, a peace of right and not a peace of might. . A new spirit should emanate from this peace and should be embodied in a League of Nations, of which Germany should also be a member. Germany's position among the nations should not be destroyed, and the right of self-determination should be recognized for all nations.

'All these principles were comprised in President Wilson's fourteen points and in his subsequent declarations.

'The conditions of peace which have been presented to us are an obvious contradiction of all such assurances from the mouths of the enemy statesmen.'

The remaining portion of the first part of the German Observations is concerned with the German arguments in support of the contention that the draft Treaty was at variance with the utterances of the statesmen of the Powers, the principles of International Law, and the terms and principles of the

pre-Armistice Agreement. After this discussion the German Delegation consider 'the results'.

'All this shows', they declare, 'that the draft of a peace treaty as submitted to the German Government stands in full and irreconcilable conflict with the basis agreed upon for a just and durable peace. Scarcely a single stipulation of the draft corresponds with the conditions agreed upon, and with regard to the territorial questions, the draft demands the annexation of purely German territory and the suppression of the German nationality. It involves the utter destruction of German economic life. It leads the German people into a financial thralldom unknown in history up to the present day. . . .

'The German Government agrees with the Governments of the Allied and Associated Powers in the conviction that the horrible devastation caused by this war requires the establishment of a new world order, an order which shall ensure the "effective authority of the principles of international law", and "just and honourable relations between the nations". The restoration and perfection of international order in the world can only be assured if the existing authorities, in a new spirit, succeed in realizing the great idea of democracy; if, as President Wilson declared on the 4th of July, 1918, "the settlement of every question is brought about" . . . "upon the basis of the free acceptance of that settlement by the people immediately concerned . . ." Only the nations that enjoy freedom and independence, based upon law, may give each other the guarantee of just and honourable relations. But their fairness and honour also require that they warrant each other freedom and life as the most sacred and inalienable fundamental rights.

'There is no evidence of these principles in the peace document which has been laid before us. Expiring world theories, emanating from imperialistic and capitalistic tendencies, celebrate in it their last horrible triumph. As opposed to these views, which have brought unspeakable disaster upon the world, we appeal to the innate sense of right of men and nations, under whose token the English State developed, the Dutch People freed itself, the North American nation established its independence, France shook off absolutism. The bearers of such hallowed traditions cannot deny this right to the German people, that now for the first time has acquired in its internal politics the possibility of living in harmony with its free will based on

law. A treaty such as has been proposed to Germany is incompatible with the respect for this innate right. But in the firm determination of fulfilling the obligations stipulated, Germany makes the following counter-proposals.'

B. *The Powers' Interpretation.*

Reply of the Allied and Associated Powers (16th June 1919): 'It is now contended by the German Delegation that the Conditions of Peace do not conform to these principles which have thus become binding upon the Allied and Associated Powers as well as upon the Germans themselves. In an attempt to prove a breach of this agreement the German Delegation have drawn quotations from a number of speeches, most of which were before the Address to Congress and many of which were uttered by Allied statesmen at a time when they were not at war with Germany, or had no responsibility for the conduct of public affairs. The Allied and Associated Powers consider it unnecessary, therefore, to oppose this list of detached quotations with others equally irrelevant to a discussion concerning the basis of the peace negotiations. . . .

'It cannot be disputed that responsible statesmen, those qualified to express the will of the peoples of the Allied and Associated Powers, have never entertained or expressed a desire for any other peace than one which should undo the wrongs of 1914, vindicate justice and international right, and reconstruct the political foundations of Europe on lines which would give liberty to all its peoples, and therefore the prospect of a lasting peace.

'But the German Delegation profess to find discrepancies between the agreed basis of peace and the draft of the Treaty. . . .' These alleged discrepancies, declare the Powers, do not exist. The draft Treaty has been framed in accordance with the terms and principles of the pre-Armistice Agreement. A comparison of the Agreement and the draft Treaty shows that there is no contradiction between them.

C. *Comments.*

Many, although far from all, of the differences of opinion which arose at the Peace Conference as between the two groups of negotiators were caused by difficulties connected with the

interpretation of the pre-Armistice Agreement. These difficulties were of two kinds :

(1) The provisions of the Agreement, embodied as they were in certain addresses and speeches of President Wilson, and in certain diplomatic notes, were in many instances not only general in scope, but vague and uncertain in meaning.

(2) Furthermore, there was no impartial tribunal to which difficult questions of interpretation could be referred. Each party to the negotiation was free to interpret the Agreement in accordance with his own standard of legal and moral obligation. It was, for example, one of the fundamental principles of the Agreement that there should be a 'peace of justice'. But the nature and scope of 'justice' has always formed one of the most difficult questions in jurisprudence; and upon that question lawyers of eminence in many ages and countries have expressed divergent opinions. It is evident, therefore, that the parties to the negotiation at Paris were presented with the most difficult task of applying to the complex problems of the peace a principle general in scope and, as a result, open to different interpretations when tested by the vast settlements to be effected.

It is far too early to pass a definitive judgment upon the question as to whether either the draft Treaty or the Treaty itself embodies an interpretation of the Agreement that is consonant with fair and correct principles of juridical interpretation. That question must be left, for its final answer, to the judgment of posterity.

At the present time it is important, however, to point out with the greatest clearness that the negotiators of both sides recognised the existence and the validity of the pre-Armistice Agreement; and to draw particular attention to the differences of view both as to the nature of the terms and principles of the Agreement and also as to their proper interpretation and their sound application to the complex facts produced by the War. In this study the main documents exchanged between the parties must be brought under review.¹

¹ See § 1, note, p. 246, *supra*.

PART X

CERTAIN BASIC PRINCIPLES OF THE PRE-ARMISTICE
AGREEMENT : THE DIVERGENT INTERPRETATIONS§ I. DEMOCRACY AS OPPOSED TO THE ARBITRARY POWER
OF AUTOCRACY AND MILITARISM.*A. Germany's Interpretation.*

The contention of the German Delegation, in their Observations (29th May 1919), was that the Agreement embodied the principle that the War was not against the German people, but against the imperialistic and militarist Government of Germany. After quoting from various speeches of President Wilson and other responsible statesmen of the Powers,¹ the German Delegation conclude as follows :

‘ In his address at Baltimore on the 6th of April, 1918, President Wilson said : “ We have ourselves proposed no injustice, no aggression. We are ready, whenever the final reckoning is made, to be just to the German people, deal fairly with the German power, as with all others. There can be no difference between peoples in the final judgment, if it is indeed to be a righteous judgment. To propose anything but justice, even-handed and dispassionate justice, to Germany at any time; whatever the outcome of the war, would be to renounce and dishonour our own cause. For we ask nothing that we are not willing to accord.”

‘ To-day after the radical political changes that have taken place in Germany in the late autumn of 1918, our enemies no longer face an irresponsible German Government but the German people controlling its own fate. The new constitution of the German Empire, the structure of its popular Government, are adapted to the most rigorous principles of democracy ; the abandonment of the militaristic spirit is evident also. . . .

‘ But these facts, like others, have been utterly disregarded in the draft of the treaty of peace. It would be difficult to imagine how harder terms could be imposed upon an imperialistic government.’

¹ These speeches do not form part of the pre-Armistice Agreement.

B. *The Powers' Interpretation.*

The Allied and Associated Powers refer, in their Reply of the 16th June 1919, to the first of the 'Four Ends' in President Wilson's speech of the 4th July 1918, the point that there must be 'the destruction of every arbitrary power everywhere'; and they assert that this point, as well as the principle of justice, has not been lost sight of in the formulation of the draft Treaty.¹

§ II. RIGHT AS OPPOSED TO MIGHT.

A. *Germany's Interpretation.*

German Observations (29th May 1919):

'The peace to be concluded with Germany was to be a peace of right, not a peace of might.'

'In his address to the Mexican journalists on the 9th of June, 1918, President Wilson promised to maintain the principle that the interests of the weakest and of the strongest should be equally sacred. "That is what we mean, provided we do so sincerely with understanding and in real knowledge and conception of the subject. If it is indeed and in truth the mutual aim of the Governments allied against Germany and of their nations, in the coming negotiations of peace to bring about a sure and lasting peace, all who sit down at the table of negotiations will be ready and willing to pay the only price for which it can be got. They must also be ready and willing, with manly courage to create the only instrument that can guarantee the execution of the conditions of peace. This price is impartial justice in every item without regard to whose interests may be crossed by it, and not only impartial justice but also satisfaction to all nations whose future is to be decided upon." And in his speech before Congress on the 11th of February 1918, the President described the aim of peace as follows: "What we are striving for is a new international order based upon broad and universal principles of right and justice—no mere peace of shreds and patches."

'The peace document shows that none of these repeated solemn assurances has been kept.

¹ See § III (*Justice as opposed to Injustice*), p. 260. Cf. also that portion of their Reply (Part 7) in which the Powers consider the question as to 'the responsibility of Germany for the war', and deal with German militarism and autocracy.

‘ To begin with the territorial questions :

‘ In the West, a purely German territory on the Saar with a population of at least 650,000 inhabitants is to be separated from the German Empire for at least fifteen years merely for the reason that claims are asserted to the coal abounding there.

‘ The other cessions in the West, German-Austria and German-Bohemia will be mentioned in connection with the right of self-determination.

‘ In Schleswig, the line of demarcation for voting has been traced through purely German districts and goes farther than Denmark herself wishes.

‘ In the East, Upper Silesia is to be separated from Germany and given to Poland, although it has had no political connexion with Poland for the last 750 years. Contrary to this, the provinces of Posen and almost the whole of West Prussia are to be separated from the German Empire in consideration of the former extent of the old Polish state, although millions of Germans are living there. Again, the district of Memel is separated from Germany quite regardless of its historical past, in the obvious attempt to separate Germany from Russia for economic reasons. For the purpose of securing to Poland free access to the sea, East Prussia is to be completely cut off from the rest of the Empire and thereby condemned to economic and national decay. The purely German city of Danzig is to become a Free State under the suzerainty of Poland. Such terms are not founded on any principle of justice. Quite arbitrarily, here the idea of an imprescribable historical right, there the idea of ethnographical possession, there the standpoint of economic interest shall prevail, in every case the decision being unfavourable to Germany.

‘ The settlement of the colonial question is equally contradictory to a peace of justice. For the essence of activity in colonial work does not consist in capitalistic exploitation of a less developed human race, but in raising backward peoples to a higher civilization. This gives the Powers which are advanced in culture a natural claim to take part in colonial work. Germany, whose colonial accomplishments cannot be denied, has also this natural claim, which is not recognized by a treaty of peace that deprives Germany of all of her colonies.

‘ Not only the settlement of the territorial questions but each and every provision of the treaty of peace is governed by the

ill-renowned phrase: "Might above Right!"—Here are a few illustrations:

' Under the provisions of Article 117 Germany is to recognize beforehand the full force of all treaties or agreements which may be entered into by her enemies with the states created or to be created in any part of the former Russian Empire, even with respect to her own frontiers.

' According to the provisions of international law as understood on the Continent, the economic war ought to have been considered unlawful, and private property should have been left untouched, even while the war was being carried on. In spite of this, the instrument of peace does not confine itself to demanding, in payment of the public claims of restitution against Germany, the total of German property liquidated by the enemies within their territories. In addition, the enemy Governments monstrously reserve to themselves the right, for an indefinite period after the coming into force of the treaty of peace, to liquidate all German property within their territories without real equivalent and regardless of the time of its importation, or to submit the same to other measures of war at their discretion. This shall apply even to German property in the German colonies, in Alsace-Lorraine, and in the other districts to be ceded.

' The demand is made that German citizens be handed over to courts of the enemy Powers, instead of trying out a new solution, a fruit of the idea of a just peace, of appointing an impartial authority that should settle all violations of international law that have occurred in this war.

' Although President Wilson, in his speech (of October 20th? 1916),¹ has acknowledged that "no single fact caused the war, but that in the last analysis the whole European system is in a deeper sense responsible for the war, with its combination of alliances and understandings, a complicated texture of intrigues and espionage that unfailingly caught the whole family of nations in its meshes," "that the present war is not so simply to be explained and that its roots reach deep into the dark soil of history," Germany is to acknowledge that Germany and her allies are responsible for all damages which the enemy Governments or their subjects have incurred by her and her allies'

¹ This speech is incorrectly quoted. The thought is expressed, however, in speeches of 22nd January and 21st November 1917. None of these speeches, however, formed part of the agreement.

aggression. This appears all the less tolerable as it is an indisputable historical fact that several of the hostile Powers, such as Italy and Rumania, on their part entered the war for the purpose of territorial conquests. Apart from the consideration that there is no incontestable legal foundation for the obligation for reparation imposed upon Germany, the amount of such compensation is to be determined by a commission nominated solely by Germany's enemies, Germany taking no part in the findings of the commission. The commission is plainly to have power to administer Germany like the estate of a bankrupt.

'As there are natural rights of man, so there are natural rights of nations. The inalienable fundamental right of every state is the right of self-preservation, and self-determination. With this fundamental right the demand here made upon Germany is incompatible. Germany must promise to pay an indemnity, the amount of which at present is not even stated. The German rivers are to be placed under the control of an international body upon which Germany's delegates are always to be but the smallest minority. Canals and railroads are to be built on German territory at the discretion of foreign authorities.

'These few instances show that that is not the just peace we were promised, not the peace "the very principle of which", according to a word of President Wilson,¹ "is equality and the common participation in a common benefit. The equality of nations upon which peace must be founded if it is to last must be an equality of rights".'

B. The Powers' Interpretation.

In their Letter of the 16th June 1919, the Allied and Associated Powers maintain that prior to the War the rulers of Germany had taught and practised 'the doctrine that might was right in international affairs'; and they hold to the position that 'they will be false to those who have given their all to save the freedom of the world if they consent to treat this war on any other basis than as a crime against humanity and right. This attitude of the Allied and Associated Powers was . . . defined by President Wilson in his speech of April 6, 1918, and explicitly and categorically accepted by the German people as a principle governing the peace: ". . . Germany has once more said that force, and force alone, shall decide whether justice and peace shall reign

¹ Address to Congress, 22 January 1917.

in the affairs of man, whether Right . . . or Dominion as she conceives it shall determine the destinies of mankind. There is, therefore, but one response possible from us : Force, Force to the utmost, Force without stint or limit, righteous and triumphant Force which shall make Right the law of the world, and cast every selfish dominion down in the dust." . . . The Allied and Associated Powers . . . believe that the peace they have proposed is fundamentally a peace of justice. They are no less certain that it is a peace of right fulfilling the terms agreed. . . .'¹

§ III. JUSTICE AS OPPOSED TO INJUSTICE.

The Agreement had stipulated for a 'peace of justice'. Much of the discussion of the terms of the draft Treaty by the parties to the negotiation was concerned with the question as to whether or not these terms correspond with justice as the agreed basis of the peace. Practically all parts of the draft Treaty—including those relating to disarmament, territorial and political settlements, reparation, and economic adjustments—were subjected to the severe test of justice. The general attitude of the German Delegation was that the draft Treaty was based on violence and not on justice ; while the Allied and Associated Powers asserted, with equal persistence, that it embodied in all its clauses the justice which had been taken by both parties as the agreed basis of the peace. Probably never before in history has 'justice' figured so prominently as a contractual stipulation binding the parties to an international dispute. It is not too much to say that both parties viewed justice as the most important of all the agreed conditions of peace.

A. *Germany's Interpretation.*

The German position is stated in the Letter of 29th May 1919. 'We came to Versailles', declare the German Delegation, 'in the expectation of receiving a peace proposal based on the agreed principles. We were firmly resolved to do everything in our power with a view of fulfilling the grave obligations which we had undertaken. We hoped for the peace of justice which had been promised to us. We were aghast when we read in documents the demands made upon us, the victorious violence

¹ For the views of the Powers on 'a peace of right', see § III, pp. 261-4.

of our enemies.' Further on in the same Letter 'Germany offers to proceed with her own disarmament in advance of all other peoples, in order to show that she will help to usher in the new era of the peace of justice.' 'Even in her need', it is stated in the last paragraph of the Letter, 'justice is for her too sacred a thing to allow her to stoop to achieve conditions which she cannot undertake to carry out. . . . The lofty aims which our adversaries first set before themselves in their conduct of the war, the new era of an assured peace of justice, demand a treaty instinct with a different spirit [from that of treaties dictated by victor to vanquished].'

B. The Powers' Interpretation.

Letter of the Allied and Associated Powers (16th June 1919): 'The reply [of the Germans of 29th May] protests against the peace both on the ground that it conflicts with the terms upon which the Armistice of November 11th, 1918, was signed, and that it is a peace of violence and not of justice. . . . The Allied and Associated Powers believe that they will be false to those who have given their all to save the freedom of the world if they consent to treat this war on any other basis than as a crime against humanity and right. This attitude . . . was defined by President Wilson in his speech of April 6, 1918, and explicitly and categorically accepted by the German people as a principle governing the peace: "Let everything that we say, my fellow-countrymen, everything that we henceforth plan and accomplish, ring true to this response, till the majesty and might of our concerted power shall fill the thought and utterly defeat the force of those who flout and misprize what we honour and hold dear. Germany has once more said that force, and force alone, shall decide whether justice and peace shall reign in the affairs of men, whether Right as America conceives it or Dominion as she conceives it shall determine the destinies of mankind. There is, therefore, but one response possible from us: Force, Force to the utmost, Force without stint or limit, righteous and triumphant Force which shall make Right the law of the world, and cast every selfish dominion down in the dust." . . . Justice, therefore, is the only possible basis for the settlement of the accounts of this terrible war. Justice is what the German Delegation asks for, and says that Germany had been promised. Justice is what Germany shall have. But it must be justice

for all. There must be justice for the dead and wounded, and for those who have been orphaned and bereaved that Europe might be freed from Prussian despotism. There must be justice for the peoples who now stagger under war debts which exceed £30,000,000,000 that liberty might be saved. There must be justice for those millions whose homes and land, ships and property German savagery has spoliated and destroyed. That is why the . . . Powers have insisted as a cardinal feature of the treaty that Germany must undertake to make reparation to the very uttermost of her power; for reparation for wrongs inflicted is of the essence of justice. . . . Somebody must suffer for the consequences of the war. Is it to be Germany, or only the peoples she has wronged? . . . Not to do justice to all concerned would only leave the world open to fresh calamities. . . . The Allied and Associated Powers therefore believe that the peace they have proposed is fundamentally a peace of justice. They are no less certain that it is a peace of right fulfilling the terms agreed upon at the time of the Armistice. There can be no doubt as to the intentions of the Allied and Associated Powers to base the settlement of Europe on the principle of freeing oppressed peoples, and redrawing national boundaries as far as possible in accordance with the will of the peoples concerned, while giving to each facilities for living an independent national and economic life. These intentions were made clear not only in President Wilson's address to Congress of January 8, 1918, but in "the principles of settlement enunciated in his subsequent addresses", which were the agreed basis of the peace. . . . [The draft Treaty] is frankly not based upon a general condonation of the events of 1914-1918. It would not be a peace of justice if it were. But it represents a sincere and deliberate attempt to establish "that reign of law, based upon the consent of the governed, and sustained by the organized opinion of mankind", which was the agreed basis of the peace.'

The Reply of the 16th June also contains these sentences: ' [The] German Delegation profess to find discrepancies between the agreed basis of peace and the draft of the Treaty. They discover a contradiction between the terms of the Treaty and a statement taken from an address delivered at Baltimore on April 6, 1918, by President Wilson: " We are ready, whenever the final reckoning is made, to be just to the

German people, as with all others. . . . To propose anything but justice to Germany at any time, whatever the outcome of the war, would be to renounce our own cause, for we ask nothing that we are not willing to accord." This quotation does not stand alone. It should be read in conjunction with one of the cardinal principles of the Mount Vernon address of July 4, 1918, which demanded: "The destruction of every arbitrary power everywhere that can separately, secretly, and of its single choice disturb the peace of the world or, if it cannot be presently destroyed, at the least its reduction to virtual impotency". Neither of these two principles of the agreed basis of peace has been lost sight of in the formulation of these [Peace] Conditions.'

The Reply of the Allied and Associated Powers (16th June) also deals with 'justice' in the following terms: 'The German Delegation see in the provisions with regard to territorial settlements a conflict between the terms of the Treaty and the following statement made by President Wilson on June 9 [September 27 ?], 1918: "If it is indeed and in truth the mutual aim of the Governments allied against Germany and of their nations, in the coming negotiations of peace, to bring about a sure and lasting peace, all who sit down at the table of negotiations will be ready and willing to pay the only price for which it can be gotten. . . . This price is impartial justice in every item, without regard to whose interests may be crossed by it, and not only impartial justice but also satisfaction to all nations whose future is to be decided upon". In their communication they enumerate a number of territorial settlements and conclude that "their basis is indifferently, now the consideration of an unchangeable historical right, now the principle of ethnographical facts, now the consideration of economic interests. In every case the decision is against Germany". If in certain cases, not in all, the decision has in fact not been in favour of Germany, this is not the result of any purpose to act unjustly towards Germany. It is the inevitable result of the fact that an appreciable portion of the territory of the German Empire consisted of districts which had in the past been wrongfully appropriated by Prussia or by Germany. It is a chief duty of the Allied and Associated Powers to rectify these injustices in accordance with the explicit statement of President Wilson in his address to Congress of February 11, 1918: "Each part of

the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent ”.’

§ IV. NATIONALITY AS OPPOSED TO BARTER BY SOVEREIGNS.

A. *Germany's Interpretation.*

The German Delegation fully recognized the validity of the fundamental principle of nationality, but maintained that the provisions of the draft Treaty conflicted with the principle in many important particulars.

German Observations (16th May 1919):

‘No territory shall be separated from Germany where national adherence has been proved to be indisputable by harmonious union with the German State for centuries, or whose population has not declared its consent to such a separation.

‘These principles are in accordance with the basis of right recognized by both parties for the settlement of territorial questions, as laid down in President Wilson’s four points before Congress, February 11, 1918, and here quoted again :

“The principles to be applied are these: First, that each part of the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent ;

“Second, that peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game, even the great game, now forever discredited, of the balance of power ; but that

“Third, every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival states ; and

“Fourth, that all well-defined national aspirations shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetuating old elements of discord and antagonism that would be likely in time to break the peace of Europe and consequently of the world.”

‘Besides, attention must be called to point 2 in the speech made by President Wilson, at Mount Vernon, July 4, 1918, beginning :

“The settlement of every question whether of territory, of

sovereignty, of economic arrangement, or of political relationship, upon the basis of free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own external influence or mastery.”

‘ From this it becomes evident that

‘ 1. The cession of territories like Upper Silesia which had belonged since 1163 to the German State, or the Saar district, which, excluding recent exceptions, based on the violence of war, never was subject to any non-German sovereignty, cannot be demanded ;

‘ 2. In cases where Germany can give its consent to territorial cession, it must at least be preceded by a plebiscite in every community. . . .

‘ Germany advocates in principle the protection of national minorities. . . .

‘ The right of self-determination must not be a principle which is to be applied solely to the disadvantage of Germany ; it must, on the contrary, be equally valid in all states and must especially be applied where a population of German origin desires adherence to the territory of the German Empire.’¹

B. *The Powers' Interpretation.*

In their Reply of 16th June 1919, the Powers deal with these and other objections of the German Delegation to the territorial settlements of the draft Treaty. ‘ The German Delegation profess to find in the terms of the [draft] Treaty’, the Powers declare, ‘ a violation of the principle expressed by President Wilson before Congress on February 11, 1918 : “ That peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game ”. The Allied and Associated Powers emphatically reject the suggestion that there has been any “ bartering about ” of peoples and provinces. Every territorial settlement of the [draft] Treaty of Peace has been determined upon after most careful and laboured consideration of all the religious, racial and linguistic factors in each particular country. The legitimate hopes of peoples long under alien rule have been heard ; and the

¹ For Germany's application of the principle of nationality, see also part X, § II, p. 257, and § V, pp. 266-8.

decisions in each instance have been founded upon the principle explicitly enunciated in this same address; that "all well-defined national aspirations shall be accorded the utmost satisfaction that can be accorded them without introducing new or perpetuating old elements of discord and antagonism that would be likely in time to break the peace of Europe and consequently of the world".'

§ V. SELF-DETERMINATION OF PEOPLES AS OPPOSED TO BARTER BY SOVEREIGNS.

Both parties to the negotiation likewise recognized the binding character of the basic principle of self-determination. In their Observations of 29th May 1919, the German Delegation devote special attention to the 'right of self-determination' in its effect upon territorial settlements.

A. *Germany's Interpretation.*

German Observations (29th May 1919):

'In this war, a new fundamental law has arisen which the statesmen of all belligerent peoples have again and again acknowledged to be their aim: the right of self-determination. To make it possible for all nations to put this privilege into practice was intended to be one achievement of the war.¹ . . . On February 11, 1918, President Wilson said in Congress: "Peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game. . . . Peoples may now be dominated and governed only by their own consent. Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril. We cannot have general peace for the asking nor by the arrangements of a peace conference. It cannot be pieced together out of individual understandings between powerful states." . . . In his speech on July 4, 1918, President Wilson once more emphatically laid down as an object of the war: "the settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship, upon the basis of the free acceptance of that settlement by the people immediately concerned, and not

¹ Here follow quotations from various speeches by statesmen of the Powers.

upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery."

' Neither the treatment described above of the inhabitants of the Saar region as accessories to the pits, nor the public form of consulting the population in the districts of Eupen, Malmédy, and Prussian Moresnet—which, moreover, shall not take place before they have been put under Belgian sovereignty—comply in the least with such a solemn recognition of the right of self-determination.

' The same is also true with regard to Alsace-Lorraine. If Germany has pledged herself "to right the wrong of 1871",¹ this does not mean any renunciation of the right of self-determination of the inhabitants of Alsace-Lorraine. A cession of the country without consulting the population would be a new wrong, if for no other reason, because it would be inconsistent with a recognized principle of peace.

' On the other hand, it is incompatible with the idea of national self-determination for two and one-half million Germans to be torn away from their native land against their own will. By the proposed demarcation of the boundary, unmistakably German territories are disposed of in favor of their Polish neighbours. Thus, from the Central Silesian districts of Guhrau and Militsch certain portions are to be wrenched away, in which, besides 44,900 Germans, reside at the utmost 3,700 Poles. The same may be said with reference to the towns of Schneidemühl and Bromberg of which the latter has, at the utmost, eighteen per cent. Polish inhabitants, whereas in the rural district of Bromberg the Poles do not form even forty per cent. of the population. Of the Netze district now assigned to Poland, Wilson, in his book *The State, Elements of Historical and Practical Politics*, in Chapter 7: The Government of Germany, page 255, has explicitly recognized that an absolutely German territory was in question. The demarcation of the boundary between Poland on the one hand, and Central Silesia, Brandenburg, and West Prussia on the other hand, has been based on strategic considerations. These, however, are absolutely untenable in an age in which property rights are internationally safeguarded by the League of Nations. How arbitrary in every respect the frontiers drawn in the East are, may

¹ President Wilson's Address of 8th January 1918 (Point Eight).

also be inferred from the fact that the Upper Silesian districts of Leobschütz and Ratibor are assigned to the Czecho-Slovakian State although Leobschütz has 7·6 per cent Czecho-Moravian population. Likewise the demarcation of the districts in southern East Prussia comprises purely German regions, e. g. Angerburg and Oletzko. This disrespect of the right of self-determination is shown most grossly in the fact that Danzig is to be separated from the German Empire and made a free state. Neither historical rights nor the present ethnographical conditions of ownership of the Polish people can have any weight as compared with the German past and the German character of that city. Free access to the sea, satisfying the economic wants of Poland, can be secured by guarantees founded on international law, by the creating of free ports. Likewise the cession of the commercial town of Memel, which is to be exacted from Germany, is in no way consistent with the right of self-determination. The same may be said with reference to the fact that millions of Germans in German-Austria are to be denied the union with Germany which they desire and that, further, millions of Germans dwelling along our frontiers are to be forced to remain part of the newly created Czecho-Slovakian State.

‘ Even as regards that part of the national territory that is to be left to Germany, the promised right of self-determination is not observed. A Commission for the execution of the indemnity shall be the highest instance for the whole State. Our enemies claim to have fought for the great aim of the democratization of Germany. To be sure, the outcome of the war has delivered us from our former authorities, but instead of them we shall have in exchange a foreign, dictatorial power whose aim can and must be only to exploit the working power of the German people for the benefit of the creditor states. Such a surrender of its independence may not be demanded of any State. The right of self-preservation of a State means above all an unrestricted determination of its internal organization; a restriction of Germany’s freedom in this respect is a violation of the fundamental laws of nations.’

B. *The Powers’ Interpretation.*

The Powers made no precise answer, but their general position is made clear in the details, and in certain discussions of broad principle e. g., concerning ‘ all well-defined national aspirations ’ v. § iv. B. pp. 265–6.

B. *The Powers' Interpretation.*¹

§ VI. EQUALITY AS OPPOSED TO INEQUALITY OF STATES.

A. *Germany's Interpretation.*

German Letter (29th May 1919): 'Germany offers to proceed with her own disarmament. . . . She stipulates, however, that she shall be admitted forthwith as a state with equal rights into the League of Nations.'

German Observations (29th May 1919):

'Again and again the enemies of Germany have assured the whole world that they did not aim at the destruction of Germany. . . .

'Furthermore, President Wilson, on January 8, 1918, in an address delivered before Congress, stipulated as a condition for a just peace: "the removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance." And, according to his New York speech of September 27, 1918, the economic boycott is to be tolerated henceforth merely as a legal measure of the executive authority of the League of Nations.

'In contradiction to this, the peace document shows that Germany's position as a world power is to be utterly destroyed. The Germans abroad are deprived of the possibility of keeping up their old relations in foreign countries and of regaining for Germany a share in world commerce, while their property, which has up to the present been confiscated and liquidated, is being used for reparation instead of being restored to them.

'In like manner, it is made impossible to every German to acquire for his country a share in the world's trade, if—even after the peace treaty has been signed—all German property in foreign countries, for an indefinite period, may remain subject to measures of war and, therefore, be liable to confiscation and liquidation. Apart from this, Germans in the enemies' countries are not to enjoy the same personal legal position to which they would be entitled in Germany. The desire to eliminate Germany from the world's trade manifests itself further in the confiscation of her cables.

'In addition to this comes the destruction of German economic life in the interior, which is explained further on.

¹ See part X, §§ III, IV, pp. 260-66, and part XI, § II, *infra*.

‘Such stipulations amount to a complete denial of that idea of international law according to which every people has a claim to life. This supreme benefit must not be taken from it in favour of the economic interests of other nations.’

B. *The Powers’ Interpretation.*

The equality of states is considered by the Allied and Associated Powers in their Letter of 16th June 1919. They draw attention to the fact that, prior to the War, the rulers of Germany were ‘not satisfied with that growing prosperity and influence to which Germany was entitled, and which all other nations were willing to accord her, in the society of free and equal peoples’: they sought to ‘dictate and tyrannize to a subservient Europe’. Provided Germany abides by the Treaty of Peace, the Allied and Associated Powers desire that Germany shall enjoy the after-war economic prosperity like the rest [of the world’s States], ‘though much of the fruit of it must necessarily go for many years to come in making reparation to her neighbours for the damage she has done’. But Germany cannot become at once a member of the League of Nations, for ‘it is impossible to expect the free nations of the world to sit down immediately in equal association with those by whom they have been so grievously wronged’.¹

PART XI

THE PRINCIPLES OF THE PRE-ARMISTICE AGREEMENT AS APPLIED TO THE SETTLEMENT BY THE PARTIES²

Comparison of the Draft Treaty with the pre-Armistice Agreement and the Armistice Convention: The Divergent Interpretations.

§ I. THE COVENANT OF THE LEAGUE OF NATIONS.

A. *Germany’s Position.*

German Observations (29th May 1919):

‘In such a peace the solidarity of human interests, which was to find its expression in a League of Nations, would have been respected. How often Germany has been given the

¹ See also part XI, § 1, *infra*.

² The subject-matters of the present part XI are arranged in accordance with the order of the several parts of the draft Treaty. Compare the arrangement of part XII (see footnote), *infra*.

promise that this League of Nations would unite the belligerents, conquerors as well as conquered, in a permanent system of common rights! . . . [Here follow quotations from speeches of several Allied Statesmen.]

“A general association of nations must be formed” ran a passage in [President Wilson’s] address delivered before Congress on January 8, 1918. On the 27th of September, 1918, he declared: “The Constitution of that League of Nations and the clear definition of its objects must be a part, in a certain sense the most essential part, of the peace settlement itself. If formed now it would be merely a new alliance confined to the nations associated against a common enemy.” Not later than on January 3, 1919, at Rome, President Wilson saw the chief task of the peace conference in the problem of “organizing the friendship of the whole world, taking care that all the moral forces tending towards right, justice, and liberty, be combined into a living organism”.¹

‘These manifestations made it appear as a matter of course to the German people that it would, from the beginning, participate in the establishing of the League of Nations. But in contradiction to them, the Covenant of the League of Nations has been framed without the co-operation of Germany. Nay, still more. Germany does not even stand on the list of those States that have been invited to join the League of Nations. . . . What the treaty of peace proposes to establish, is rather a continuance of the present hostile coalition which does not deserve the name of “League of Nations”. . . . Instead of the dreamt-of holy alliance of the nations, there reappears in it the fatal idea of the Holy Alliance of 1815. . . . It is regrettable that there are no technical authorities or impartial tribunals to offset the select committee controlled by the Great Powers, which may submit the whole civilized world to its control at the expense of the independence and equality of rights of the smaller States. The old political system based on force and with its tricks and rivalries will thus continue to thrive!’ [Germany proposes the formation of a League of a different sort.]

‘A lasting world peace can be reached only by means of a League of Nations, which shall guarantee equal rights to the lesser as well as to the great powers. . . . [The] German Delegation are prepared to negotiate upon the basis of the draft for

¹ A speech of 3rd January 1919, could of course form no part of the pre-Armistice Agreement.

a League of Nations contained in the peace treaty draft, under the condition that Germany shall enter the League of Nations as a power with equal privileges as soon as the peace document agreed upon has been signed.

‘ At the same time Germany must demand further that, without in any way relinquishing the fundamental ideas of its own draft for a League of Nations, and in the expectation that these fundamental ideas will be carried in the course of time, regulations regarding economic relations be introduced in the draft for the League of Nations which shall guarantee complete equality and reciprocity to all nations. In agreement with President Wilson’s words in point 3 of his speech before Congress on the 8th of January, 1918, mentioned above, the following supplement to the Covenant for a League of Nations is proposed : . . .

‘ Furthermore, Germany must demand, in agreement with President Wilson’s declaration of September 27, 1918, “ that within the League of Nations there shall be no special, selfish economic combinations ; that no employment of any form of economic boycott or exclusion shall be permissible ” . . .

‘ Sustained by the thought that the League of Nations proposes to carry out the idea of justice, and with the expectation that Germany may enter the League with equal privileges immediately upon the conclusion of peace, the Government of the German Republic is prepared to agree to the fundamental ideas for the regulation of army, navy, and air forces as proposed in Part V. . . . The readiness of the Government of the German Republic to agree to reduce its armaments before the other powers do so is the best proof that it has forever abandoned all militaristic and imperialistic tendencies. . . .

‘ The German Government is prepared to enter into negotiations regarding all further matters of detail upon a basis of equality. . . . To bring about a speedy conclusion of all details the German Government proposes immediate oral negotiations. She reserves the right to discuss the preparation of the details of the military and naval conditions of the draft in a special note.

‘ It is the principal and most valuable aim of peace to provide security that this war shall have been the last and that humanity shall be preserved from the return of such terrible catastrophes. Germany is prepared to do everything within her power to gain this end. According to the above propositions it would not be

her fault, if the nations of the world were disappointed in this expectation and if conditions were created which would of necessity lead to new wars.'

B. The Powers' Position.

Reply of the Allied and Associated Powers (16th June 1919): '[The] German Delegation take exception to the fact that Germany has not been invited to join in the formation of the League of Nations as an original member. President Wilson's declarations, however, envisaged no league of nations which would include Germany at the outset, and no statement of his can be adduced in support of this contention. Indeed, in his speech of September 27, 1918, he laid down with the greatest precision the conditions which must govern her admission: "It is necessary to guarantee the peace, and the peace cannot be guaranteed as an afterthought. The reason, to speak in plain terms again, why it must be guaranteed, is that there will be parties to the peace whose promises have proved untrustworthy, and means must be found in connexion with the peace settlement itself to remove that source of insecurity." And further: "Germany will have to redeem her character not by what happens at the peace table but by what follows."

'The Allied and Associated Powers look forward to the time when the League of Nations established by this Treaty shall extend its membership to all peoples; but they cannot abandon any of the essential conditions of an enduring League.

'The Allied and Associated Powers regard the Covenant of the League of Nations as the foundation of the Treaty of Peace. They have given careful consideration to all its terms and they are convinced that it introduces an element of progress into the relations of peoples which the future will develop and strengthen to the advantage of justice and of peace.

'The text of the Treaty itself makes it clear that it has never been the intention of the Allied and Associated Powers that Germany or any other power should be indefinitely excluded from the League of Nations. Provisions have accordingly been laid down which apply generally to States not members of the League and which determine the conditions of their admission subsequent to its formation. . . .

'The Allied and Associated Powers do not consider that an addition to the Covenant in the sense of the German proposals

regarding economic questions is necessary. They would point out that the Covenant already provides that, "subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . will make provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all Members of the League". So soon as Germany is admitted to the League she will enjoy the benefits of these provisions. . . .

'The Allied and Associated Powers have already pointed out to the German Delegates that the Covenant of the League of Nations provides for "the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations". They recognize that the acceptance by Germany of the terms laid down for her own disarmament will facilitate and hasten the accomplishment of a general reduction of armaments; and they intend to open negotiations immediately with a view to the eventual adoption of a scheme of such general reduction. It goes without saying that the realization of this programme will depend in large part on the satisfactory carrying out by Germany of her own engagements.'

§ II. BOUNDARIES OF GERMANY AND POLITICAL CLAUSES FOR EUROPE.¹

In their Letter of the 29th May 1919, the German Delegation declare that 'in territorial questions Germany takes up her position unreservedly on the ground of the Wilson programme [the pre-Armistice Agreement]'

The Allied and Associated Powers state, in their Letter of the 16th June 1919, that 'the German counter-proposals [in regard to Polish territorial settlements] entirely conflict with the agreed basis of peace. . . . They cannot, therefore, be accepted. . . .' The Powers are satisfied, however, for reasons which they give, that all 'their [own] territorial proposals are in accord both with the agreed basis of peace and are necessary to the future peace of Europe. They are, therefore, not prepared to modify [any of] them except as indicated'.

¹ In addition to the extracts from the German documents presented in the following pages, see also Part X, § 1, (A), p. 255 and § v (A), pp. 266-8, for Germany's views on the territorial settlement.

It is clear from these documents that both sides to the negotiation recognized the validity of the Agreement—‘the agreed basis of peace’—in the settlement of territorial questions, and that they professed to submit proposals in accordance with its terms and principles. The answer to the question as to whether or not the proposals of either side actually squared with the Agreement falls outside the scope of the present chapter; but it will help to prepare the way for the study of this question in later chapters of the present work if an attempt be made here and now to ascertain, from the documents now under review, the nature of the terms and principles of the Agreement which each party to the negotiation was prepared to apply in the territorial settlement.

I. *Belgium.*

A. *Germany's Position.*

German Letter (29th May 1919): ‘Preponderantly German circles (*Kreise*) must be ceded [by the draft Treaty] to Belgium, without sufficient guarantees that the plebiscite, which is only to take place afterward, will be independent.’

German Observations (29th May 1919):

‘The draft of the peace treaty demands of Germany the recognition of the complete sovereignty of Belgium over Neutral-Moresnet, as well as the cession of the district (*Kreis*) of Eupen and Malmedy. Neutral-Moresnet . . . is a district with 3,500 inhabitants, the majority of whom are German by origin and language. . . . Prussian Moresnet, too, which belongs to the district of Eupen, has a predominantly German population. Nevertheless, not even a plebiscite has been provided in these territories. . . . In respect of nationality, the district of Eupen is purely German. . . . The district of Malmedy has among its 37,000 inhabitants a population of about 9,500 souls speaking Walloonian as their mother tongue. The Walloonians therefore are considerably in the minority.

‘The German Government cannot, on principle, consent to the cession of indisputably German territories; and a vote cannot be applied to such territories. But apart from this the demand of a cession of the districts of Eupen and Malmedy to Belgium contravenes the principle according to which the settlement of all questions regarding sovereignty is to be

brought about, on the basis of free acceptance on the part of the population immediately concerned.

‘A plebiscite has not even been provided for . . . There exists . . . not the least guarantee for an uninfluenced procedure in the voting.

‘The Allied and Associated Governments have expressed a desire that the great forest wealth of the Eupen district, comprising a part of the Herzogenforest, shall serve as a substitute for the Belgian forests destroyed by the war. The German Government declares itself ready, by contracting for the supply of wood, to comply with these aspirations, which, in accordance with President Wilson’s points are not unjustifiable so far as it is a question of reparation.

‘But this desire of the Allied and Associated Governments cannot form the occasion for a cession of Eupen and Malmedy. The German Government must point out the inadmissibility of bartering human beings from one sovereignty to another, merely for the sake of wood and zinc ore.’

B. *The Powers’ Position.*

Reply of Allied and Associated Powers (16th June 1919): ‘The territories of Eupen and Malmedy were separated from the neighbouring Belgian lands of Limburg, Liège, and Luxemburg in 1814–15, when they were assigned to Prussia. . . . No account was taken of the desires of the people, nor of geographical or linguistic frontiers. Nevertheless, this region has continued in close economic and social relations with the adjacent portions of Belgium. . . . At the same time the territory has been made a basis for German militarism. . . . [These] reasons seem sufficient to justify the union of the territory to Belgium, provided the petitions to this effect are sufficiently supported by the population of the district. The Treaty makes provision for consulting the population under the auspices of the League of Nations.

‘With regard to the neutralized territory of Moresnet the sovereignty of which has been in dispute since 1815, the Prussians make a claim for which there appears to be no justification of any kind. The Treaty settles this dispute in favour of Belgium, and at the same time awards to Belgium, in partial compensation for the destruction of Belgian forests, the adjacent domanial and communal woods in Prussian Moresnet.’¹

¹ v. also pp. 190–1.

II. *Luxemburg*.¹

A. *Germany's Position*.

German Observations (29th May 1919):

'It seems necessary for Germany to come to an agreement with Luxemburg regarding a new adjustment of their mutual relations. Consent cannot be given to the economic proposals as by them Luxemburg would continue to benefit by all the advantages ensuing from membership in the German Customs Union, from which she simultaneously separates herself. The principle of reciprocity must be maintained.'

B. *The Powers' Position*.

Reply of the Allied and Associated Powers (16th June 1919): '[The] clauses of the Treaty are justified by two uncontrovertible facts; the violation of the neutrality of the Grand Duchy by Germany during the war, and the denunciation of the Customs Union on which Luxemburg herself has decided and which she has communicated to the Allied and Associated Powers since the Armistice.'

III. *Saar Basin*.²

A. *Germany's Position*.

German Letter (29th May 1919): 'The purely German district of the Saar must be detached from our empire [by the draft Treaty], and the way must be paved for its subsequent annexation to France, although we owe her debts in coal only, not in men. . . . Germany is prepared to insure the supply of coal for the economic needs of France, especially from the Saar region, until such time as the French mines are once more in working order.'

German Observations (29th May 1919):

'In its notes of the 13th and 16th of May, the German Government manifested its readiness to agree to a solution which, on the one hand, would offer France compensation for her destroyed coal-mines with all justified guarantees, and, on the other, would enable Germany to give her consent to a settlement which accorded with the fundamental principles of peace as expressed in the preliminaries of the peace treaty.'

¹ v. also pp. 184-9.

² v. also pp. 176-84.

The German Government once more accurately defines its attitude in the Saar question, in the following terms : . . .

‘ By transferring the ownership of these mines, France would thus obtain a hundredfold that which she herself has described as the maximum of her justified demands. In order to accomplish this, the draft of the peace treaty formulates a demand which tears from the German Empire a purely German territory, gives France economic control over it, and attempts also to annex it politically to France.

‘ There is no industrial district in Germany whose population is as homogeneous, as purely German, and as little “ complex ” as that of the Saar district. . . . Even to-day the sentiments of the people are as German as they were 100 years ago. . . . Such a population is, on account of its connexion with coal-mines, to be placed under a special form of government provided by the League of Nations, without enjoying any rights under the “ Commission of Five ”, which shall be appointed by the League of Nations. . . . All this, together with undefined prescriptions about customs conditions, coinage, administration, railway traffic, and many other arrangements, offers every possibility to sever completely the connexion between the Saar district and the remainder of the Empire. The steps taken during the Armistice have shown what the population of this Saar district will have to endure in the future. From the days of their appearance the authorities of the French Occupation Forces have taken recourse to every possible means in order to prepare the people for annexation to France. . . .

‘ And all this is demanded “ en compensation de la destruction des mines de charbon dans le nord de la France et à valoir sur le montant de la réparation des dommages de la guerre dus par l’Allemagne ”. Do the Allied and Associated Governments think that the German Government can consent to such a proposal?—The question of reparation for the mines of northern France can be settled only on an economic basis and on no other.

‘ The attempt to tear away a nationally undisputed territory from the Fatherland, merely for the sake of material interests, and to place it for the present under the League of Nations, must degrade the idea of the League of Nations.

‘ The object of the provisions about the Saar district is, according to the note of May 24, an exemplary reparation.

The German Government declines to make any reparation as a form of punishment. And it must decline still more emphatically to shift to certain parts of the population punishment in the form of national sufferings which is intended for the whole community.

‘By this annexation of the Saar district to France the same injustice would be committed for which reparation was demanded from Germany in the case of Alsace-Lorraine. The population of a district was separated from the mother country in spite of the solemn protest of its representatives. He who recommends such a solution to France and Germany introduces new germs for conflict into the relations between the German and the French people. . . .’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): ‘The . . . observations contained in the German communication seem to show a complete misapprehension of the spirit and purpose of this section of the Treaty.

‘The purpose and decision of the Allies have twice been stated, first in the text of the Treaty itself, in which (Articles 45 and 46) Germany is to accept the provisions in question “as compensation for the destruction of the coal-mines in the North of France and as part payment towards the total reparation due from Germany for the damage resulting from the war, and . . . in order to assure the rights and welfare of the population”; and secondly, in the note of May 24, “the Allied and Associated Governments have chosen this particular form of reparation because it was felt that the destruction of the mines in the North of France was an act of such a nature that a definite and exemplary retribution should be exacted; this object would not be obtained by the mere supply of a specified or unspecified amount of coal. This scheme, therefore, in its general provisions, must be maintained, and on this the Allied and Associated Powers are not prepared to agree to any alternative”.

‘The German Delegation, on the other hand, declares that “the German Government refuses to carry out any reparation which will have the character of a punishment”. The German idea of justice appears then to be one which excludes a conception which is essential to any just settlement and a necessary basis for subsequent reconciliation.

‘ It has been the desire of the Allied and Associated Powers in determining upon the form of reparation to be imposed to choose one which, by its exceptional nature, will be for a limited period a definite and visible symbol. At the same time, they intended, by assuring themselves of the immediate possession of a security for reparation, to escape the risks to which the German memoir itself has drawn attention.

‘ On the other hand, they have exercised the greatest care in order to avoid inflicting on the inhabitants of the district itself any material or moral injury. In every point their interests have been most scrupulously guarded, and in fact their condition will be improved . . .

‘ The German Note constantly overlooks the fact that the whole arrangement is temporary, and that at the end of fifteen years the inhabitants will have a full and free right to choose the sovereignty under which they are to live.’

IV. *Alsace-Lorraine*.¹

A. *Germany's Position*.

German Letter (29th May 1919): Germany ‘ renounces her sovereign rights in Alsace-Lorraine, but wishes a free plebiscite to be taken there’.

German Observations (29th May 1919):

‘ For the most part, Alsace-Lorraine is old German territory, having become more than a thousand years ago a part of the old German Empire . . . the racial and political characteristics of the inhabitants have been so little influenced that even to-day four-fifths of the country's population is still German in its language and customs.

‘ When Germany in 1871, on the occasion of the re-annexation of these territories, abstained from inquiring into the wishes of the population, she believed she was justified in doing so by the previous procedure of France and by the racial kinship of the population. Notwithstanding, it must be admitted that, according to the present general conceptions of right, an injustice was committed in 1871 by the failure to hold a plebiscite.

‘ The German Government has therefore pledged itself to make reparation for this injury according to the points of the programme universally recognized. But reparation would not

¹ v. also pp. 159-76.

be made, it would only be replaced by a new and greater injustice, if Alsace-Lorraine were now to be ceded forthwith to France. It would be tearing this territory away from a national unit to which by right of language and characteristics it belongs with eighty-seven per cent. of its inhabitants. Another factor of the greatest consequence is its economic connexion with Germany. . . .

‘If, therefore, inquiry is not made now into the wishes of the people of Alsace-Lorraine, the purpose aimed at in the settlement of this question—“to make a peace in the interest of all”¹—will not be achieved. The danger would rather arise that, in the future, this question would be the cause of new hatred among the nations. . . .

‘There is no justification for the demand that the date of the cession be set back to the day of the conclusion of the armistice. Even the draft has not provided for a post-dating in the other cases where territorial cessions are to be effected with or without a plebiscite. . . .

‘Equally unjustifiable appears the French claim that the cession of Alsace-Lorraine should form an exception to the provision in international law, which is recognized also by the peace draft, according to which, in a change of territory, the annexing state should take over a part of the national debt of the ceding state and should pay for the national property in the ceded territory. . . .’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): ‘The clauses concerning Alsace-Lorraine are but the application of the eighth of the fourteen points which Germany, at the time of the Armistice, accepted as the basis of Peace: “the wrong done by Prussia to France in 1871, as regards Alsace and Lorraine, which has disturbed the peace of the world for nearly fifty years must be righted in order that peace may again be assured in the interest of all.”’

‘Fifty years ago, the injustice consisted in the annexation of a French country against the will of its inhabitants. . . .

‘To right a wrong is to replace things, so far as possible,

¹ These words are based on President Wilson’s Address of 8th January 1918 (Point Eight).

in the state in which they were before being disturbed by the wrong. All the clauses of the Treaty concerning Alsace and Lorraine have this object in view. . . .

'The Allied and Associated Powers could not therefore admit a plebiscite for these Provinces. Germany, having accepted the eighth Point and signed the Armistice which places Alsace and Lorraine in the position of evacuated territories, has no right to demand a plebiscite. . . .

'The legal objections derived from the "ante-dated cession" are also inadmissible. Germany recognized this when she signed the Armistice. Moreover, Alsace and Lorraine, by throwing themselves into the arms of France, as into those of a long-lost mother, themselves fixed the date of their deliverance. A Treaty founded on the right of self-determination of peoples cannot but take note of a people's will so solemnly proclaimed.

'In all its clauses, whether they concern nationality, debts, or State property, the Treaty has no other object than to restore persons and things to the legal position in which they were in 1871. The obligation of repairing the injustice then committed admits of no other alternative, and Germany herself has accepted this obligation in subscribing to the Fourteen Points.'

V. *German-Austria.*

A. *Germany's Position.*

German Observations (29th May 1919) :

'Article 80 demands the permanent recognition of the independence of Austria within the frontier established by the treaty of peace of the Allied and Associated Governments. Germany has never had, and never will have, any intention of shifting the Austro-German frontier by force. However, should the population of Austria . . . desire to restore the national connexion with Germany . . . Germany cannot pledge herself to oppose that desire of her German brothers in Austria, as the right of self-determination should apply universally and not only to the disadvantage of Germany.

'Any other proceeding would be contrary to the principles expressed by President Wilson in his address to Congress on February 11, 1918.'

B. The Powers' Position.

Reply of the Allied and Associated Powers (16th June 1919): 'The . . . Powers take note of the declaration in which Germany declares that she "has never had and will never have the intention of changing by violence the frontier between Germany and Austria".'

VI. *Poland and the Eastern Frontiers of Germany.*

(i) *Poland.*

A. *Germany's Position.*

German Observations (29th May 1919):

'Germany has agreed to the creation of an independent Polish State, "which should include the territories inhabited by indisputably Polish populations."'¹

'By the settlement of the territorial question in the East provided in Articles 27 and 28, fairly large parts of the Prussian provinces of East and West Prussia, Pomerania, Posen and Silesia, which are not inhabited by any indisputably Polish population, are joined to the Polish State. Without regard to the ethnographic situation, a great number of German towns and extensive and thoroughly German tracts of land are added to Poland, only in order to grant Poland favourable military frontiers against Germany, or railway centres of importance. Districts which were separated from Poland centuries ago, or in which she never ruled, are now indiscriminately adjudged to Poland. The acceptance of the proposed settlement would, therefore, be a violation of large territories which are indisputably German. Such a settlement would, moreover, contravene the principle of Wilson, according to which, in the settlement of national questions, it is inadmissible to create "new elements of discord and antagonism or to perpetuate old elements of this kind, which probably would in the course of time disturb the peace of Europe and consequently the peace of the world".'²

German Letter (29th May 1919): 'With a view to the re-establishment of the Polish state we must renounce [by the terms of the draft Treaty] indisputably German territory—

¹ President Wilson's Address of 8th January 1918 (Point Thirteen).

² This passage is based on the fourth of the 'Four Principles' of President Wilson's Address of 11th February 1918. The two texts are not quite the same.

nearly the whole of the Province of West Prussia, which is preponderantly German ; of Pomerania ; Danzig, which is German to the core ; we must let that ancient Hanse town be transformed into a free State under Polish suzerainty. We must agree that East Prussia shall be amputated from the body of the State, condemned to a lingering death, and robbed of its northern portion, including Memel, which is purely German. We must renounce Upper Silesia for the benefit of Poland and Czechoslovakia, although it has been in close political connexion with Germany for more than 750 years, is instinct with German life, and forms the very foundation of industrial life throughout East Germany. . . .

‘ [Germany, taking up her position unreservedly on the Wilson programme, is willing to give up] the greater part of the province of Posen, the district incontestably Polish in population, together with the capital. She is prepared to grant to Poland, under international guarantees, free and secure access to the sea by ceding free ports at Danzig, Königsberg, and Memel, by an agreement regulating the navigation of the Vistula and by special railway conventions.’

B. *The Powers' Position.*¹

Reply of the Allied and Associated Powers (16th June 1919) : ‘ In dealing with the problem of the Eastern frontiers of Germany, it is desirable to place on record two cardinal principles.

‘ First, there is imposed upon the Allies a special obligation to use the victory which they have won in order to re-establish the Polish nation in the independence of which it was unjustly deprived more than one hundred years ago. . . . The seizure of the Western provinces of Poland was one of the essential steps by which the military power of Prussia was built up. . . . To undo this wrong is the first duty of the Allies, as has been proclaimed by them throughout the war. . . . The restoration has already been spontaneously agreed to by the Russian Government ; its attainment is ensured by the collapse of the Central Powers.

‘ The second principle, which has been proclaimed by the Allies and formally accepted by Germany, is that there shall be included in the restored Poland those districts which are now inhabited by an indisputably Polish population.

‘These are the principles which have guided the Allies in determining the Eastern frontiers of Germany, and the Conditions of Peace have been drawn up in strict accordance with them.’

(ii) *Posen and West Prussia.*¹

A. *Germany's Position.*

German Observations (29th May 1919):

‘It is equally true² that the province of Posen as a whole cannot be regarded as a district inhabited by an indisputably Polish population. Large parts of this province have been inhabited for many centuries by a predominantly German population; outside these districts there are enclaves of the same character. So far as the province of Posen, however, is of an indisputably Polish character, the German Empire will meet its liabilities resulting from the acceptance of Wilson's principles, and will consent to a cession of these districts. The proposals of the enemy concerning the boundary lines are not based on the principle of nationality, as may be pointed out at any time, but on that of the strategic preparation of an attack against German territories. These considerations, however, cannot possess any importance if the relations between Germany and Poland in the future are to be subject to the regulations of the League of Nations.

‘Almost the whole of the province of West Prussia—with the exception of a few districts (*Kreise*) in the East and the West—is to be annexed to Poland. Even a part of Pomerania is, without the least ethnographic justification, to be torn from Germany. West Prussia is an old German territory; . . . the German population in the parts of West Prussia directly or indirectly intended for Poland is more than equal in number to the Poles and the Cassubians . . . ; as regards economic, social, and cultural importance the German population is far superior to the Polish and Cassubian population.

‘The cession of the greater part of West Prussia would completely sever East Prussia from the German Empire. This would not be in harmony either with Wilson's programme or with the necessities of life of the purely German population

¹ *v.* in general pp. 207–15.

² See (iii), Upper Silesia, *infra*, for the passage to which reference is made.

of East Prussia, and of the rest of the German people. With the exception of the connecting bridge between Germany and East Prussia, which absolutely must be preserved to Germany, she is, however, ready to cede to Poland those West Prussian districts whose population is undoubtedly Polish.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): 'In the western portions of the former kingdom of Poland which are now included in the Prussian provinces of Posen and West Prussia, the application of the second principle only to a very small degree modifies that of the first.¹ When the partition took place these portions of Poland were predominantly inhabited by Poles; except in some towns and districts to which German colonists had made their way, the country was completely Polish in speech and sentiment. Had the Allied and Associated Powers applied the strict law of historic retribution, they would have been justified in restoring to Poland these two provinces almost in their entirety. They have in fact not done so; they have deliberately waived the claim of historic right because they wished to avoid even the appearance of injustice, and they have left to Germany those districts on the West in which there is an undisputed German predominance in immediate contiguity to German territory.

'Apart from these districts it is true that there are certain areas, often far removed from the German frontier, such as Bromberg, in which there is a majority of Germans. It would be impossible to draw a frontier in such a way that these areas should be left to Germany while the surrounding purely Polish areas were included in Poland. There must be some sacrifice on one side or the other. . . . Moreover, it is necessary to recall the methods by which German preponderance in certain districts has been established. . . . The Prussian Government . . . has used all its immense resources to dispossess the original population and substitute for it one of German speech and German nationality. . . . To recognize that such action should give a permanent title to the country would be to give an encouragement and premium to the grossest acts of injustice and oppression.

¹ For these two principles, see (i) Poland, B, *supra*.

‘ In order to eliminate any possible injustice the Allied and Associated Powers have caused the Western frontiers of Poland to be carefully reconsidered; as a result of this they have made certain modifications in detail with the object of bringing the frontier into closer harmony with the ethnographical division. . . . ’

(iii) *Upper Silesia*.¹

A. *Germany's Position.*

German Observations (29th May 1919):

‘ This [conflict of the provisions of the draft Treaty in respect to Poland with President Wilson's principles]² particularly applies to Upper Silesia. The proposed separation of the greater part of this district from Germany constitutes a quite unjustifiable inroad into the geographical and economic structure of the German Empire.

‘ Since 1163 Upper Silesia has had no political connexion with the Polish Empire. There are no national Polish traditions or memories in Upper Silesia. . . . Poland cannot assert any claims for the cession of Upper Silesia, especially not such as are based on the principles of President Wilson. The districts of Upper Silesia demanded for Poland are not inhabited by an indisputably Polish population. The will of the population has been clearly expressed in the elections to the Reichstag in 1903 and 1907. . . . Furthermore, after the collapse of the German power, signs of the predominantly German character of Upper Silesia were not missing. . . . The Polish language (High Polish) is not the language of the Upper Silesian, who speaks a Polish dialect (*Wasserpölnisch*). This dialect . . . is not a sign of nationality, especially not a contradiction to the consciousness of German nationality. . . . Upper Silesia owes all her intellectual and material development to German activity. . . . Germany cannot dispense with Upper Silesia, whilst Poland is not in need of it. . . . ’

‘ The cession of Upper Silesia to Poland is not in the interest of the Upper Silesian population. Living conditions in Upper Silesia, especially in the field of health and social precautions, are incomparably better than those in the adjoining Poland,

¹ v. in general pp. 207-15; and pp. 8-9 for concessions made.

² See (i) Poland, A, *supra*.

where legislation for the protection of the working people is only just being agitated. The cession of Upper Silesia to Poland is also not in the interest of the remaining States of Europe and of the world, for it is certain to create new elements of discord and antagonism. . . . This will greatly endanger the peace of Europe and of the world. It is in the interest of the Allied and Associated Powers themselves to leave Upper Silesia with Germany, for Germany can meet her liabilities resulting from the world war only in conjunction with Upper Silesia, and never without her. For this reason alone Germany cannot consent to a cession of Upper Silesia.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): 'It is recognized that the problem here differs from that in Posen and West Prussia for the reason that Upper Silesia was not a part of the Polish territories when dismembered by the Partition. It may be said that Poland has no *legal* claim to the cession of Upper Silesia; it is emphatically not true that she has no claim which could be supported on the principles of President Wilson. In the district to be ceded, the majority of the population is indisputably Polish. . . . The Allied and Associated Powers would have been acting in complete violation of the principles which the German Government itself professes to accept had they left unregarded the Polish claims to this district.

'However, the German Government now contest these conclusions. They insist that separation from Germany is not in accordance with the wishes or the interests of the population. . . . They [the Allied and Associated Powers] have therefore decided that this territory shall not be immediately ceded to Poland, but that arrangements shall be made to hold a plebiscite there. . . . The restoration of the Polish State is a great historical act which cannot be achieved without breaking many ties. . . . But it has been the special concern of the . . . Powers to provide for the adequate protection of those Germans who will find themselves transferred to Poland, as well as of all other religious, racial, or linguistic minorities. . . .'

(iv) *East Prussia*¹A. *Germany's Position.*

German observations (29th May 1919):

'East Prussia, with a German population of about one and one-half million, is to be severed from the territory of the German Empire and, so far as economic control is concerned, is to be completely turned over to Poland. It is bound to be reduced to poverty and eventually fall to Poland. Germany can never allow this to take place.

'In the southern parts of East Prussia, the presence of a population with a mother tongue other than German is made use of to demand a plebiscite in those districts (Articles 94 and 95). These districts, however, are not inhabited by an indisputably Polish population. The circumstance that, in isolated regions, a non-German language has survived, is in itself of no moment, for, even in the oldest homogeneous States, this condition may be observed; the Bretons, Welsh, and Basques may be mentioned in this connexion. . . . The inhabitants of these regions are foreign to the peoples living outside the German frontier because their history has been a different one for centuries, their culture has taken another direction, and their creed is a different one. . . .

'The same applies [to certain districts] in West Prussia . . . The presence of such small minorities is, according to the programme of President Wilson, no reason for any doubt as to the national character of a territory; otherwise the programme would lead to the dissolution of every political system.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919):

'The German Government declares that it cannot accept a solution by which East Prussia shall be separated from the rest of Germany. It must, therefore, be recalled that East Prussia was in fact so separated for many hundreds of years, and that at no date until 1866 was it actually included in the political frontiers of Germany; [it is] . . . not an original German land, but a German colony . . . which has been

¹ v. in general pp. 207-15.

conquered and wrested from its original inhabitants by the German sword . . . Moreover, the interests which the Germans in East Prussia, who number less than two millions, have in establishing a land connexion with Germany, is much less vital than the interest of the whole Polish nation in securing direct access to the sea. . . .

‘It is difficult to understand the objections raised by the Germans to the plebiscite which is to be held in certain portions of East Prussia. . . . Where the affinities of the population are undoubted, there is no necessity for a plebiscite; where they are in doubt, there a plebiscite is enjoined. It is noted with surprise that the Germans at the very moment when they profess assent to the principle of self-determination, refuse to accept the most obvious means of applying it.’

(v) *Memel.*

A. *Germany's Position.*

German Observations (29th May 1919):

‘Article 99 demands the separation of a strip of land in the north of the province of East Prussia, comprising the districts (*Kreise*) of Memel and Heydekrug as well as parts of the districts (*Kreise*) of Tilsit and Ragnit. The inhabitants of this territory, including those speaking Lithuanian as their mother tongue, have never desired separation from Germany; they have always proved to be a faithful component part of the German community. . . . The whole territory is predominantly German, also, as regards the number of inhabitants; there are about 68,000 Germans against only about 54,000 inhabitants speaking Lithuanian. Memel particularly is a purely German town. . . .

‘The cession of this territory, therefore, must be declined by the German Government.’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919):

‘The Allied and Associated Powers reject the suggestion that the cession of the district of Memel conflicts with the principle of nationality. The district in question has always been Lithuanian; the majority of the population is Lithuanian in origin and in speech; and the fact that the city of Memel itself is in large part German is no justification for maintaining

the district under German sovereignty, particularly in view of the fact that the port of Memel is the only sea outlet for Lithuania.'

(vi) *Danzig*.¹

A. *Germany's Position.*

German Observations (29th May 1919):

'The cession of the purely German Hanseatic town of Danzig and of its surroundings which are likewise purely German, as demanded in Articles 100 to 108, is in direct opposition to all assurances given in the declarations of President Wilson. . . . Even the Poles do not seriously deny that Danzig has always been German in character. The attempt to make Danzig a free city, and to surrender its means of communication and the representation of its rights abroad to the Polish State, would lead to violent opposition and to a continuous state of war in the East. And withal, economic measures have been taken to make all communication between Danzig and Germany extremely difficult—evidently with the purpose of making this purely German territory Polish in the course of time by means of economic pressure. The German Government, therefore, must reject the intended national oppression of Danzig, and must demand that Danzig and its environs remain within the German Empire.

'In accepting point 13 of President Wilson's address of January 8, 1918, Germany has agreed that the Polish State to be erected "should be assured a free and secure access to the sea". The German Government has done so in recognition of the address which President Wilson delivered to the Senate on January 22, 1917, when he said:

"So far as practicable, moreover, every great people now struggling toward a full development of its resources and of its powers should be assured a direct outlet to the great highways of the sea. Where this cannot be done by the cession of territory, it can no doubt be done by the neutralization of direct rights of way under the general guarantee which will assure peace itself. With a right comity of arrangement no nation need be shut away from free access to the open paths of the world's commerce."²

¹ *v.* pp. 214-15.

² It is to be observed that this address did not form part of the pre-Armistice Agreement.

‘ In accordance with the above principles and in order to fulfil the obligation accepted by the German Government, viz. to give Poland a free and secure access to the sea, the German Government is ready to make the ports of Memel, Königsberg, and Danzig free ports and to grant in these ports far-reaching rights to Poland. . . . The German Government, moreover, is ready to [conclude] a special agreement with the Polish State regarding the use of the railways between Poland and other territories of the former Russian Empire on the one hand and the ports of Memel, Königsberg, and Danzig on the other.

‘ The above has been agreed to on the assumption that, on the Polish railways and the railways under Polish influence, Germany shall also be granted, in a like connexion, reciprocity. . . .

‘ Furthermore, the German Government would be prepared to place at the disposal of the Poles for free use and for free transit, giving far-reaching securities, all navigable waterways leading from Poland, Lithuania, and Livonia through East and West Prussia to the Baltic. Reciprocity on the part of the Poles is likewise assumed as a foregone conclusion.’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919):

‘ The German note declares that the German Government “ must reject the proposed rape of Danzig and must insist that Danzig and its environs be left to the German Empire ”. . . . The proposed settlement for Danzig . . . will preserve the character which Danzig held during many centuries and, indeed, until forcibly and contrary to the will of the inhabitants it was annexed to the Prussian State. The population of Danzig is and has for long been predominantly German ; just for this reason, it is not proposed to incorporate it in Poland. But Danzig, when a Hansa city, like many other Hansa cities, lay outside the political frontiers of Germany, and in union with Poland enjoyed a large measure of local independence and great commercial prosperity. It will now be replaced in a position similar to that which it held for so many centuries. . . . The annexation of West Prussia, including Danzig, to Germany, deprived Poland of that direct access to the sea which was hers by right. The Allied and Associated Powers propose that this direct access shall be restored. It is not enough that Poland

should be allowed the use of German ports ; the coast, short as it is, which is Polish must be restored to her. Poland claims, and justly claims, that the control and development of the port which is her sole opening to the sea shall be in her hands and that the communications between it and Poland shall not be subjected to any foreign control, so that in this, one of the most important aspects of national life, Poland shall be put on an equality with the other States of Europe.'

(vii) *Schleswig*.¹

A. *Germany's Position.*

German Observations (29th May 1919) :

Although the German Government has declared its readiness to meet the Danish wishes for a new frontier corresponding to the principle of nationality, using the peace negotiations as a roundabout means of establishing it, it cannot refrain from referring to the fact that the Schleswig question is not expressly mentioned in President Wilson's points. If Germany agrees to a plebiscite in Schleswig, she does this because she recognizes the right of self-determination of the peoples.

'The German Government is, nevertheless, not in a position to accept the formation of the voting districts, as well as the method, and the time of voting, as proposed in the draft of the peace treaty.

'She makes instead the following counter-proposals : . . .'

German Letter (29th May) :

'The preponderantly Danish districts of Schleswig will be given up to Denmark on the basis of a plebiscite.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919) :

'Schleswig was taken from Denmark by Prussia in 1864, but by the Treaty of Prague in 1866 Prussia undertook that the northern districts should be ceded to Denmark if by a free vote the population expressed a wish to be united to Denmark.' [This promise to hold a plebiscite has never been fulfilled. At the request of the Danish Government and the people of Schleswig this plebiscite will now be guaranteed by the present Treaty. On the basis of the plebiscite there will be a precise

¹ pp. 204-5 describe concessions ultimately made to Germany.

'delimitation of the frontier between Germany and Denmark, a delimitation in which "geographic and economic conditions will be taken into account"'].

(viii) *Heligoland.*

A. *Germany's Position.*

German Observations (29th May 1919):

'The dismantling is conceded. Any measures necessary, however, in the interest of the insular population, as well as of peaceful navigation and fishing, must be maintained for the protection of the coast and of the fishing port.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): 'A Commission will be appointed by the principal . . . Powers, after the signature of the Treaty, to supervise the destruction of the fortifications. [The fishing harbour will not be destroyed.]'

(ix) *Russia and the Russian States.*

A. *Germany's Position.*

German Observations (29th May 1919):

'The German Government does not claim any territory which belonged to the former Russian Empire on August 1, 1914. The German Government regards the question of the constitution, and particularly the question of the independence of the several provinces which were formerly part of the Russian Empire, as an internal affair of these territories, in which it does not intend to interfere.

'In Article 15 of the armistice agreement, the German Government renounced the peace treaties of Brest-Litovsk, as well as the supplementary agreements.

'The German Government cannot recognize any right on the part of Russia to demand restitution and reparation.

'The German Government is able to recognize the validity of treaties and agreements between the Allied and Associated Powers and the States which have been formed or may still be formed in the territories of the former Russian Empire, only if the contents of these agreements are known to her and if she is convinced that the recognition of these agreements will not be

rendered impossible, either by her former relations with Russia or with the individual parts of the former Russian Empire, or by her desire to live in peace and friendship with all her eastern neighbours. The same applies to the recognition of the boundaries of these States.'

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919): '... None of the reservations or the observations... necessitate any change in... the Treaty.'

§ III. GERMAN RIGHTS AND INTERESTS OUTSIDE GERMANY

A. *Germany's Position.*

(1) *Colonies.*¹

German Observations (29th May 1919):

'Article 119 of the draft demands that Germany shall renounce all her rights and titles over her oversea possessions. This regulation is in irreconcilable contradiction to point 5 of the Address to Congress of January 8, 1918, in which President Wilson promises a free, sincere, and absolutely impartial settlement of all colonial claims. The basis of every impartial settlement is that, before the decision, the parties should be heard and their claims examined. Article 119 at once rejects the German claims without even giving Germany a chance to put them forward.

'Germany's claim to her colonies is, first of all, based on the fact that she has acquired them lawfully and has developed them by means of incessant and fruitful toil and at the cost of many sacrifices. Her ownership of them has been acknowledged by all the Powers. Whenever conflicts have arisen with other Powers over particular sections of territory, they have been settled by means of agreements or arbitration.

'The possession of her colonies will be even more necessary for Germany in the future than in the past. . . .

'Moreover, Germany needs her colonies as a market for her industries. . . .

'Finally, Germany requires colonies in order to have territory where at least a part of her surplus population may settle. . . .

¹ For general treatment *v. Chap. V. passim.*

‘As a great civilized nation the German people have the right and the duty to co-operate in the joint task which devolves upon civilized mankind of exploring the world scientifically and of educating the backward races. In this direction she has achieved great things in her colonies. . . .

‘The interests of the coloured population in these regions are based likewise upon Germany’s right to remain in the possession of her colonies. The German administration has abolished the devastating and incessant predatory warfare between the tribes, the high-handedness of the chiefs and witch-doctors, the kidnapping of slaves and the slave-trade, and the accompanying insecurity of life and property. It has brought peace and order to the country, and has created the conditions necessary for the safety of intercourse and commerce. . . .

‘A well-organized system of education, including vocational and agricultural schools, provided intellectual and practical education for the natives. . . .

‘From all this it is apparent that Germany has looked after the interests of her natives. She has, in particular, from the outset strictly refrained from militarizing her natives in any way. . . . Germany has hitherto taken a most active part in all international regulation of important colonial questions, such as the abolition of the slave-trade, the suppression of the arms traffic, the liquor traffic, and the combating of sleeping-sickness. . . .

‘For the above reasons, the demand of the enemy contained in Articles 119 and 125, that Germany renounce her colonies, is considered unjustified.

‘Without in any way abandoning or modifying her refusal to renounce her colonies, the following remark is added—with a proviso that it may be supplemented—regarding the conditions under which the cession is demanded :

‘The demand that all movable and immovable State property in the colonies is to pass into the hands of the mandatory powers without compensation, is unfair and is an unwarranted exception to the principle that Germany shall be credited with the value of the State property in the territories ceded by her. . . .

‘German private property is to be at the arbitrary disposal of the mandatory States. . . . Moreover, the mandatory States may, according to their own pleasure, drive the Germans from house and home, even if they have been resident there for

years or have been born there, and may permanently debar Germans from taking up any activity in the country. Regardless of all principles of international and public laws, this regulation makes the German an outlaw as far as private right and personal liberty of movement are concerned.

‘The demand that Germany should compensate French subjects for losses suffered before the war, is in contradiction to the armistice agreement and is unfair in other respects as well. . . .

‘Accordingly, the German Government arrives at the following conclusions in regard to the German protectorates :

‘1. For the formal treatment of colonial questions, the following proposal is made :

‘In No. five of the fourteen points of President Wilson’s address to Congress of January 8, 1918, an absolutely impartial adjustment of all colonial demands is assured. An impartial adjustment implies the hearing of both parties before a decision is arrived at. Such a hearing has not taken place. In the light of that assurance, and particularly in the light of the principle that in the adjustment of colonial claims the interests of the Governments should carry equal weight with those of the population, the proposal is made that the colonial questions be handed over to a special committee.

‘2. The following proposal applies to the practical adjustment :

‘The demand contained in Articles 119 *et seq.* of the draft of peace, concerning Germany’s renunciation of her oversea possessions cannot, in the opinion of the German Peace Delegation, be brought into harmony with the stipulations of the armistice, which are based on point 5 of the message of January 8, 1918, to the Congress of the United States. The German Government, on the contrary, considers her claim to the restoration of her colonial possessions just. Germany is ready, however, to administer her colonies according to the principles of the League of Nations—possibly as the mandatory of the latter—if a League of Nations is formed which she can enter at once as a member State, enjoying equal privileges with the other members.¹

‘Germany is ready to renounce all her rights and privileges regarding Kiaochow and Shantung.

¹ German Letter (29th May 1919) : Germany ‘is ready to subject all her colonies to administration by the community of the League of Nations, if she is recognized as its mandatory’.

Germany is forced to stipulate, however, that the compensation for State and private property, dealt with in Article 156, Paragraph 2, and Article 157, shall take place according to the general principles contained in the draft of peace regarding such compensations.'

(2) *Non-Colonial Rights and Interests.*

German Observations (29th May 1919) :

'According to Article 118 of the draft of the treaty of peace Germany is to have no rights whatsoever outside her European frontiers. She shall pledge herself from the outset to conform to all measures by which the Allied and Associated Governments may dispose of these rights.

'This principle is irreconcilable with the preliminary agreements with respect to the conclusion of peace, as are also a great number of special provisions referring to the disposition of Germany's rights outside her frontiers.

'The realization of the proposals of the draft and its special provisions is impossible, if Germany is to continue to exist. The fulfilment of the financial obligations towards the Allied and Associated Governments would, moreover, be jeopardized.

'Germany needs maritime navigation . . . The tonnage which happened to be in any enemy harbour at the beginning of the war is to be taken away from her in a manner which is not justifiable in international law. The delivery of the entire overseas fleet, including the ships now under construction, is demanded ; furthermore, Germany is placed under obligations to build ships . . .

'Along with these demands for German property there is the refusal to recognize the judgments of German Prize Courts regarding enemy and neutral ships and cargoes, while German claims for indemnification arising from the capture, destruction, or use of German vessels, and of other property belonging to the shipowners in China and Siam, are repeatedly declared to be null and void, and not in accordance with the general provisions applicable hereto. Just as damages are refused for the vessels in China and Siam, in Italy, Portugal, Brazil, and so forth, so they are denied for those taken from Germany in breach of international law. Germany is to be deprived of all her oversea maritime capital and equipment. Every claim for damages done to German property in contradiction to law

during the war, and even during the period of the armistice (for instance in Italy), is at the outset declared null and void by Article 298 (Annex), whilst on the other hand (Section 9), of further prejudicial measures against German interests there is no prospect of an end. . . . Under these circumstances it is quite impossible to understand how the German mercantile fleet, when after many years it shall have been reconstructed, can encounter conditions on the world's highways which will make the principle of "perfect freedom of navigation" practical, so far as it is concerned.

'The German cables' are to be taken away under the title of reparation . . .

'Germany's foreign trade is to be excluded from every field of activity. All the privileges, advantages and concessions which Germany had in China are to be taken away; the German rights and privileges in Siam, Liberia, Morocco and Egypt are to be withdrawn and German private property in these countries is to be liquidated. According to Article 147, Germany shall be obliged, without consulting the Egyptian people, to recognize the protectorate proclaimed over Egypt by Great Britain, and thereby to violate Egypt's right of self-determination.

'The concessions, privileges and favours acquired in Russia since August 1, 1914 are to be annulled by Article 293. The Reparation Commission will have the power to take away all rights and interests of German nationals in all public utility undertakings, or in all concessions operating in Russia, China, Austria, Hungary, Bulgaria, and Turkey, or in the possessions and dependencies of these States or in any territory which formerly belonged to Germany or her allies (Article 260). The forfeiture of these rights would do Germany a far greater injury than will presumably be their estimated value in money. As a result Germany would be deprived, in flagrant violation of duly acquired rights, of valuable opportunities throughout Europe of procuring raw materials and of selling her products outside her frontiers. . . .

'The German Delegation, after an absolutely impersonal examination of the above facts, cannot see how these intentions are reconcilable with the principles of an impartial justice which knows no favours or preferences. On the contrary, to the subjects of the Allied and Associated Powers alone all those

liberties are legally secured, which would, as a matter of fact, result from a free and fair competition, but from which the German merchant will be excluded by the erection of insurmountable barriers.

‘The very things which should have been avoided, “selfish economic combinations and economic boycott or exclusion”¹ are, so far as the Germans are concerned, declared legitimate in any form and in a measure the like of which is not to be found in history.

‘None of these measures which are taken against German rights and interests abroad can be justified from the standpoint of reparation. They offer, it is true, great advantages to the rival merchant who will compete with the German merchant abroad, but they do nothing towards repairing the damages which Germany has bound herself to make good. They can only be understood on the assumption that the Allied and Associated Powers intend to stamp out German commercial competition. Owing to the behaviour of the Allied and Associated Powers during the period of the armistice and the peace negotiations, this interpretation gains more and more credence among the German people. The German Government hesitates to accept this view, for that would be to admit that the Allied and Associated Powers did not go to war for the high aims which they proclaimed, but rather to do away with a commercial rival, and that, furthermore, having disarmed the enemy by a ruse, they now care nothing about disclosing their true intentions, even to the eyes of posterity.

‘The German Delegation must lay great stress upon the necessity of abandoning such a one-sided prejudice against Germany’s foreign commerce and of granting her full and reciprocal freedom of action within the limits of the demands made by the Allied and Associated Powers for their own trade. . . .’

B. *The Powers’ Position.*

(1) *Colonies.*

Reply of the Allied and Associated Powers (16th June 1919):

‘In requiring Germany to renounce all her rights and claims to her overseas possessions, the Allied and Associated

¹ See Part XII, § IV, (4), *infra*.

Powers placed before every other consideration the interests of the native populations advocated by President Wilson in the fifth point of his Fourteen Points mentioned in his Address of the 8th January, 1918. Reference to the evidence from German sources previous to the war of an official as well as of a private character, and to the formal charges made in the Reichstag, especially by MM. Erzberger and Noske, will suffice to throw full light upon the German colonial administration, upon the cruel methods of repression, the arbitrary requisition, and the various forms of forced labour which resulted in the depopulation of vast expanses of territory in German East Africa and the Cameroons, not to mention the tragic fate of the Hereros in South-West Africa, which is well known to all. . . .

‘Germany’s dereliction in the sphere of colonial civilization has been revealed too completely to admit of the Allied and Associated Powers consenting to make a second experiment and of their assuming the responsibility of again abandoning thirteen or fourteen millions of natives to a fate from which the war has delivered them.

‘Moreover, the Allied and Associated Powers felt themselves compelled to safeguard their own security and the Peace of the world against a military imperialism which sought to establish bases whence it could pursue a policy of interference and intimidation against the other Powers.

‘The Allied and Associated Powers considered that the loss of her Colonies would not hinder Germany’s normal economic development. . . .

‘The Allied and Associated Powers have drawn up, in the matter of the cession of the German Colonies, the following methods of procedure, which are in conformity with the rules of International Law and Equity : . . .

‘The Allied and Associated Powers considered that it would be necessary in the interest of the natives, as well as in that of general peace, to restrict the influence which Germany might seek to exert over her former Colonies and over the territories of the Allied and Associated Powers. . . .

‘The Allied and Associated Powers consider that all the possessions and property of the German State in the territory of Kiaochow must be treated on the same footing as State property in all the other German overseas possessions, and be transferred without compensation. In this connexion they

recall the fact that Kiaochow, which was unjustly torn from China, has been used by Germany as a military base in pursuance of a policy which in its various manifestations has constituted a perpetual menace to the peace of the Far East. . . .'

(2) *Non-Colonial Rights and Interests.*¹

§ IV. MILITARY, NAVAL, AND AERIAL CLAUSES

The fundamental principle of the Agreement in regard to armament is embodied in President Wilson's Address of the 8th January 1918 (Fourth Point): 'Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety.'

Both parties to the negotiation recognized the obligatory character of this principle, as the following documents indicate.

A. *Germany's Position.*

German Letter (29th May 1919):

'Germany offers to proceed with her own disarmament in advance of all other peoples, in order to show that she will help to usher in the new era of the peace of justice. . . .'²

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919):

'The Allied and Associated Powers have already pointed out to the German Delegates that the Covenant of the League of Nations provides for "the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations". They recognize that the acceptance by Germany of the terms laid down for her own disarmament will facilitate and hasten the accomplishment of a general reduction of armaments; and they intend to open negotiations immediately with a view to the eventual adoption of a scheme of

¹ For the position of the Powers the reader is referred to their Reply and Letter of 16th June 1919.

² See the German Observations of 29th May 1919, for a full statement of the German position.

such general reduction. It goes without saying that the realization of this programme will depend in large part on the satisfactory carrying out by Germany of her own engagements. . . . The Allied and Associated Powers wish to make it clear that their requirements in regard to German armaments were not made solely with the object of rendering it impossible for Germany to resume her policy of military aggression. They are also the first steps towards that general reduction and limitation of armaments which they seek to bring about as one of the most fruitful preventives of war, and which it will be one of the first duties of the League of Nations to promote.

‘They must point out, however, that the colossal growth in armaments of the last few decades was forced upon the nations of Europe by Germany. . . . It is therefore right, as it is necessary, that the process of limitation of armaments should begin with the nation which has been responsible for their expansion. . . .’

‘Germany must consent unconditionally to disarm in advance of the Allied and Associated Powers; she must agree to immediate abolition of universal military service; a definite organization and scale of armament must be enforced. It is essential that she should be subjected to special control as regards the reduction of her armies and armaments, the dismantling of her fortifications, and the reduction, conversion, or destruction of her military establishments.

‘Whilst the Allied and Associated Powers regard the strict maintenance of these principles as a sacred duty and refuse in any way to depart from them, they are nevertheless willing in the interests of general peace and the welfare of the German people to admit the following modifications of the Military Clauses, Articles 159–180 of the Treaty: . . .

‘The conditions and proposals of the German Delegates relative to the Naval Clauses cannot be entertained. All these Articles have been carefully framed and must be accepted unconditionally. They are based on the desire for a general limitation of the armaments of all nations and at the same time leave to Germany the requisite naval force for self-protection and police duties. . . .’

§ V. PENALTIES

A. *Germany's Position.*

German Observations (29th May 1919) :

' In Article 227 the Allied and Associated Powers publicly arraign the former German Emperor for a supreme offence against international morality and the sanctity of treaties. A special tribunal, to be constituted solely by the principal Powers and " guided by the highest motives of international policy ", shall pass judgment without being bound by any limit in the matter of the punishment to be imposed. For the execution of these proceedings, the Government of the Netherlands is to be requested to surrender the accused. . . .

' The intended criminal prosecution is not founded upon any legal basis. The international law in force provides punishment as a sanction for commandments and prohibitions ; no law of any of the interested powers threatens with punishment the violation of the international law of morality or the breach of treaties. Therefore, according to the law in force, there exists no criminal tribunal competent to decide the impeachment in question. The draft, therefore, had to create a criminal law with retroactive powers, as exceptional law, to form the basis of judgment.

' The German Government cannot allow a German to be placed before a foreign special tribunal, to be convicted on the basis of an exceptional law promulgated by foreign powers solely against him, on the principles not of right, but of politics, and to be punished for an action which was not punishable at the time it was committed. . . .

' According to Article 228 Germany is, furthermore, to hand over to her opponents, for conviction by a military tribunal, any persons accused of having committed acts in violation of the laws and customs of war, even in cases where proceedings have already been instituted against these persons by German courts. Under the present law Germany cannot take upon herself such obligations, because Section 9 of the German Criminal Code forbids the extradition of German subjects to foreign governments. . . .

' In the opinion of the German Delegation, one of the noblest objects of the conclusion of peace is to appease passions

which mutual reproach for the violation of international law has aroused, by satisfying the offended sense of justice in all cases where an injustice has actually been committed. This end cannot be attained if, as the draft requires, the demand for the atonement of a wrong committed is, for political purposes, accompanied by the branding and proscription of the opponent, or, if, by giving the rôle of judge to the victor, might is put in the place of right. If a violation of the law is to be atoned for, the proceedings themselves must be legal. Under the law of nations in force at present, only the state, as bearer of the international obligation, is responsible for acts in violation of the laws and customs of war. If satisfaction is to be given by the punishment of guilty individuals, the injured state itself may not convict; it can only demand the punishment of the state responsible for the guilty person. Germany has never refused, and once more declares her readiness to see to it that violations of international law are punished with the full severity of the law, and that all accusations, from whichever party they come, are examined impartially. Moreover, she is prepared to leave the decision of the preliminary question, as to whether an action committed in the war is to be considered an offence against the laws and customs of war, to an international tribunal composed of neutrals. In this connexion it is presupposed:

‘1. That violations of the laws and customs of war committed by subjects of all parties to the present treaty shall be brought before the international tribunal.

‘2. That Germany shall have the same share in the constitution of the international tribunal as the Allied and Associated Powers.

‘3. That the competence of the international tribunal shall be restricted to questions of international law, and that the meting out of punishment shall be left to the national courts.’

In that portion of the Observations which deals especially with questions of criminal law the German Delegation express themselves as follows:

‘The German Delegation, in its observations upon the provisions of the draft relating to penalties (Part VII), have expressed the opinion that the infringements of international law committed by individuals in the course of the war must be expiated. In addition to this principle, on the other hand,

another principle must be accepted, namely, that other wrongs committed by the nationals of both parties, the necessity for which resulted from the circumstances of war, should, so far as the general feeling for justice allows it, be consigned to oblivion upon the conclusion of peace. This applies to the relation of a belligerent Power not only to its own nationals, but also to the nationals of the other party. An amnesty of that character has been agreed upon in many previous treaties, of peace and will also contribute towards a reconciliation of the peoples. Since the draft of the peace conditions provides for no amnesty, the German Delegation make the following proposals :

‘ Apart from the liberation of the prisoners of war and interned civilians guilty of a criminal act, which is dealt with elsewhere, it seems appropriate that each Power should grant the nationals of the other party immunity for all criminal acts committed by them in the course of the war to the benefit of their own country, or for contravention of the special laws enacted to the detriment of enemy aliens ; such acts as infringe the laws and customs of war must be excepted.

‘ Further, certain acts which were committed before the conclusion of peace by the inhabitants of a territory occupied by the enemy should be included in the amnesty. The unusual circumstances prevailing during a military or conventional occupation will often give cause for a political or military behaviour which generally loses its significance with the return of the former authorities, and may then remain unpunished without injury to the sense of justice. . . .’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919) :

‘ The Allied and Associated Powers have given consideration to the observations of the German Delegation in regard to the trial of those chargeable with grave offences against international morality, the sanctity of treaties, and the most essential rules of justice. They must repeat what they have said in the letter covering this Memorandum, that they regard this war as a crime deliberately plotted against the life and liberties of the peoples of Europe. It is a war which has brought death and mutilation to millions and has left all Europe in terrible suffering. Starvation, unemployment, disease stalk across that

continent from end to end, and for decades its peoples will groan under the burdens and disorganization the war has caused. They therefore regard the punishment of those responsible for bringing these calamities on the human race as essential on the score of justice.

‘They think it not less necessary as a deterrent to others who, at some later date, may be tempted to follow their example. The present Treaty is intended to mark a departure from the traditions and practices of earlier settlements which have been singularly inadequate in preventing the renewal of war. The Allied and Associated Powers indeed consider that the trial and punishment of those proved most responsible for the crimes and inhuman acts committed in connexion with a war of aggression, is inseparable from the establishment of that reign of law among nations which it was the agreed object of the peace to set up.

‘As regards the German contention that a trial of the accused by tribunals appointed by the Allied and Associated Powers would be a one-sided and inequitable proceeding, the Allied and Associated Powers consider that it is impossible to entrust in any way the trial of those directly responsible for offences against humanity and international right to their accomplices in their crimes. Almost the whole world has banded itself together in order to bring to nought the German plan of conquest and dominion. The tribunals they will establish will therefore represent the deliberate judgment of the greater part of the civilized world. They cannot entertain the proposal to admit to the tribunal the representatives of countries which have taken no part in the war. The Allied and Associated Powers are prepared to stand by the verdict of history as to the impartiality and justice with which the accused will be tried.

‘Finally, they wish to make it clear that the public arraignment under Article 227 framed against the German ex-Emperor has not a juridical character as regards its substance but only in its form. The ex-Emperor is arraigned as a matter of high international policy, as the minimum of what is demanded for a supreme offence against international morality, the sanctity of treaties, and the essential rules of justice. The Allied and Associated Powers have desired that judicial forms, a judicial procedure, and a regularly constituted tribunal should be set

up in order to assure to the accused full rights and liberties in regard to his defence, and in order that the judgment should be of the most solemn judicial character.

‘The . . . Powers add that they are prepared to submit a final list of those who must be handed over to justice within one month of the coming into force of the Treaty.’

§ VI. REPARATION.¹

A. *Germany's Position.*

German Observations (29th May 1919) :

‘Legal basis of the German obligation for reparation.

‘According to the interpretation of the German Delegation, the general legal basis for the treaty of peace, as explained in the introductory remarks, contains a detailed stipulated agreement regarding Germany’s obligation for reparation of damages. The main features of this agreement were explained in the note of the German Delegation of May 24, 1919. According to this, President Wilson’s message of January 8, 1918, and the note of the Secretary of State, Mr. Lansing, of November 5, 1918, are decisive in fixing the extent of the German obligation for reparation of damages. President Wilson’s message demanded the “restoration of the occupied territories”. Thereupon the term “restoration of the occupied territories”, as regards Germany, has been defined in the note of the Secretary of State, Mr. Lansing, as meaning that Germany would have to make reparation for all damages which have been done to the civilian population of the Allies and their property by her aggression by land, by sea, and from the air.

‘According to the German interpretation it seemed, and still seems to-day, obvious that the obligation to make reparation, as thus defined could not apply to any other territories than those whose restoration has been demanded in President Wilson’s message, and which has always been declared by the leading statesmen of our opponents to be their aim in the war. An obligation for the reparation of these territories—but for these territories only—was acceptable to Germany inasmuch as she had brought the terrors of war upon a foreign country by a breach of international law, viz., the violation of Belgian neutrality. It is, therefore, solely the attack upon Belgium

¹ v. also pp. 60–91, Chap. I, pts. iii–iv.

for which the German Government accepted responsibility when signing the Armistice. The responsibility, consequently, applies only to Belgium. It will, however, be acknowledged likewise for the north of France, as the German armies reached the territory of Northern France by passing through Belgian territory, whose neutrality had been violated. An extension of the obligation of reparation to the occupied territories of Italy, Montenegro, Serbia, and Rumania must, however, be opposed, for the simple reason that in these countries there is no question of an attack by Germany contrary to international law. Italy and Rumania even took part in the fighting against us, notwithstanding their obligations to Germany as allies at the beginning of the war. Neither can any obligation for reparation as regards Poland be accepted, since Poland was on peaceful terms with Germany on November 5, 1918, nor was the reparation of Poland mentioned in the message of January 8, 1918.

‘ The obligation of Germany which was agreed upon amounts, therefore, to the following : that compensation should be made for all damages sustained by the civil population of the Allies in those territories in Belgium and France which were occupied by the German troops. Moreover, the obligation is not limited to the property destroyed ; it includes, on the contrary, every damage which the said civilian population has suffered in person or in property.

‘ The draft of the terms of peace presented by the Allied and Associated Powers exceeds the solemn declarations and agreements of 1918. Article 231 of the draft demands that Germany and her allies accept, in principle, full responsibility for all losses and damages which the Allied and Associated Governments and their respective subjects have suffered through the war. The Allied and Associated Governments demand further, according to Article 232, paragraph 2, that Germany should, in the first place, hold herself responsible for making compensation for all damages which have been inflicted, by her attacks on land, on water, and from the air, upon the civilian population of the Allied and Associated Powers and their property, and, in addition, in general for the reparation of the damages defined in Annex I to Article 232. This annex, however, deals only in the smallest degree with the damages inflicted upon the civilian population of the occupied territories.

‘Mention is made of :

‘1. Losses to civilian subjects of the Allied and Associated Powers, which were caused in other than the occupied territories ;

‘2. Losses to the Allied and Associated States themselves ;

‘3. Losses to military persons of these States ;

‘4. Damages which Allied, not German, attack has inflicted upon the Allied and Associated Powers, their military persons and their civilian population.

‘The demands thus stipulated by the Allied and Associated Governments lead to the belief that they wish to establish, in excess of the arrangements agreed upon, an obligation for reparation for every action committed in violation of international law during the war. As already declared in the note of May 24, the principle of responsibility for violations of international law has been recognized by Germany. It goes without saying, however, that, if the point of view agreed upon in the arrangement should be abandoned, Germany could no longer abide by the renunciation of her demands for reparation contained in this arrangement, but that she, on her part, would have to make considerable claims for compensation for damages. The only practical solution of the great difficulties which would result from such claims of breaches of international law on both sides would be—as already mentioned in the note of May 24—the establishment of an impartial international court of arbitration.

‘The German Government, however, believes that it should limit its counter-proposals to the sphere of obligations established by the arrangements made in the fall of 1918. Nevertheless, Germany declares her readiness to assume responsibility for those loans which the Belgian State has placed with its Allies up to November 11, 1918, for war purposes. This is not to be regarded as a renunciation of the legal position as it has been explained, but as a voluntary concession.’

German Letter (29th May 1919): ‘Although the exaction of the cost of the war has been expressly renounced, yet Germany, . . . cut to pieces and weakened, must declare herself ready in principle to bear all the war expenses of her enemies, which would exceed many times over the total amount of German state and private assets.

‘Meanwhile her enemies demand, in excess of the agreed

conditions, reparation for damage suffered by their civil population, and in this connexion Germany must also go bail for her allies. The sum to be paid is to be fixed by our enemies unilaterally, and to admit of subsequent modification and increase. No limit is fixed, save the capacity of the German people for payment, determined not by their standard of life, but solely by their capacity to meet the demands of their enemies by their labour. The German people would thus be condemned to perpetual slave labour. . . . Even in internal affairs we are to give up the right of self-determination. The International Reparation Commission receives dictatorial powers over the whole life of our people in economic and cultural matters. . . .’

B. *The Powers’ Position.*

Reply of the Allied and Associated Powers (16th June 1919):

‘The Allied and Associated Powers, consistently with their policy already expressed, decline to enter into a discussion of the principles underlying the Reparation Clauses of the Conditions of Peace, which have been prepared with scrupulous regard for the correspondence leading up to the Armistice of November 11th, 1918, the final memorandum of which, dated November 5th, 1918, contains the following words :

“Further, in the conditions of Peace laid down in his address to Congress of the 8th January, 1918, the President declared that the invaded territories must be restored as well as evacuated and freed, and the Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air.”

‘To the extent that the German reply deals with practical phases of the execution of the principles enunciated in the Conditions of Peace, it appears to proceed on the basis of a complete misapprehension, which is the more difficult to understand as the inferences drawn and the statements made are wholly at variance with both the letter and the spirit of the Treaty Clauses. . . .’

‘The vast extent and manifold character of the damage

caused to the Allied and Associated Powers in consequence of the war has created a reparation problem of extraordinary magnitude and complexity, only to be solved by a continuing body, limited in personnel and invested with broad powers to deal with the problem in relation to the general economic situation. . . . This Reparation Commission is, however, instructed by the Treaty itself so to exercise and interpret its powers as to ensure, in the interest of all, an early and complete discharge by Germany of her reparation obligations. It is also instructed to take into account the true maintenance of the social, economic, and financial structure of a Germany earnestly striving to exercise her full power to repair the loss and damage she has caused. . . . It is not an engine of oppression or a device for interfering with German sovereignty. . . . Germany is at liberty to make any suggestion or offer of a practical and reasonable character for the purposes of simplifying the assessment of the damage. . . . The questions are bare questions of fact, namely, the amount of the liabilities. . . . [The] German Delegation has made no definite offer at all but only vague expressions of willingness to do something undefined. . . . [It] is all that Germany tenders to the victims of her aggression in satisfaction for their past sufferings and their permanent burdens. . . . The foregoing should suffice to demonstrate the reasonableness of the conditions under which Germany is to discharge her reparation obligations. . . . The burdens of Germany undeniably are heavy, but they are imposed under conditions of justice by peoples whose social well-being and economic prosperity have been gravely impaired by wrongs which it is beyond the utmost power of Germany to repair.'

Letter of the Allied and Associated Powers (16th June 1919):
'Justice . . . is the only possible basis for the settlement of the accounts of this terrible war. Justice is what the German Delegation asks for, and says that Germany had been promised. But it must be justice for all. . . .

'This is why the Allied and Associated Powers have insisted as a cardinal feature of the Treaty that Germany must undertake to make reparation to the very uttermost of her power, for reparation for wrongs inflicted is of the essence of justice. . . . Somebody must suffer for the consequences of the war. Is it to be Germany or only the peoples she has wronged? . . .

'In regard to the Saar Basin the régime proposed by the

Allied and Associated Powers is to continue for fifteen years. This arrangement they considered necessary both to the general scheme of reparation, and in order that France may have immediate and certain compensation for the wanton destruction of her northern coal-mines. . . .

‘They [the Powers] wish that Germany shall enjoy this [after-war] prosperity like the rest [of the nations of the world], though much of the fruit of it must necessarily go for many years to come in making reparation to her neighbours for the damage she has done. . . .

‘The German Delegation have greatly misinterpreted the reparation proposals of the Treaty. These proposals confine the amounts payable by Germany to what is clearly justifiable under the terms of Armistice in respect of damage caused to the civilian population of the Allies by German aggression. . . . They are designed to make the payment of that reparation which Germany must pay as easy and convenient to both parties as possible, and they will be interpreted in that sense. . . .

‘But they [the Powers] recognize, with the German Delegation, the advantage of arriving as soon as possible at the fixed and definite sum which shall be payable by Germany and accepted by the Allies. It is not possible to fix this sum to-day, for the extent of damage and the cost of repair has not yet been ascertained. They are, therefore, willing to accord to Germany all necessary and reasonable facilities to enable her to survey the devastated and damaged regions, and to make proposals thereafter within four months of the signing of the Treaty for a settlement of the claims under each of the categories of damage for which she is liable. If within the following two months an agreement can be reached, the exact liability of Germany will have been ascertained. If agreement has not been reached by then, the arrangement as provided in the Treaty will be executed.’

§ VII. FINANCIAL CLAUSES.¹

A. *Germany's Position.*

German Observations (29th May 1919):²

‘The German Government is anxious to co-operate in the restoration of France and Belgium in order to pay off the

¹ v. also pp. 60-91. Chap. I, pts. iii-iv.

² The italics in the following passages are those of the German Delegation.

indemnity in part in German labour, and will, in due course, submit proposals as to the way in which this task, which is common to all civilized nations, can be accomplished with the Allied and Associated Powers in the quickest possible manner. . . .

‘Germany is resolved to do all in her power to fulfil her obligations to make reparation. In doing so, the German Government is fully aware that the German people will have to bear greater burdens for generations than any other nation. . . .

‘It is of vital importance to democratic Germany that its political organization should be inspired with a social spirit. For this reason Germany can bear these heavy burdens only on condition that she will not be dismembered by the final treaty of peace, and that her industrial system as well as the basis of her food supply will not be destroyed, except in so far as this may result from the right of self-determination of the inhabitants of Alsace-Lorraine, Schleswig, and parts of the province of Posen. . . .

‘Germany has assumed the obligations involved in the Lansing Note on the basis of the extent of her territory at that time. Otherwise it would have been an unintentional act of folly to take such heavy burdens on her shoulders, regardless of the diminution of her area, working capacity, raw materials, and food. Should a diminution of her territory take place, as a result of the application of the right of self-determination, the indemnity to be paid on the 1st of May, 1921, will have to be distributed proportionately and in accordance with the point of view set forth above. . . .

‘It is recognized that due provision should be made for keeping in reserve such sums as are to be paid at certain dates. But it is going too far to appoint a commission for Germany with such dictatorial powers as provided in Annex II to Article 233. It is impossible for any state, especially for a democratic one, to renounce its sovereign rights to the extent demanded. In particular, Germany cannot agree to the demand that she issue laws and regulations as required from time to time by the Commission. The whole constitution, which for Germany also should be based on the right of self-determination, would be endangered, nay, even made null and void. The power of the purse is, in all democratic states, a means by which the National Assembly exercises its control over the commonwealth. . . .

‘So far as the cession of river tonnage for reparation purposes is concerned, the German Delegation point out that Germany can consider only a restitution of such losses as fall within the limits of the reparation obligations recognized by her. . . .

‘So far as infringements upon the economic liberty of the German population are necessary in order to perform the accepted obligations, the German Government will undertake them according to its own resolution. . . .

‘The German Delegation have noted that, according to Section 11 of Annex II, the Commission shall be bound in its work by justice, equity, and good faith. The German Delegation are also of the opinion that these principles are the necessary and foremost condition for a successful settlement of all questions connected with the matter of reparation. . . .

‘The German people cannot accept any stipulations that aim at its disorganization. It does not live only to perform reparation ; it wants, rather, to re-establish itself while freeing itself from the burden laid upon it. . . .

‘In this connexion the German Delegation declare that they are, on principle, willing to fulfil the demands of Article 238, already accepted in the armistice, and since then performed. . . .

‘To ask for such a surrender of business secrets is, according to the views of the German Delegation, not compatible with the principles of justice, equity, and good faith laid down in Section 11 of Annex II.’

In concluding this portion of their Observations the German Delegation remark :

‘Considering the shortness of the time conceded for the examination of these extraordinarily complicated and momentous proposals, this rejoinder cannot give an exhaustive representation of the German point of view. However, the German Delegation believe that in further negotiations, which in order to be successful ought to be conducted by word of mouth, a settlement may be reached acceptable to both parties on the basis of the proposals submitted and in spite of the reservations made in particular cases.’

In the Supplement dealing with financial questions the German Delegation say :

‘Without intending to anticipate in any way the question of the required cession of the colonies, we must emphasize the following from the financial point of view. . . .

‘ Moreover, the seizure of the colonies conflicts in any case with the fundamental principles of the armistice. Point 5 of President Wilson’s fourteen points provides for “ A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the population concerned must have equal weight with the equitable claims of the government whose title is to be determined.” According to this, there is in President Wilson’s programme no question of a seizure of colonies in general, and especially without making deduction therefor. Moreover, the colonies have become for Germany to such an extent integral parts of her own social economy, they are such valuable parts of her national capital, that she cannot, if only for financial reasons, *renounce her colonial possessions.*’

‘ If they [the Powers] impose upon Germany a debt which robs her of every possibility of a future ; . . . *The German people would feel themselves condemned to slavery, because everything that they accomplished would benefit neither themselves nor even their children, but merely strangers.* But the system of slave labour has never been successful. . . .

‘ According to Article 251, the Commission is also to have power to decide how much should be spent for the food supply and for the purchase of raw materials from abroad ; that actually gives the Commission the power to decide whether and to what degree the German people is to be supplied with food, and to what extent industry may be carried on, so that there can no longer be any question of economic self-determination and initiative. . . .

‘ German democracy [is] destroyed [by the establishment of the Reparation Commission] at the very moment when the German people, after mighty efforts, was on the point of establishing it ; destroyed by the very ones who during the whole war never grew weary of insisting that they wanted to bring democracy to us ! . . . *The Commission, which is to have its permanent seat outside Germany, will possess incomparably greater rights in Germany than a German emperor has ever had ; under its régime the German people would be for many decades without rights, deprived of all independence and of all initiative in commerce and industry and even in popular education, to a greater extent than ever a nation was in the time of absolutism.* . . .

‘ In other ways, too, Germany is deprived of her rights. . . .

‘ Finally, Articles 259 and 261 are contrary to every conception of justice and wholly contradictory in themselves. . . .

‘ A different method must be sought, *the method of negotiation*. In all countries, just as in ours, there are people who preach revenge, hate, militarism, and chauvinism. But in all countries there are also people who fight for right and equality, men of insight who know that the whole world would become poorer if the German people, with its capacity for work, its needs as a consumer, and its intellectual attainments, were excluded from the co-operation of the world. *It is not Germany alone that at present needs credit on a most extensive scale. . . . To concentrate all the forces of the world upon this problem and to give to all peoples the chance of continued existence is the first and most pressing task.* Only when that is accomplished will Germany be in a position to discharge the heavy obligations for reparation assumed by her, obligations which she is determined to discharge according to the best of her abilities. This is based upon the assumption, however, that Germany shall be allowed to preserve that territorial integrity which the armistice promises ; that we keep our colonial possessions and merchant ships, even those of large tonnage ; that we have the same freedom of action both in our own country and in the world at large as all other peoples ; . . .

‘ But then it is necessary that Germany should be admitted on a basis of equality into the League of Nations from the very beginning, that is from the beginning of the new era of peace. . . . What we demand is merely this, that we shall not be required to lead a life of inaction, without honour and without liberty. Although suffering from heavy misfortune, we want to be able to live as a self-respecting working people.

‘ The world, and more especially Germany, longs for a speedy peace. We propose that the Finance Commission be given an opportunity to enter into negotiations at once with the financial delegates of the Allied and Associated Governments. So far there has been no opportunity for a free discussion of the peace conditions. Only by that means can there exist any hope of at last finding a way to allay the misery of all countries. Merely to allay, not to remove. . . . But the obligation which Germany now assumes in the way of reparation, she will strive to fulfil in long years of most arduous labour ; only she must be allowed a chance to live and to live honourably.’

B. The Powers' Position.

The Reply of the Allied and Associated Powers (16th June 1919) answers the practical objections raised by the German Delegation, and it also deals expressly with certain of the principles of the pre-armistice Agreement, such as justice, right, and guarantees.

§ VIII. ECONOMIC CLAUSES.

I. *Commercial Policy.*A. *Germany's Position.*

German Observations (29th May 1919):

'The basis for the provisions concerning commercial relations which are to be inserted in the treaty of peace, is prescribed in the declarations relating thereto in Wilson's points. As far as they touch economic questions, they read as follows:

'A. From the fourteen points of the address to Congress on January 8, 1918:

- 'I. There shall be no private international action or rulings of any kind.¹
- 'II. Absolute freedom of navigation upon the seas, outside territorial waters.¹
- 'III. The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance.

'B. From the four points of the Mount Vernon address on July 4, 1918:

'Second. The settlement of every question . . . of economic arrangement . . . upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery.

'C. From the speech in New York on September 27, 1918:

'I. No special or separate interest of any single nation or any

¹ German Text differs slightly from original.

group of nations can be made the basis of any part of the settlement.

- ' II. There can be no leagues or alliances or special covenants and understandings within the common family of the League of Nations.
- ' III. There can be no special, selfish economic combinations within the league and no employment of any form of economic boycott or exclusion, except as the power of economic penalty may be vested in the League of Nations itself as a means of discipline and control.
- ' IV. Economic rivalries and hostilities have been the prolific source in the modern world of the plans and passions that produce war. It would be an insincere as well as an insecure peace that did not exclude them in definite and binding terms.¹

' Germany is therefore entitled, on the strength of the preliminary agreements regarding the contents of the actual treaty of peace, to demand that the economic provisions of the treaty of peace shall be drawn with full regard to the perfect equality of Germany's rights with those of the other nations.

' The Allied and Associated Governments are equally interested in seeing this done.

' In the exchange of notes preceding the armistice, Germany pledged herself to make far-reaching compensations. Every creditor has the greatest interest in keeping his debtor solvent or in allowing him to regain his solvency. . . .

' Germany can bear the burdens she has taken upon herself and can in future regain a position approximately equal to that of other nations only if economic freedom, similar to that which she enjoyed before the war, is granted to her. Germany must, for this reason, insist upon being admitted forthwith to the League of Nations and upon participating in the rights and duties of an economic nature proposed in the German draft for the League of Nations, commented upon previously. . . .

' Germany, in respect to traffic, is also willing to co-operate in the development of international traffic regulations with the force of law, which would, as far as possible, do away with all preferential treatment. Germany also agrees to the complete establishment of equal and reciprocal rights in the matter of maritime and river navigation, which question may either be

¹ German Text here differs slightly from original. The points are wrongly numbered: point I is really II, II is III, etc.

settled by the League of Nations or by special agreements. She also gives her consent to the proposed development of a system of free ports.

‘With regard to transport by rail, Germany is ready on principle, under the assumption of reciprocity, to treat all goods of the Allied and Associated Powers carried on the same road and in the same direction in exactly the same way as other foreign or German goods. . . .

‘She agrees to a renewal of the Berne Convention regarding the transportation of goods by rail. She is also willing to participate, on a footing of equality according to the law of nations, in the further development of provisions for international transport by rail. Germany had already, before the negotiations at Versailles began, indicated to Switzerland her willingness to give her consent to a revision of the St. Gothard Treaty.’

B. *The Powers' Position.*

Reply of the Allied and Associated Powers (16th June 1919):

‘The German Delegation find a conflict between the terms of the Treaty which set forth the economic provisions and the third of President Wilson’s Fourteen Points: “The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance.” In their application of this principle the German Delegation would neglect entirely the economic conditions which have resulted from the war, with their own country intact and in no wise suffering from the devastation brought upon the lands and homes of the Allied peoples. They nevertheless seek immediate admission to all of the trade arrangements which are to be provided for by the Conditions of Peace. This would have the effect of establishing an inequality of trade conditions which would continue in Europe for many years to come. Equality can only be established by arrangements which take into account the existing differences in economic strength and industrial integrity of the peoples of Europe. But the Conditions of Peace contain some provisions for the future which may outlast the transition period during which the economic balance is to be restored; and a reciprocity is

foreseen after that period which is very clearly that equality of trade conditions for which President Wilson has stipulated.'

Letter of the Allied and Associated Powers (16th June 1919):

'There is no intention . . . to strangle Germany or to prevent her from taking her proper place in international trade and commerce. Provided that she abides by the Treaty of Peace, and provided also that she abandons those aggressive and exclusive traditions which have been apparent no less in her business than in her political methods, the . . . Powers intend that Germany shall have fair treatment in the purchase of raw materials and the sale of goods subject to those temporary provisions already mentioned in the interests of the nations ravaged and weakened by German action. . . .'

Reply of the Allied and Associated Powers (16th June 1919):

'The principles which the . . . Powers desire to bring into application when the world returns to normal conditions are those which President Wilson has enunciated on various occasions in his speeches and which are embodied in Article 23 (e) of the Covenant of the League of Nations.

'But it is clear that the pronouncements of President Wilson relative to equality of trade conditions must be interpreted as relating to the permanent settlement of the world, and can only be regarded as applicable to a condition of things in which the League of Nations is fully constituted, and the world has returned to normal conditions of trade. In the meantime the establishment of a purely transitory régime necessarily differing from that contemplated in a final settlement is in no way in conflict with such ideas.

'During this period "equitable treatment for the commerce of all members of the League" requires that Germany should temporarily be deprived of the right she claims to be treated on a footing of complete equality with other nations.

'The illegal acts of the enemy have placed many of the Allied States in a position of economic inferiority to Germany, whose territory has not been ravaged, whose plant is in a condition enabling manufactures and trade to be at once resumed after the war. For such countries, a certain freedom of action during the period of transition is vitally necessary. . . . Hence

during the transitory period formal reciprocity is not practicable. . . .

‘It is, therefore, a consideration for justice which has led the . . . Powers to impose on Germany, for a minimum period of five years, non-reciprocal conditions in the matter of commercial exchanges. Articles 264 to 267, 323, and 327 [of the draft Treaty], drawn up on this basis, are measures of reparation, the duration of which will be determined by the League of Nations.

‘After the necessary period of transition is over, and when a reformed Germany is admitted to membership of the League of Nations, the . . . Powers will be able to co-operate with her in arriving at a more permanent arrangement for the establishment of an equitable treatment for the commerce of all nations.’

Reply of the Allied and Associated Powers (16th June 1919):

‘The Allied and Associated Powers do not consider that an addition to the Covenant [of the League of Nations] in the sense of the German proposals regarding economic questions is necessary. They would point out that the Covenant already provides that “subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . will make provision to secure and maintain freedom of communications and of transit, and equitable treatment for the commerce of all Members of the League.” So soon as Germany is admitted to the League, she will enjoy the benefits of these provisions. The establishment of general conventions with regard to transit questions is now being considered.’

II. *Treaties*

A. *Germany's Position.*

German Observations (29th May 1919):

‘The draft of the peace treaty apparently starts from the principle that, in the relations between Germany and the Allied and Associated Powers, only such multilateral treaties, conventions, and agreements of an economic or technical character will be resumed as are expressly enumerated in the treaty, while all other treaties of this kind will be dissolved. This principle does not appear practical; it would not establish

a sound and firm basis of justice, which is indispensable to the resumption of international relations. Even an enumeration, apparently complete, of the treaties to be resumed causes considerable doubt, especially since the decisive agreements are laid down not only in the principal pertinent treaties, but also in numerous amendments, special arrangements and subtreaties, and are frequently limited by the reservations of certain States. . . .

‘It is their opinion, however, for the present, that it would be preferable in principle for all multilateral treaties which were in force at the outbreak of the war to come into force again, upon the conclusion of peace, and to leave it to an examination, to take place immediately after the conclusion of peace, to decide which of these treaties should be altered or dissolved.

‘According to Articles 283 and 284, Germany shall submit herself in advance to all future arrangements between other powers relating to international postal, telegraphic, and radio-telegraphic communications, without being able to influence the contents of these agreements. The acceptance of such obligations in blank is incompatible with the dignity of an independent people.

‘Energetic protest must also be raised against the proposals relating to the revival of the bilateral treaties to which Germany is a party. According to Article 289, the Allied and Associated Governments exclusively are to decide which of the treaties which were in force before the war between Germany and these Powers should be revived. According to paragraph 4 of this Article, the Allied and Associated Powers concerned can, in the notification of the treaties to be reapplied, mention any provisions thereof which shall be excepted from the application if, in the opinion of the notifying power, these provisions are not in accordance with the terms of the peace treaty. According to this provision, every former enemy State could demand that Germany resume the obligations prescribed in the old treaties, whereas the enemy State would be, at the same time, in a position to repudiate all the promises which it had made at the time of the conclusion of the treaty in order to obtain Germany’s counter-obligations. These treaties, however, so far as they contain obligations and counter-obligations, are a whole, and it is not admissible for them to be torn to pieces arbitrarily

so that all obligations may be imposed on one party, while all rights remain with the other parties.

‘The provision of Article 289 is thus not acceptable to Germany. In its stead it is proposed that the treaties in force at the outbreak of the war between the parties to the present treaty should be applied again upon ratification of the treaty of peace. . . .

‘Furthermore, it may be observed that, according to international law, treaties with States which have not been at war with Germany, as Peru, Bolivia, Ecuador, and Uruguay, are not affected by the rupture of diplomatic relations.

‘The abrogation, demanded by Articles 290 and 292, of the treaties, conventions, or agreements between Germany and her former allies, as well as of Germany’s treaties with Russia and Rumania, cannot be agreed to in the general terms of these articles, because the resumption and maintenance of regular relations with these countries would be severely endangered thereby. Germany has already renounced the peace of Brest-Litovsk; the peace of Bucharest has not been ratified at all. These treaties, therefore, are no longer a matter of concern here.

‘Articles 291 and 294 demand of Germany that she should secure to the Allied and Associated Governments certain advantages up to this time granted to the Powers allied to her and to neutrals. The German Delegation cannot discuss this demand until they have been in a position to examine in detail all the agreements concerned. The effect of these stipulations cannot be perceived from an examination of the general terms of the treaty draft. The German Delegation therefore propose special negotiations on these questions also.’

B. The Powers’ Position.

Reply of the Allied and Associated Powers (16th June 1919):

‘The Allied and Associated Powers are certainly of the opinion that multilateral and bilateral treaties between peoples must exist in times of peace, so that the principles of international law may be enforced and normal international relations maintained. They have therefore aimed at reapplying all multilateral treaties which seemed to them to be compatible with the new conditions arising out of the war.

‘As regards bilateral treaties, they have reserved for each of the Allied and Associated Powers the right to decide the

matter in conformity with the principles of the Treaty of Peace.

‘ But they could not permit the continuance of all the treaties which Germany imposed on her allies, on her temporarily defeated adversaries, and even in certain cases on neutral countries, with a view to securing particularly favourable conditions and special advantages of all kinds the maintenance of which is incompatible with the re-establishment of the spirit of justice.

‘ This principle necessarily involves the rejection of the theory put forward by Germany in Section VII (Treaties) of the Remarks on the Conditions of Peace, and obviates the necessity for any negotiations on the matter. A general indiscriminate reapplication after the conclusion of Peace of all multilateral and bilateral treaties, even for a short time, cannot be accepted, and it is only just that the Allied and Associated Powers should have reserved and should reserve in the future the right to indicate which of these treaties with Germany they intend to revive or to allow to be revived.

‘ The above applies to the whole of the German remarks on Section II of Part X of the Conditions of Peace, but these remarks call for the following further observations : . . .

‘ The German Delegation states that the acceptance by Germany of Articles 283 and 284 is incompatible with the dignity of an independent people.

‘ This opinion is based on a misunderstanding of the meaning and terms of Articles 283 and 284. Germany merely undertakes by Article 283 not to refuse her consent to the conclusion by the new States of the special arrangements referred to in the Postal and Telegraphic Unions. It is not stipulated that the text of these arrangements shall be dictated to her and that she must accept such text without discussion. This Article merely prevents a systematic refusal to the conclusion of such arrangements or insistence on requirements which make their conclusion impossible. . . .

‘ The German objections to Article 289 appear to arise out of a misunderstanding of its intention. Whilst the Allied and Associated Powers could not agree to the revival of bilateral treaties or of any clauses in bilateral treaties which are not in accordance with the terms of the Peace Treaty itself, they are quite prepared to give an assurance that this provision will not

be arbitrarily used for the purpose of splitting up bilateral treaties in such a way that only the obligations should remain on one side and on the other side only the rights. . . .

‘Bilateral treaties between Germany and states which broke off diplomatic relations with her but did not declare war are expressly included in Article 289 on the same basis as treaties with those states which did declare war. There is no universally recognized rule of international law on the subject, it is accordingly open to the Allied and Associated Powers to deal with the matter in the most convenient manner in the Peace Treaty.

‘The treaties referred to in Articles 290 and 292 are essentially among those which Germany concluded by taking undue advantage of the circumstances she herself created, the pressure she exercised, or her temporary military preponderance. Whatever the consequences to Germany of their abrogation, it is impossible to maintain them in force after the conclusion of a Treaty of Peace based upon the principles of justice.

‘The Allied and Associated Powers cannot admit that the abrogation by Germany of all treaties concluded with her former allies since the 1st August, 1914, and of all treaties concluded before or since that date with Russia and states or governments whose territories formerly made part of Russia and with Rumania, which is required by Articles 290 and 292, must of necessity grievously jeopardize her relations with these states. . . . The abrogation does not affect Germany’s freedom to enter into fresh negotiations with these states for the conclusion of new arrangements suitable to the altered conditions. . . .

‘Any special negotiation regarding Articles 291 and 294 is superfluous. The object of these Articles is clear and plain : the Allied and Associated Powers establish equality as between themselves and Germany by obtaining *ipso facto* the benefit of the treatment accorded by her before the 1st August, 1914, to her former allies and of the treatment which for interested motives or for ends inimical to the interests of the Allied and Associated Powers, she may have granted during the war to Powers which have remained neutral.’

III. TREATMENT OF PRIVATE RIGHTS.

A. *Germany's Position.*

German Observations (29th May 1919) :

'Sections III-VII of Part X [of the draft Treaty] deal with the private rights of the nationals of both contracting parties. . . These private rights have been prejudiced first by the long continued war itself, but still more by the special laws enacted by the Governments of the belligerent Powers. It is the problem of the treaty of peace to remove as far as possible the consequences of such encroachments and to restore international private legal relations to a normal juridical basis. . . . Whichever means may be chosen, in the field of private law the principle of reciprocity must be accepted from the beginning and without exception as the basis for all regulations to be established. . . .

'The settlement of the questions of private law proposed by the Allied and Associated Governments in Sections III-VII does not meet, in essential points, the demands of reciprocity. Numerous provisions show that even in this matter not the idea of right but the idea of might was decisive.'

(1) Debts (Article 296).

'There is on the whole no fundamental objection on Germany's part to the proposed application of a clearing system. The application of such a system was in fact repeatedly suggested during the war by German parties concerned. But those proposals differ from the present ones in that they did not intend to prejudice the opponent but dealt with the position of the two parties to the proceeding on the basis of absolute equality. At present, also, the application of a clearing system is justified only if it is based on the principle of reciprocity and the equal standing of both parties.

'Beyond that, the clearing system should not alter in any way the principle that private persons remain the bearers of claims and debts. Consequently, freedom of intercourse between the parties should be granted as well as their free right of determination concerning assertion, remission, alteration, and postponement of the claims covered by the clearing system, in so far as that is compatible with such a system of procedure. . . .

The opposite effect would be brought about by introducing a system that prevents free intercourse between creditor and debtor and, by the intervention of official organizations, severs the connexions existing between them before the war. The economic life not only of a single state but of the whole world would be impaired thereby and an economic barrier would be erected between the peoples, which would be incompatible with the legal bases of peace.

‘It must be stated that these two principles, namely, the principle of complete reciprocity and the principle of maintaining the right of free disposal of the parties, have been violated by the following provisions in the proposals of our opponents : . . .

‘Only in case these provisions are cancelled can the clearing system be recognized as being in accordance with the principles that are to constitute the basis of the treaty of peace.’

(2) Property, rights, and interests (Articles 297, 298).

‘The standpoint of the German Delegation relative to the proposals contained in this section has been set forth in detail in the note of May 22, 1919. . . . While Germany has felt herself bound, as a matter of course, to abstain, since the conclusion of the Armistice, from all further coercive measures with respect to the private property of enemy nationals and to confine herself, in the execution of the measures prescribed before that date, to acts of conservation necessary in the interest of the owners, several enemy States have taken advantage of the long duration of the Armistice to start forced liquidations of the German private property so far unmolested, or to continue the pending liquidations in an intensified form. According to information received by the German Government, this has been done for instance in France, Belgium, China, and Guatemala. If such measures must be declared incompatible with the Armistice, this applies with still greater force to the measures of liquidation which the French occupation authorities have taken lately in Alsace-Lorraine without waiting for the final decision as to the fate of this territory. . . .

‘In the democratic state no legal distinction exists between fellow citizens. Therefore the legal treatment of the private property of former German sovereigns cannot be different from the treatment of the property of any other German. The consideration of such property as property of the public

domain, which appears repeatedly in the draft (see Article 56, paragraph 3, Article 144, paragraph 2, Article 153, paragraph 2, Article 256, paragraph 2, Article 257, paragraph 3), is therefore entirely unjustifiable.'

(3) Contracts (Articles 299-303).

'According to the draft, the question how far contracts concluded between nationals or inhabitants of belligerent States are to be maintained or dissolved, shall not be regulated uniformly for all belligerent Powers. The draft contains special provisions only for contracts concluded between "enemies", i.e. for contracts concluded between nationals of such States, one of which at least has prohibited, or otherwise considered unlawful, trading with the enemy; the draft also excepts from these provisions the contracts concluded between German nationals on the one side and nationals of the United States of America, Brazil, or Japan on the other. The German Delegation ask to be informed of the reasons which have led to this distinction.

'Contracts between enemies shall, according to Article 299(a), be regarded in principle as having been dissolved; among the number of contracts, however, which have been executed by one party and from which a claim for money may be derived, certain classes, enumerated in the Annex, section 2, shall be maintained. This principle is restricted by Article 299(b), and by the Annex, section 2, first sentence. Each enemy Power concerned has the right to demand, "in the general interest", the execution of contracts which otherwise should be dissolved. The contracts which are maintained can be liquidated; the war legislation of the Allied and Associated Powers remains applicable to them, including the regulations permitting the dissolution of contracts by official order or by giving notice. Consequently the maintenance of contracts between enemies is made to depend entirely upon the good pleasure of these Powers or their nationals. Such a regulation appears unacceptable. It would perpetuate the legal uncertainty caused by the conditions of war and would, moreover, abandon, for the future as well, the German contractual interests to foreign arbitrary power. In other respects the German Delegation share the opinion that the problem of the future treatment of pre-war contracts cannot be solved uniformly for all classes of

contracts and that, therefore, neither the principle of dissolution nor that of maintenance can be upheld without exception. According to the German legal conception, indeed, the principle of dissolution of pre-war contracts, as established by the draft, is open to serious objections. But these shall be put aside. In any case, the question will have to be discussed, to what extent exceptions to this principle should be made for special reasons by maintaining certain classes of contracts or by laying down special rules for such classes. This question can only be settled by thorough discussion in a mixed committee of experts.

‘Details, especially Sections II and III of the Annex, will therefore not be discussed here. Nevertheless, we must point out here the arbitrary character of the regulation proposed in Article 299 (*d*); according to this provision, contracts between inhabitants of territories to be ceded on the one hand, and former enemies on the other, are to be maintained only in case the party living in the territory to be ceded shall acquire the nationality of his former enemy. This one-sided favouring of persons who choose the new nationality is without any legal justification. Equally unjustifiable is the provision in section 12 of the Annex, which enables the Allied and Associated Powers to cancel the life insurance contracts concluded by their nationals with German insurance companies, and thereby to destroy the foreign business of these companies for the benefit of non-German companies.

‘A special treatment is reserved for the contracts made before the promulgation of the French decree of November 30, 1918, between inhabitants of Alsace-Lorraine on the one hand and the German Empire, the single German States or Germans resident outside Alsace-Lorraine, on the other hand. These contracts are maintained in principle; a natural solution, since it is not a question of contracts between enemies. Nevertheless, by paragraph 2 of the provision, the French Government is given complete power to cancel any contract “in the general interest”. The German Delegation protest in principle against the idea that the cession of Alsace-Lorraine should involve such encroachments upon private legal relations.’

(4) Mixed Arbitral Tribunals (Articles 304–305).

‘The establishment of mixed courts of arbitration is dictated by justice and by practical reasons. It must be

regulated in such manner that uniformity of jurisdiction is guaranteed for all controversies originating in the settlement of private rights, and that the decisions of the court are carried out uniformly in all contracting States.

‘The draft departs from these principles in the following points : . . .

‘The proposed composition of the Mixed Arbitral Tribunals seems essentially justified on the condition that the League of Nations, the council of which is to choose the disinterested president, include Germany.

‘According to sections 8 and 9 of the Annex, the language in which the proceedings shall be conducted, and the time and place for the meetings shall be determined by the enemy Power concerned. This is not only an injustice to Germany, unparalleled in all international and national agreements of arbitration, but it is also impractical. . . .

‘In the spirit of reciprocity resulting from the interest common to all states in an equal and just settlement of these controversies, the courts and other authorities of all contracting Powers should within their competence assist the Mixed Arbitral Tribunals in every way, by means of direct intercourse, and especially by acting as intermediaries in the serving of legal notice and in the taking of evidence.’

(5) Industrial property (Articles 306–311).

‘The provisions relative to protection of industrial property are founded on a principle which would comply with the demands of right and equity if they were carried out logically, and if reciprocity were fully guaranteed. . . . As a result, the rights of property are re-established only for the benefit of nationals of the Allied and Associated Powers. In so far as the war measures on both sides have led to the granting of reparations or indemnities, these are to be dealt with, as a rule, according to the general stipulations regarding the adjustment of liabilities, the great injustice of which has already been alluded to above. . . . [The] Mixed Arbitral Tribunal, not the German courts, is called upon to pass judgment in cases which cannot be settled by agreement between the parties, and where the legal matter on hand is subject to German law ; if, however, the legal matter is subject to the law of one of the enemy Powers, the decision is to be entrusted to the national court of

this Power. Justice demands that the Mixed Arbitral Tribunal pass judgment in all cases. The maintenance of the war licenses proposed by paragraph 2, which might perhaps be tolerable in case of recognition of full reciprocity, becomes unjust because it is only the war licenses, granted in favour of nationals of the Allied and Associated Powers, that are to be maintained. . . .

‘The numerous doubts and scruples here raised, which are only increased by a closer study of the details of the regulation, render it unavoidable that, before making a final decision, all these problems should be dealt with in joint deliberations by the experts of all the contracting parties.’

B. *The Powers' Position.*

(1) *Debts.*

‘While reciprocity cannot be accorded in all respects, the Allied and Associated Powers have nevertheless applied this principle wherever it has been possible. . . .’

(2) *Property, Rights and Interests.*¹

(3) *Contracts.*¹

(4) *Mixed Arbitral Tribunals.*¹

(5) *Industrial Property.*

‘The Allied and Associated Powers are not prepared to grant the request of the German Delegation for reciprocity in regard to the maintenance of the legal and administrative acts taken by the Governments during the war in respect of industrial, literary, and artistic property. Certain Allied and Associated States have not taken any measures of this kind, so that if reciprocity were accorded it would be to the detriment of the rights of the nationals of such States without any offset.

‘The clause providing that no action shall be brought by Germany or her nationals in respect of the use during the war of her industrial, literary, or artistic property by the Government of any Allied or Associated Power, or by any person acting on behalf or with the assent of such Government is

¹ Quotations from the Powers' Reply are here omitted. These subjects will be further dealt with in Vol. IV.

clearly a proper and necessary clause providing for amnesty for all acts done by a Government or its agents. The Allied and Associated Powers are not, however, prepared to make the clause reciprocal, especially as they have no knowledge as to the action which may have been taken by the German Government with respect to the industrial, literary, and artistic property owned by their citizens.'

§ IX. PORTS, WATERWAYS, AND RAILWAYS.¹

A. *Germany's Position.*

In their Letter and Observations of the 29th May 1919, the German Delegation maintain that in various ways Germany's sovereignty was abolished by provisions of the draft Treaty. Thus, 'her chief waterways are subjected to international administration.'

B. *The Powers' Position.*

The Allied and Associated States maintain, in their Letter of 16th June 1919, that the provisions of the draft Treaty in regard to this matter are based on the Agreement. 'Arising out of the territorial settlement', they declare, 'are the proposals in regard to international control of rivers.' It is clearly in accord with the agreed basis of the peace and the established public law of Europe that inland states should have secure access to the sea along navigable rivers flowing through their territory. . . . The arrangements which they propose are vital to the free life of the new inland states.' They do not think that they are any derogation of the rights of the other riparian States.

Similarly, in their Reply of the 16th June 1919, the Powers declare that 'in conformity with all precedents, the sole object of the regulation of navigation on these rivers is to establish complete equality between the subjects of all nations, and not to allow any riparian State to use its geographical situation and the fact that a great route of international communication passes through its territory as a means of applying economic and political pressure on States dependent on it. . . . [The] great factor of freedom of communication must rank first.'

¹ All those portions of the documents under review which deal with ports and railways are here omitted, v. Chap. I, pt. v. *passim*.

§ X. LABOUR.

A. *Germany's Position.*

German Observations (29th May 1919) :

' Since, according to the draft, Germany is not immediately to become a member of the League of Nations and of the international labour organization, the German people are not allowed to co-operate in determining the rights and obligations upon which the health and welfare of the workers depend, although Germany's social legislation for the protection of workers has actually become a model for the entire world. These measures are due, to a considerable degree, to the co-operation of the German labour organizations. . . . The conditions prescribed in the peace draft of the Allied and Associated Governments would subject the German workingmen to the most extreme distress and to the utmost exploitation of their working power. . . . A peace which threatens the existence of the German workers can never be a peace of justice, which guarantees friendship among nations. Such a peace would be contrary to the message which President Wilson directed to the Russian Government on June 10, 1917, in which he said : " The saying that all men are brothers must no longer remain a beautiful but empty phrase ; a strong and actual significance must be given to it ! " ¹

' This would never be achieved through Part XIII of the peace conditions, as has already been made clear in the notes dated May 10 and May 22, 1919. The words of President Wilson can be fulfilled only by recognizing the workers' organizations and their decisions, as well as by extending advanced social legislation. . . . The Allied and Associated Governments possess, indeed, no right to inflict damage upon the workers among the German people by exercise of wilful and irresponsible power, nor to force these workers to serve their ends and interests. The Allied and Associated Governments would thereby destroy the basic principles of justice as laid down by President Wilson in his speech in New York on September 27, 1918. . . .

' Part XIII of the conditions of peace is also in contradiction to the demands of democracy, for the powers which are

¹ This message from President Wilson does not form part of the pre-Armistice Agreement.

therein conferred upon the Governments cannot be derived from the consent of the governed.¹ In these stipulations the workingmen are regarded as mere chattels. Although the Allied and Associated Governments have set up the principle that labour is not to be regarded as a mere commodity or article of commerce, they nevertheless deny to the workingman the most elementary of human rights—that of equality. They take from the workingmen the right of deciding for themselves how they are to conduct their lives and protect the welfare of their families. They do not regard workingmen as citizens entitled to equal rights.

‘A peace which did not bestow these equal rights upon the workers would leave a poisonous sting of revengefulness and bitterness in their hearts. A peace of this kind would not be based upon a firm foundation, but upon quicksand. Only a peace between equals can be permanent; only that peace whose first principle is the equality of rights of the working classes will last.

‘The practical application of President Wilson’s words of July 4, 1918, to the workingmen, results in this conclusion: The regulation of all labour questions must be conducted on the basis of the free acceptance of that settlement by the workingmen immediately concerned, and not on the basis of the material interest or advantage of any other class of the nation, or of another people which may desire a different settlement for the sake of its own foreign influence or mastery.

‘The general principles laid down in Article 427 of the peace draft likewise fail to do justice to the demands of the working class. They lack the first essentials for the recognition of the equal rights of the workingmen of all lands, namely, the right of free movement, the right of organization, and the unrestricted enjoyment of the workingmen living in an alien state in the protective laws of such state. . . . [Workingmen] demand equal rights for the working classes of all countries. . . . [A world conference of labour organizations should be summoned.] The results of [its] deliberations, both in respect to practical labour legislation and to the international organization of labour, should be embodied in the treaty of peace and thereby attain the force of international law. Any other settlement

¹ See President Wilson’s Address to Congress 22nd January 1917: ‘Governments derive all their just powers from the consent of the governed.’ This does not form part of the pre-Armistice Agreement.

would involve a violation of fundamental human rights by disregarding a demand of the day, something which the conscience of the world dare not allow if the peace of the world is to be preserved.

‘ It is precisely by means of these principles that the German Peace Delegation, in the interest of the happiness of all nations, would procure the full acceptance throughout the world of those potent words spoken by President Wilson on February 11, 1918. These words can be converted into reality only by the unanimous consent of the working classes of all countries :

“ What is at stake now is the peace of the world. What we are striving for is a new international order based upon broad and universal principles of right and justice—no mere peace of shreds and patches.”’

B. The Powers' Position.

Reply of the Allied and Associated Powers (16th June 1919) :

‘ The observations put forward by the German Delegation with reference to the Labour section of the Treaty contain practically nothing which has not already been included in the two notes previously submitted by that Delegation on the 10th and 22nd May, 1919, to which full and detailed replies were sent on the 14th and 28th May. The Allied and Associated Powers do not consequently think it desirable to resume the examination of the questions already dealt with in these notes and in the replies which have been made to them.’¹

§ XI. GUARANTEES.

A. Germany's Position.

German Observations (29th May 1919) :

‘ Even in the provisions for its execution, the draft of the peace conditions does not renounce the principle of force. As a guarantee for the fulfilment of the conditions which strike such a terrible blow at the life of the German people, an occupation of German territory extending over many years is demanded.

‘ The primary purpose of this occupation is obviously two-fold: the last paragraph of Article 429 is to provide security against German aggression; and Article 430, a guarantee

¹ The notes referred to have not been accessible to the present writer.

against an eventual refusal on the part of Germany to fulfil her obligations in the matter of reparation.

‘With regard to the possibility of German aggression, no human being could possibly consider the weak military armament left to Germany after the war a menace to her neighbours. . . Germany is likewise utterly defenceless at sea against the overwhelming preponderance of the navies of the Allied and Associated Governments, which have absolute control of the seas. . . .

‘Nor does the occupation offer any guarantee for the fulfilment of the economic and financial obligations of Germany. . . . The occupation would render the fulfilment of the reparation obligations either most difficult or absolutely impossible. . . . The occupation of portions of German territory would, in its effect, assume exclusively the character of a harsh and cruel supplementary punishment for the populations which would suffer under it. . . . The citizens of a nation which now has the freest and most democratic form of government would, by such an alien rule, be hampered for a long time in the exercise of their personal, economic, and national rights and liberties, if not entirely deprived of them. . . .

‘If the Allied and Associated Governments feel the need of providing themselves with guarantees, after the conclusion of peace, for the keeping of the agreement and for the fulfilment of the obligations which Germany has undertaken, there are more effective means of achieving this than force and compulsion. . . . Through the will of her people Germany has become a democracy and a republic. . . . The new Germany is convinced that it deserves . . . confidence, and it may therefore demand its place in the League of Nations. Germany’s membership in the League of Nations would in itself alone constitute the most inviolable guarantee for the good faith of every German Government. . . .

‘The proposals of the German Government are inspired by the wish to ensure that permanent peace which is so urgently needed by its own sorely stricken land. . . . However little the German Government is in a position to exert pressure in bringing about a peace of this kind, it would nevertheless consider that it was remiss in its duty if it did not once more raise its voice in warning against the consequences of a peace of brute force. . . .

‘ The working people of Germany have always desired peace and justice, and still desire them to-day. Germany knows that in this she is at one with all humanity. In all nations the best spirits are longing for a peace of justice after this terrible war. If this longing be betrayed, then the ideal of justice will be annihilated for generations and an organization of the world based upon morality will become utterly impossible. A permanent peace can never be established upon the oppression and the enslavement of a great nation. Only a return to the immutable principles of morality and civilization, to the sanctity of treaties, would render it possible for mankind to continue to exist. The new peace must be a peace of justice and therefore of voluntary agreement. It must therefore, in the first place, revert to the solemn agreements entered upon by both parties, as laid down in the interchange of notes between October 3 and November 5, 1918.

‘ Justice and the free agreement of all parties to the treaty will prove to be the strongest, in course of time the only guarantees of the pact to be concluded. In the very moment of founding a new commonwealth, based upon liberty and labour, the German people turns to those who have hitherto been its enemies and demands, in the interests of all nations and of all human beings, a peace to which it may give its assent in accordance with the dictates of its conscience.’

B. The Powers' Position.

Reply of the Allied and Associated Powers (16th June 1919):

‘ The German Delegation observe in their remarks on the Conditions of Peace: “ Only a return to the immutable principles of morality and civilization, to sanctity of treaties, would render it possible for mankind to continue to exist.”

‘ After four and a half years of war which was caused by the repudiation of these principles by Germany, the Allied and Associated Powers can only repeat the words pronounced by President Wilson on September 27, 1918: “ The reason why peace must be guaranteed is that there will be parties to the Peace whose promises have proved untrustworthy.” ’

§ XII. MISCELLANEOUS PROVISIONS: MARITIME LAW.

A. *Germany's Position.*

German Observations (29th May 1919):

‘Article 440 of the draft demands that Germany recognize all decrees and orders issued by enemy Prize Courts concerning German ships and German goods and excludes Germany from putting forward any claims on behalf of German nationals. On the other hand, Germany is to allow the decisions and orders of her own Prize Courts to be examined in such manner as the Allied and Associated Powers may determine at their discretion, this applying not only to decisions affecting nationals of those Powers, but even affecting nationals of neutral Powers. Further, Germany is to submit to the results of such examination without even a right to be heard.

‘The partiality of these provisions is all the more intolerable because the Allied and Associated Powers claim for themselves, without any justification, the right of decision with regard to neutral claims against Germany. Justice demands either the recognition or the indiscriminate and impartial examination of the decrees and orders issued by the Prize Courts of all contracting Powers. To either of these two solutions Germany could agree. Should an examination be agreed upon, it can only be undertaken by an international court constituted on a footing of equality.

‘If the provisions of Article 440 were to become valid, the Allied and Associated Powers would unlawfully receive a considerable amount of assets to which Germany is lawfully entitled, besides the full and ample compensation demanded by them. Under the terms of the armistice the German Empire had to deliver up the former enemy tonnage adjudged to her by valid decisions of Prize Courts. The draft says nothing of a restitution or taking into account of that tonnage. On the other hand no attempt is made to make compensation for this unjustified injury by the restitution of the former German ships or cargoes affected by decrees or orders of hostile Prize Courts, or at least by making allowance for their value. . . .

‘According to section 7, Germany would have to take any measures that might be suggested to her by the Reparation Commission to redeem the German ships transferred to neutrals since the beginning of the war. Thereby Germany would be

at the mercy of foreign speculation. According to section 8, Germany is to renounce all claims in respect of the detention, employment, loss, or damage of German ships, excepting the payments stipulated by the armistice protocols. Thereby Germany would be deprived, among other things, of all claims she might be entitled to on account of damage, according to the principles of international law relating to the treatment of ships under embargo. According to section 9, Germany is to renounce all claims to ships and cargoes sunk and subsequently salvaged; this clause is to be enforced without regard to the decisions made by the Prize Courts of Germany or of her Allies.

‘These provisions appear unjustified in their present form; section 9 could be agreed to on condition that the value of salvaged ships and goods, less all costs of salvage, be placed to the credit of Germany on her reparation account.’

B. *The Powers' Position.*¹

PART XII

SURVEY OF THE PRINCIPLES APPLIED TO THE PEACE SETTLEMENT WITH GERMANY BY THE PARTIES.

IN Parts IX, X, and XI an effort has been made to understand the positions of the two parties in reference both to the draft Treaty as a whole and also to its separate parts. Special attention has been devoted to the views of the parties upon the relation of the pre-Armistice Agreement and the Armistice Convention to the draft Treaty; and for the most part the controversy between the parties has been set forth in their own words. It is now proposed to consider the negotiations at Paris from the point of view of the principles upon which the parties based their proposals. No effort will be made to study the draft Treaty itself on its merits or demerits as the professed documentary embodiment of the terms and principles that were obligatory upon the Powers under the provisions of the pre-Armistice Agreement and the Armistice Convention: these problems will be considered in detail in subsequent chapters. The sole purpose of the remaining parts of the present chapter

¹ The Powers do not appear to have dealt with questions of maritime law in the documents now under review.

will be to note the principles which the parties applied, during the negotiation, to the complex problems of the settlement, and to study these principles in their relation to the terms and principles of the pre-Armistice Agreement (‘ the agreed peace ’) and the clauses of the Armistice Convention.

No effort will be made at exhaustiveness. All that is aimed at is to suggest the vast battle-ground of that war of principles which, on the conclusion of the Armistice, took the place of the war of armies, navies, and air forces. In the present brief survey many of the answers of the one party to the contentions of the other must perforce be omitted. Only a detailed study of all the documents themselves will reveal the full scope of the attack and the counter-attack of the parties, armed as they both were with President Wilson’s principles. The documents which embody the controversy of the parties at Paris are in fact permeated with the Wilsonian principles of the pre-Armistice Agreement. Many of the principles have an all-pervading influence: they affect the discussion of all or nearly all of the separate parts of the draft Treaty. Justice is one of these permeating principles; right and equality are but two of the others. It is this diffusion of principle throughout the documentary evidence of the Paris negotiations which forms the main subject-matter of the present Part XII.¹

§ I. THE PRE-ARMISTICE AGREEMENT.

Germany contends that ‘ scarcely a single stipulation of the draft [Treaty of Peace] corresponds with the conditions agreed upon [prior to the conclusion of the Armistice Convention] ’.

The Powers reply that the draft Treaty has been drawn up with scrupulous regard to the obligations resulting from the pre-Armistice Agreement.²

§ II. THE ARMISTICE CONVENTION.

The documents which embody the controversy between the parties as to the draft Treaty contain many references to the

¹ As far as possible the order of treatment in the present Part XII follows the same general arrangement of subject-matter as that adopted in the study of the pre-Armistice Agreement (see Vol. I, Chap. IX, Part IV). In this way the reader may make some comparison between the agreed principles and the principles actually applied by the parties.

² This fundamental difference of opinion is illustrated in detail in all the remaining sections of the present Part of this Chapter.

Armistice Convention. To all seeming it was not questioned by either party that the Armistice Convention, when in conflict with the pre-Armistice Agreement, must be the governing instrument; for it was concluded later than the Agreement itself. At the same time, the possible modifications of the terms and principles of the Agreement by the clauses of the Armistice Convention (for example, those in reference to reparation) present a legal problem of great importance which the historian of the Conference must always bear in mind. A further question of equal importance is how far, if at all, the provisions of the draft Treaty infringe the clauses of the Armistice Convention. Germany maintains that the Armistice Convention is infringed in several particulars by the draft Treaty. The Powers are equally convinced that the draft Treaty is in conformity with the Convention. The following short summary of certain of the allegations of the parties in reference to this matter will indicate the scope of the controversy.

(a) *Territorial and Political Questions.* In dealing with the boundaries of Germany the German Delegation maintain that 'steps taken during the Armistice have shown what the population of [the] Saar district will have to endure in the future'. The French Forces of Occupation have prepared the people for annexation to France. 'There is no justification', declare the German Delegation, 'for the demand that the date of cession [of Alsace-Lorraine] be set back to the day of the conclusion of the Armistice'. The German Delegation draw attention to the fact that by Article 15 of the Armistice Convention Germany has already renounced the treaties of Brest-Litovsk, as well as the supplementary agreements.

The Powers justify the clauses of the Treaty in reference to Luxemburg partly upon the ground that since the Armistice Luxemburg herself has communicated to the Powers her denunciation of the Customs Union. Germany recognized, when she signed the Armistice, that the 'legal objections derived from the "ante-dated cession" [of Alsace-Lorraine] are . . . inadmissible'.

(b) *German Rights and Interests outside Germany.* In dealing with the colonial question Germany declares that 'the demand contained in Articles 199 et seq. of the draft of peace, concerning Germany's renunciation of her overseas

possessions, cannot . . . be brought into harmony with the stipulations of the Armistice, which are based on Point 5 of the message of January 8, 1918 to the Congress of the United States'.

Germany contends, in dealing with German rights outside Germany, that 'every claim for damages done to German property in contradiction to law during the war, and even during the period of the Armistice (for instance, in Italy), is at the outset declared null and void by Article 298 (Annex)'. The German Delegation maintain, further, that 'owing to the behaviour of the . . . Powers during the period of the Armistice and the peace negotiations', the notion gains more and more credence among the German people that the Powers 'intend to stamp out German commercial competition'.

(c) *Reparation.* Germany claims that, when she signed the Armistice, she accepted responsibility for reparation only in the case of Belgium, and that the Powers now demand reparation in excess of Germany's obligation.

The Powers maintain, on the other hand, that the 'proposals [of the draft Treaty] confine the amounts payable by Germany to what is clearly justifiable under the terms of the Armistice'.

(d) *Financial Questions.* The German Delegation, in considering the financial clauses of the draft Treaty, declare that 'they are, on principle, willing to fulfil the demands of Article 238, already accepted in the Armistice, and since then performed'. 'The seizure of the colonies conflicts with the fundamental principles of the Armistice [as based on Point 5].' Germany should be 'allowed to preserve that territorial integrity which the Armistice promises'; and only on this assumption can Germany pay her reparation obligations.

(e) *Treaties.* Germany, in dealing with Articles 290 and 292, reminds the Powers that she has already 'renounced the peace of Brest-Litovsk [in the Armistice Convention]'.

(f) *Economic Questions.* In dealing with the economic clauses upon the subject of private rights Germany refers several times to the Armistice, which, she contends, has been infringed in certain particulars by the Powers.

Germany also alleges an infringement of the Armistice by the draft Treaty in respect to tonnage.

These several contentions of the German Delegation indicate

the importance of studying the clauses of the draft Treaty in their relation to the Armistice Convention as well as to the pre-Armistice Agreement.

§ III. THE NATURE OF THE PEACE SETTLEMENT.

(1) *Final Settlement.*

Both parties to the negotiations at Paris, as we have seen, express their desire and intention that the peace should be a final settlement. The German Delegation, in their Observations (29th May 1919), state their belief that the highest and most precious object of the Peace is to provide an assurance that this war shall be the last. In the German Letter (29th May 1919) it is stated that 'Germany offers to proceed with her own disarmament in advance of all other peoples, in order to show that she will help to usher in the new era of the peace of justice'. The Letter also speaks of 'the new era of an assured peace of justice' and 'a durable peace'; and it states that 'the forces which are at work for a union of mankind are stronger now than ever they were before'. 'The historic task of the Peace Conference of Versailles is to bring about this union.'

It is clear also from the documents which emanate from the Powers that they are firmly determined that the peace, once established, shall be durable. 'Justice', they declare in the Letter of the 16th June 1919, 'is the only possible basis for the settlement of the accounts of this terrible war.' 'They believe that [the draft Treaty] is not only a just settlement of the great War, but that it provides the basis upon which the peoples of Europe can live together in friendship and equality.'

The pre-Armistice Agreement had stipulated for a final settlement; and throughout the negotiations there was no expressed intention on either side that the Treaty should serve merely as a temporary adjustment. Indeed, as we have just seen, both parties professed that they were negotiating a Treaty which should establish a secure and durable peace. The divergent views of the parties were concerned in large measure with the fundamental problem as to how far the provisions of the draft Treaty actually ensured the fulfilment of the Agreement that the reckoning should be made once and for all.

This divergence in view is expressed in a striking way by

Allied and Associated Powers appear to have held a far different view of the draft Treaty ; but the modifications to which they agreed were at least a partial recognition of the position assumed by Germany.

(2) *Parties to the Settlement.*

The pre-Armistice Agreement had stipulated that all parties to the War should join in the final settlement. To all seeming the documents exchanged between Germany and the Powers do not raise the question as to how far a separate peace with Germany conflicted with this stipulation. It was, after all, not a practical question ; for the course of the War and of the negotiations in the autumn of 1918 led to separate Armistice Conventions between the Powers and each one of the States of Central Europe. It was but natural that this trend of events should lead to the negotiation of separate Treaties of Peace. In a broader sense the stipulation of the Agreement has been complied with, for all of the separate Treaties of Peace must be read together. All together the several Treaties constitute one complete settlement to which all of the belligerent States are parties.

(3) *Common Judgment of all.*

The pre-Armistice Agreement provided that the settlement should embody the common judgment of all parties to the War. It is manifest that the process of concluding separate Treaties of Peace necessarily conflicted with this stipulation. The several Treaties cannot in any sense be viewed as the embodiment of the 'common judgment of all'. Indeed, no one of the several Treaties can be said to represent even the common judgment of the particular parties to it: the divergence of views as to the draft Treaty with Germany illustrates this in a marked degree. While the draft Treaty did in a measure represent the common judgment of the Allied and Associated Powers, it did not in any sense represent the judgment of Germany.¹

¹ It is worthy of remark, in this connexion, that both parties quoted and relied upon the words of President Wilson, that 'all who sit down at the peace table shall come ready and willing to pay the price [of a secure and lasting peace] . . . impartial justice in every form of the settlement'. But what seemed 'impartial justice' to the Powers, seemed 'injustice' to Germany.

(4) *Open Covenants.*

At the opening session of the Peace Conference at Versailles, on the 7th May 1919, M. Clemenceau informed the German plenipotentiaries that 'no oral discussion is to take place and the observations of the German Delegation will have to be submitted in writing'. In their Letter (29th May 1919) the German Delegation say: 'There is no precedent for the conduct of such comprehensive negotiations by an exchange of written notes only. The feeling of the peoples who have made such immense sacrifices makes them demand that their fate should be decided by an open, unreserved exchange of ideas on the principle: "Quite open covenants of peace openly arrived at, after which there shall be no private international understandings of any kind, but diplomacy shall proceed always frankly in the public view."¹ Several times in the course of the written negotiations at Paris the German Delegation repeated their demand for oral discussions with the representatives of the Allied and Associated Powers.² So far as one can see, however, the question of 'open covenants' was not really considered in any detail by the Conference. Germany, as has been noted, drew attention to the President's Point One, and contended that the discussions should be oral and not written; but to all seeming neither side pressed for an 'open covenant of peace openly arrived at'. In any event the actual machinery of the Conference did not lend itself to the adoption of this method of concluding peace. A limited number of open plenary sessions and the publication of the results of secret sessions were the only features of the Conference which were in full compliance with the principle of Point One. The impartial observer of the course of events at Paris can reach but one conclusion: The conduct of the negotiations conflicted with President Wilson's Point One. How far this conflict was necessitated and justified by practical considerations is a further question. One may suspect that the procedure of the Conference will continue to be in the future the recognized method of concluding international covenants. It was followed at the first meeting of the Council of the League of Nations in London. Point One has

¹ Based on President Wilson's Address of 8th January 1918 (Point 1).

² Thus, for example, they demanded 'oral negotiations' as to the financial clauses.

been relegated to the realm of pure theory; it has had and can have, in our time, no place in the domain of practical diplomacy.

(5) *Principle.*

Both parties to the negotiation expressed their resolve to base the peace settlement upon the *principles* embodied in the pre-Armistice Agreement.¹ The Treaty was to be an application of 'the agreed principles'. To what extent the draft Treaty, or the Treaty itself, embodies these principles is one of the most vital of all the questions connected with the history of the Conference.

§ IV. INTERNATIONAL LAW, INTERNATIONAL RELATIONS, AND THE LEAGUE OF NATIONS.

(1) *New International Order.*

Both parties to the negotiation expressed the view that the War and its consequences necessitated the 'new international order' contemplated by the pre-Armistice Agreement. Both parties also professed their desire and hope that the Treaty would embody the foundations of this new system of international relations based upon law, justice, and the other fundamental principles of the Agreement.²

Germany's position in regard to the new international order is of special interest. Germany declares that by her own disarmament she wishes to show that she will 'help to usher in the new era of the peace of justice'. But, contends Germany, 'the new era of an assured peace of justice [demands] a treaty instinct with a different spirit [from that of treaties dictated by victor to vanquished]'. From 'the beginning of the new era of peace' Germany should be admitted, on a basis of equality, into the League of Nations. Germany states (quoting the words of President Wilson in his address of the 11th February 1918) that 'what we are striving for is a new international order based upon broad and universal principles of right and justice—no mere peace of shreds and patches'. 'Only the unanimous consent of the working classes of all countries', maintains Germany, can convert these words into a reality.

¹ The Agreement itself stipulated for a settlement based upon *principles*.

² See, e.g., Part IX, § II, A, pp. 251-3, Part X, § II, A, pp. 256-9, § III, A, pp. 260-1.

(2) *Common Will and Consent of Mankind.*

The documents now under review contain few express references to the principle of the pre-Armistice Agreement that the new international order should be based on the common will and consent of mankind. In their Reply of the 16th June 1919, the Powers declare indeed that the tribunals they will establish to try the Kaiser and German subjects accused of breaches of the laws and customs of warfare will 'represent the deliberate judgment of the greater part of the civilized world'; while in their Letter of the same date they maintain that the draft Treaty 'represents a sincere and deliberate attempt to establish that "reign of law, based upon the consent of the governed and sustained by the organized opinion of mankind", which was the agreed basis of the peace'. Germany speaks of the 'solidarity of human interests'. There is in fact a recognition, on both sides, that all States are closely related one to another in many ways and that these international relations must be governed by the law of nations as the expressed will of the civilized world.

(3) *International Law and Morality.*

The discussion of the parties at Paris touched at many points upon international law and morality. Various clauses of the draft Treaty were subjected to the test of their conformity with the legal and moral rules and principles which govern international relations.

(a) *Territorial and Political Questions.* In dealing with the territorial clauses¹ the German Delegation say: 'Unjustifiable appears the French claim that the cession of Alsace-Lorraine should form an exception to the provision in international law, which is recognized also by the peace draft, according to which, in a change of territory, the annexing state should take over a part of the national debt of the ceding state and should pay for the national property in the ceded territory.'

The clauses of the draft Treaty in respect to Luxemburg are justified, assert the Powers, not only by the Grand Duchy's own denunciation of the Customs Union, but also by 'the violation of the neutrality of the Grand Duchy by Germany during the war'.

¹ See also Part X, § II, A, pp. 256-9.

(b) *German Rights and Interests outside Germany.* The German Delegation contend that the provisions of the draft Treaty in regard to the rights of Germans in the colonies to their property and personal liberty are 'regardless of all principles of international and public laws'. They make 'the German an outlaw as far as private right and personal liberty of movement are concerned'.

The Powers declare that they 'have drawn up, in the matter of the cession of the German colonies, . . . methods of procedure, which are in conformity with the rules of International Law and Equity'.

The German Delegation contend that 'the tonnage which happened to be in any enemy harbour at the beginning of the War is to be taken away from her in a manner which is not justifiable in international law'. There is, again, a 'refusal to recognize the judgments of German Prize Courts'. German claims in reference to the capture, destruction, or use of German vessels are declared by the Powers to be null and void. Damages are refused for the vessels 'taken from Germany in breach of international law'. In dealing further with German rights outside Germany the Delegation say: 'Such stipulations [as those which the Delegation enumerate] amount to a complete denial of that idea of international law according to which every people has a claim to life.'¹

(c) *Penalties.* The German Delegation contend that international law and morality makes no provision for the trial of the Kaiser; and Germany cannot allow it to take place. The trial of German subjects accused of violations of the laws and customs of war cannot, under the law of nations, be held by courts of the injured State. Only German courts are entitled to jurisdiction; and Germany declares her readiness 'to see to it that violations of international law are punished [by German courts] with the full severity of the law'.²

The Powers reply that the 'public arraignment' framed against the ex-Kaiser 'has not a juridical character as regards its substance, but only in its form. The ex-Kaiser is arraigned as a matter of high international policy, as the minimum of what is demanded for a supreme offence against international morality, the sanctity of treaties, and the essential rules of justice'. Furthermore, the Powers 'consider that the trial

¹ See Part X, § vi, A, pp. 269-70.

² See also Part X, § ii, A, pp. 256-9.

and punishment of those proved most responsible for the crimes and inhuman acts committed in connexion with a war of aggression is inseparable from the establishment of that reign of law among nations which it was the agreed object of the peace to set up'.

(d) *Reparation.* Germany admits that her violation of the neutrality of Belgium was 'a breach of international law'. Only this attack by Germany on Belgium was contrary to international law, and Germany accepted responsibility for this attack alone when she signed the armistice. Owing, however, to the fact that by the attack on Belgium the German armies reached the north of France, Germany is now prepared to accept also responsibility for her attack on France. Germany is unable to admit responsibility for reparation in the case of other occupied territories, for in such cases Germany was not guilty of an attack contrary to international law. The Powers, contends Germany, appear to be seeking to establish, in excess of the liability consonant with the pre-Armistice Agreement, Germany's obligation to render reparation for every act committed, in the course of the war, in violation of international law. If the pre-Armistice Agreement is thus abandoned by the Powers, Germany must also claim compensation for damages; and, in this event, it would be necessary to set up an impartial international court of arbitration to decide upon all such claims of breaches of international law on both sides equally.

With reference to the 'foreign, dictatorial power' of the Reparation Commission, Germany says: 'The right of self-preservation of a State means above all an unrestricted determination of its internal organization; a restriction of Germany's freedom in this respect is a violation of the fundamental laws of nations.'¹

(e) *Treaties.* Germany contends that 'according to international law, treaties with States which have not been at war with Germany . . . are not affected by the rupture of diplomatic relations'.

The Powers reply that there is 'no universally recognized rule of international law' on this matter; and they are therefore free to deal with it 'in the most convenient manner'.

¹ See Part X, § v, A, pp. 266-8.

The Powers express the opinion that 'multilateral and bilateral treaties between peoples must exist, in times of peace, so that the principles of international law may be enforced and normal international relations maintained'.

(f) *Labour*. Germany proposes the holding of a world conference of labour organizations. 'The results of [its] deliberations . . . should be embodied in the treaty of peace and thereby attain the force of international law. Any other settlement would involve a violation of fundamental human rights by disregarding a demand of the day. . . .'

(g) *Maritime Law*. Germany contends that certain of the provisions of the draft Treaty in regard to maritime law infringe the principles of international law.

These references to international law and morality in the documents now under review indicate in a general way the attitude of the parties to the negotiation: and it is important to take account of this attitude in its bearing upon the future of 'the rule of law'. The maintenance of international law and morality constituted one of the fundamental principles of the pre-Armistice Agreement. In the course of the negotiations at Paris each party charged the other with breaches of international law. Thus, the allegation of the Powers that Germany had violated the laws and customs of war lies at the basis of the provisions of the draft Treaty as to penalties. Germany, on her side, maintained that many provisions of the draft Treaty were in violation of the established principles of international law; for example, certain provisions which deprived Germany of her place of equality in trade, certain provisions in regard to German colonies and German rights and interests outside Germany, and the provisions in regard to the trial of the Kaiser and penalties in general. These mutual charges of breaches of international law constitute in themselves an implied affirmance by both parties of the binding character of international law.

Both parties, however, went further and expressly stated, in the course of the negotiations, their adherence to the law of nations as the juridical basis of international relations in the future; and both parties likewise indicated their reliance upon international morality as a body of principles supplementary to legal principles and processes. Germany acknowledged that at the outbreak of the war she was guilty of violating the

neutrality of Belgium, and that this breach of her treaty obligations entailed compensation upon her part. Germany recognized also the 'principle of responsibility for violation of international law'. The Powers, on their part, asserted that treaties between States must exist, in times of peace, 'so that the principles of international law may be enforced.' In these and other ways there was an express affirmation, both by Germany and by the Powers, that the established principles of international law and morality are not to be treated either as abolished or as lessened in force and effect.

The Powers were determined, indeed, to place on a securer basis of sanction and guarantee that 'reign of law' for which the pre-Armistice Agreement had stipulated. It is a circumstance of some importance in this connexion that Germany professed herself ready to fulfil her obligations under international law; and that she held that her own membership in the League of Nations would be the best guarantee of her fulfilment of the Treaty of Peace and of her other international obligations. Indeed, in her own words, 'the German Government agrees with the Governments of the . . . Powers in the conviction that [the new world order] must ensure the "effective authority of the principles of international law", and "just and honourable relations between the nations".'

(4) *Separate Alliances, Covenants, Understandings, and Combinations of States.*

The German Delegation asserted that 'the very things which should have been avoided; "selfish economic combinations and economic boycott or exclusion," were, so far as the Germans were concerned, declared legitimate in any form and in a measure the like of which is not to be found in history'. The Delegation referred to various passages in President Wilson's addresses and speeches, and demanded 'perfect equality of Germany's rights with those of the other nations'.¹

Many times indeed in the course of the negotiations the German Delegates drew attention to the passages in President Wilson's addresses and speeches in which he had declared that all selfish and separate alliances, covenants, understandings, and combinations could not form part of the new international order based on justice and the equal and common rights of

¹ See Part XI, § VIII, 1, A, pp. 318-20.

States.¹ The German Delegation charged in effect that many provisions of the draft Treaty were in conflict with this fundamental principle of the pre-Armistice Agreement and that the Treaty as drafted would mean the continuance of the old system of the balance of power.

The Powers, on their side, declared their adherence to the principle of the Agreement and claimed that the Covenant of the League of Nations and the provisions of the Treaty as a whole were not in conflict with it.

(5) *Open Covenants.*²

(6) *Common Covenants and Understandings.*

Both parties to the negotiations clearly indicated their desire and intention that the relations of States should be governed by common covenants and understandings as opposed to the pre-war system of separate alliances, covenants, and understandings. But Germany maintained that the draft Treaty did not effect this purpose. In general the reply of the Powers was that the Covenant of the League of Nations secured the 'general alliance' of States as required by the pre-Armistice Agreement; and that, when ultimately admitted to the League, Germany would be a party to the common covenants and understandings of States.

(7) *The Sanctity and Guarantee of Treaties.*

Both sets of negotiators expressed the view that, in compliance with the pre-Armistice Agreement, treaties must possess sanctity and be enforceable under guarantees. Germany, frankly admitting her guilt in violating the neutrality of Belgium, in breach of her treaty obligations, declared indeed that 'only a return to the immutable principles of morality and civilization, to the sanctity of treaties, would render it possible for mankind to exist.'

There was, however, a fundamental difference of view, as between the parties, in respect to the arraignment of the ex-Kaiser. The Powers declared that he was to be arraigned for 'a supreme offence against . . . the sanctity of treaties. . . .' Neither international law nor the municipal law of states,

¹ See, e.g., Part X, § II, A, pp. 256-9, § V, A, pp. 266-8.

² See Part XII, § III, (4), pp. 347-8.

contended Germany, provides a punishment for the breach of treaties.

As to the Treaty of Peace itself, the Powers declared, in the words of the President, that the reason why it must be specially guaranteed was that Germany's 'promises have proved untrustworthy'. Germany, on her side, took the view that her own immediate membership in the League of Nations would constitute the best guarantee of the Treaty of Peace and of future treaties to which she should be a party—'the most inviolable guarantee for the good faith of every German Government'.

(8) *Freedom of the Seas.*¹

The German plenipotentiaries referred several times to the freedom of the seas. Thus, in considering German rights outside Germany, they contended that the blow struck at German maritime navigation and commerce by the draft Treaty rendered it impossible for them to 'understand how the German mercantile fleet, when after many years it shall have been reconstructed, can encounter conditions on the world's highways which will make the principle of "perfect freedom of navigation" practical, so far as it is concerned'. Again, in their comments on commercial policy they quoted Point two of President Wilson's address of the 8th January 1918, and declared that 'absolute freedom of navigation upon the seas, outside territorial waters' was one of the fundamental principles of the pre-Armistice Agreement which must be embodied in the Treaty of Peace. In discussing guarantees Germany complained that the Powers had 'absolute control of the seas'. There are more effective means of guaranteeing the peace, Germany contended, than the 'force and compulsion' of the Powers.

The German Delegation clearly overlooked the fact that upon Point two the Allies reserved, in their memorandum of the 5th November 1918, freedom of action at the Peace Conference. The doctrine of the 'freedom of the seas' cannot be viewed as a term or principle of the Agreement. Germany had no legal right to insist upon its inclusion in the Treaty.

¹ M. Clemenceau in the French Parliament on the 29th Dec. 1918 gave an account of the discussions between himself, Mr. Lloyd George, and President Wilson on this subject. V. *International Review*, Feb. 1919, p. 131, and *Le Temps*, 31 Dec. 1918. See another discussion of this point, vol. i, pp. 395-6.

(9) *Reduction of Armaments.*

In reference to the military, naval, and aerial clauses of the draft Treaty, Germany expressed her willingness to proceed with her own disarmament in advance of all other States, in order to show that she will 'help to usher in the new era of the peace of justice'.

The Powers insisted on Germany's disarmament as a step in the direction of the general disarmament of all States. They drew attention to the provision in the Covenant of the League of Nations requiring 'the reduction of national armaments'.

(10) *League of Nations.*

Germany demanded equality in respect both to the resumption of diplomatic and consular relations¹ and to the League of Nations.

In her discussion of various clauses of the draft Treaty (for instance, those concerning commercial policy and finance) Germany insists on being admitted at once to the League of Nations on an equality with other States and thus sharing in rights and duties, such as those of an economic character. Furthermore, the new democratic Germany deserves 'its place in the League of Nations'. Germany's membership in the League would 'constitute the most inviolable guarantee for the good faith of every German Government'.

Germany maintains, in the course of her discussion of the territorial and political clauses, that the placing of the German Saar region under the League of Nations, merely for material interests, would 'degrade the idea of the League of Nations'. Germany contends that the drawing of the frontiers of Poland is based in part upon the idea of 'strategic preparation of an attack against German territories. These considerations, however', concludes Germany, 'cannot possess any importance

¹ German Observations (29th May, 1919) :

'The German Delegation take it to be a self-evident consequence of the conclusion of peace, that the official relations between the two parties will be resumed with the coming into force of the Treaty of Peace. . . .

'Under Article 270 [of the draft Treaty] the right is claimed by the Allied and Associated Powers to appoint at their discretion without consulting the German Government consular agents at all places in Germany. This demand is a far-reaching innovation in the rules observed up to this time in international relations. In any case it is not justified as long as it is asserted by the Allied and Associated Governments to their exclusive advantage. The German Government could agree to the innovation if it were to be introduced equally for both parties.'

if the relations between Germany and Poland in the future are to be subject to the regulations of the League of Nations.'

The Powers regarded the Covenant of the League of Nations as 'the foundation of the Treaty of Peace'. In reply to the German Observations the Powers affirm that the pre-Armistice Agreement did not provide for Germany's immediate admission to the League, but that they do not contemplate her permanent exclusion. So soon as she is admitted a member, she will enjoy the rights and share in the duties incident to membership.

§ V. GENERAL PRINCIPLES OF THE PEACE SETTLEMENT.¹

(1) *Autocracy and Militarism.*

It is clear from many statements by the Powers that the autocracy and militarism of Germany lies at the basis of certain of the territorial and other clauses of the draft Treaty. By means of the Treaty the Powers were engaged in carrying out the first of the Four Ends demanded by President Wilson in his speech of the 4th July 1918—'the destruction of every arbitrary power . . . or . . . at the least its reduction to virtual impotency.'

Germany, on her side, contended that certain provisions of the draft Treaty were based on the autocracy and militarism, not of Germany, but of the Powers themselves.

The position of the parties is indicated by the following references to autocracy and militarism in the documents now under review.

(a) *Territorial and Political Questions.* In considering the territorial and political clauses of the draft Treaty, Germany maintains that territories of indisputably German population are added to the territory of Poland, 'only in order to grant Poland favourable military frontiers against Germany, or railway centres of importance.' Furthermore, Germany contends, the proposals of the draft Treaty in regard to Posen are 'not based on the principle of nationality, . . . but on that of the strategic preparation of an attack against German territories'.

¹ In the following survey no effort has been made to collect all references by the parties to the several principles. The reader should consult Parts IX, X, and XI, *supra*; he should also read the full text of all the various documents exchanged between the parties during the course of the negotiation.

It should also be noted that several principles not considered in the present § v are also to be viewed as general principles applicable to more than one kind of problem. Among these principles are *Free Acceptance by People Immediately Concerned* (applied to territorial and labour questions); *Restitution* (applied to territory and tonnage).

These considerations are, however, of no importance, declares Germany, 'if the relations between Germany and Poland in the future are to be subject to the regulations of the League of Nations.' Germany declares that she has no intention of 'shifting the Austro-German frontier by force'.

The Powers give the fact that the territories of Eupen and Malmedy had 'been made a basis for German militarism' as one of the reasons for their union with Belgium, provided the plebiscite confirms this decision. Again, the Powers declare that the seizure of the western provinces of Poland was one of the essential steps by which the military power of Prussia was built up. Poland is now to be re-established in her independence; and territories of Polish nationality must be restored to her. The Powers take note of Germany's declaration that she has no 'intention of changing by violence the frontier between Germany and Austria'.

In reference to Germany's oversea possessions the Powers contend in general that Germany has pursued a colonial policy of 'military imperialism' and that this must cease.¹ In particular they maintain that 'Kiaochow, which was unjustly torn from China, has been used by Germany as a military base in pursuance of a policy which in its various manifestations has constituted a perpetual menace to the peace of the Far East.'

(b) *Military, Naval, and Aerial Clauses.* In their discussion of the military, naval, and aerial clauses of the draft Treaty the Powers indicate that the provisions in regard to Germany's reduction of her armaments are based in part upon the policy of making it impossible for Germany to resume her course of 'military aggression'.

(c) *Penalties.* In considering the question of penalties Germany declares that she cannot allow the trial of the ex-Kaiser 'on the principles not of right, but of might'.

(d) *Reparation.* The Reparation Commission, contends Germany, will possess greater rights than those of a German Emperor or of any monarch 'in the time of absolutism'.

(e) *Treaties.* The Powers state that certain treaties referred to in Articles 290 and 292 were concluded by Germany by taking undue advantage of circumstances she created, the pressure she exercised, or her temporary 'military preponderance'; they must, in the interests of 'justice', be abrogated.

(f) *Private Rights.* Germany contends, in her discussion of

¹ See also *s.v. Guarantees*, pp. 380-1.

the provisions in regard to private rights, that 'not the idea of right but the idea of might was decisive'.

(g) *Guarantees.* Germany contends that, 'even in the provisions for its execution, the draft of the peace conditions does not renounce the principle of force'. '[The] weak military armament left to Germany after the war [cannot be] a menace to her neighbours.' The Powers have 'absolute control of the seas'. There are more effective means of guaranteeing the peace than the 'force and compulsion [of the Powers]'.

'The reason', declare the Powers, in the words of President Wilson (27th September 1918), 'why peace must be guaranteed is that there will be parties to the Peace whose promises have proved untrustworthy.'

(2) *Democracy.*

Democracy, which had played so important a rôle in the pre-Armistice Agreement, was admitted by both parties at the Paris Conference to constitute one of the bases of the settlement. Germany contended that 'the restoration and perfection of international order can only be assured [by] . . . realizing the great idea of democracy [set forth by President Wilson]'. Germany claimed, however, that the draft Treaty failed in many ways to recognize the existence of the German democratic institutions which had been established as a result of the War; and that the draft Treaty actually directed a blow at the very institutions which the Powers themselves had sought to have set up in Germany. The reply of the Powers was that they had in no way sought to hamper the growth of free institutions in Germany and that the draft Treaty could not be assailed on this ground.

Germany's position in respect to the principle of democracy is stated several times in the Letter and Observations of the 29th May 1919. Thus, in reference to the reparation and financial proposals of the Powers, Germany declares: 'It is of vital importance to democratic Germany that its political organization be inspired with a social spirit', and that its integrity be preserved. 'It is impossible for any State, especially a democratic one, to renounce its sovereign rights to the extent demanded [in the draft Treaty].' By the setting up of the Reparation Commission 'German democracy [is] destroyed . . . by the very ones who . . . [insisted] that they wanted to bring democracy [to Germany]'.

According to the view of Germany, 'in the democratic state no legal distinction exists between fellow citizens. Therefore the legal treatment of the private property of former German sovereigns cannot be different from the treatment of the property of any other German'. Certain Articles of the draft Treaty are therefore 'unjustifiable'.

Germany asserts, in reference to the labour question, that 'Part XIII of the conditions of peace is . . . in contradiction to the demands of democracy, for the powers . . . conferred upon the Governments cannot be derived from the consent of the governed'.

By the occupation of German territory, Germany maintains, the citizens of 'the freest and most democratic' country would, through alien rule, be hampered for a long time in the exercise of their personal, economic, and national rights and liberties, if not entirely deprived of them'.

(3) *Self-determination.*¹

Both parties recognized the validity of the principle of self-determination, which formed so important a part of the Agreement concluded before the Armistice.

(a) *Germany's Application of the Principle.* Germany devotes special attention to the 'right of self-determination' or 'free acceptance' by the people immediately concerned. She holds that 'as there are natural rights of man, so there are natural rights of nations. The inalienable fundamental right of every State is the right of self-preservation and self-determination.'

In dealing with territorial questions Germany declares that she cannot admit a plebiscite in the case of territories whose population is indisputably of German nationality.

'In cases where Germany can give its consent to territorial cession', the German Delegation declare, 'it must at least be preceded by a plebiscite in every community'.

Furthermore, 'the right of self-determination must not be a principle which is to be applied solely to the disadvantage of Germany; it must, on the contrary, be equally valid in all states,² and must especially be applied where a population

¹ See also the references to self-determination in Parts IX, pp. 257-9, and X, pp. 264-8. Cf. the references to self-determination s.v. *Nationality*, pp. 364-7.

² In another part of the Observations the German Delegation contend that, in accordance with the pre-Armistice Agreement, 'the right of self-determination should be recognized for all nations'.

of German origin, desires adherence to the territory of the German Empire'.

The draft Treaty, asserts Germany, conflicts with the principle of self-determination. 'Preponderantly German circles (*Kreise*) must be ceded to Belgium, without sufficient guarantees that the plebiscite, which is only to take place afterwards, will be independent,' Prussian Moresnet has a 'predominantly German population', and yet 'not even a plebiscite has been provided in those territories'. Apart from the fact that Germany 'cannot, on principle, consent to the cession of indisputably German territories', and 'a vote cannot be applied to such territories', the demand for the cession of Eupen and Malmédy to Belgium 'contravenes the principle according to which the settlement of all questions regarding sovereignty is to be brought about, on the basis of free acceptance on the part of the population immediately concerned. A plebiscite has not even been provided for. . . .' Germany renounces her sovereign right in Alsace-Lorraine, but wishes a plebiscite to be taken there. It 'must be admitted', declare the German Delegation, 'that according to the present general conceptions of right, an injustice was committed [by Germany] in 1871 by the failure to hold a plebiscite'. The draft Treaty demands the permanent recognition of the independence of Austria within the frontiers established by the Treaty; but Germany cannot pledge herself, declare the German Delegation, to oppose any expressed desire on the part of the German population in Austria to restore the national connexion with Germany, 'as the right of self-determination should apply universally and not only to the disadvantage of Germany. Any other proceeding would be contrary to the principles expressed by President Wilson in his address to Congress on February 11, 1918.' In respect to the districts of Upper Silesia demanded for Poland 'the will of the population has [already] been clearly expressed in the elections to the Reichstag in 1903 and 1907'. The presence of a population with a non-German language in the southern parts of East Prussia is an insufficient ground for the demand of a plebiscite, for those districts are 'not inhabited by an indisputably Polish population'.

Germany consents to a plebiscite in Schleswig, even though she is not bound to do so by the pre-Armistice Agreement,

which did not expressly mention the Schleswig question, because Germany 'recognizes the right of self-determination of the peoples'. 'Preponderantly Danish districts of Schleswig will be given up to Denmark on the basis of a plebiscite.'

(b) *The Powers' Application of the Principle.* The general position of the Powers is stated in their Reply. The intention of the Powers has been 'to base the settlement on the principle of freeing oppressed peoples and re-drawing national boundaries as far as possible in accordance with the will of the peoples concerned, while giving to each facilities for living an independent national and economic life'. The Powers declare that this principle is based on the pre-Armistice Agreement.

The Powers state that in 1814-15, when Eupen and Malmedy were assigned to Prussia 'no account was taken of the desires of the people'. This and other reasons justify the union of those territories to Belgium, 'provided the petitions to this effect are sufficiently supported by the population of the district'. Among the reasons which justify the clauses of the Treaty as to Luxemburg is the fact that Luxemburg has herself denounced the Customs Union and communicated that decision to the Powers. Germany overlooks the fact, assert the Powers, that the arrangements in regard to the Saar region are temporary and that at the end of fifteen years 'the inhabitants will have a full and free right to choose the sovereignty under which they are to live'. 'Fifty years ago the injustice [in the case of Alsace-Lorraine] consisted in the annexation of a French country against the will of its inhabitants.' The purpose of the Treaty is to right this wrong; and the Powers cannot admit a plebiscite. Moreover, inasmuch as Germany has accepted Point eight and signed the Armistice, which places Alsace-Lorraine in the position of an evacuated territory, she 'has no right to demand a plebiscite'. Furthermore, the people of Alsace-Lorraine have thrown themselves into the arms of France. 'A Treaty founded on the right of self-determination of peoples cannot but take note of a people's will so solemnly proclaimed.' On the principle of nationality Upper Silesia ought to be ceded to Poland without a plebiscite; but, as Germany contends that separation from her is 'not in accordance with the wishes or the interests of the population', a plebiscite will be held prior to cession. 'It is difficult to

understand', state the Powers, 'the objections raised by the Germans to the plebiscite which is to be held in certain portions of East Prussia . . . [Where] the affinities of the population are undoubted, there is no necessity for a plebiscite; where they are in doubt, there a plebiscite is enjoined. It is noted with surprise that the Germans at the very moment when they profess assent to the principle of self-determination, refuse to accept the most obvious means of applying it.' The proposed settlement for Danzig, declare the Powers, will 'preserve the character which Danzig held . . . until, forcibly and contrary to the will of the inhabitants, it was annexed to the Prussian State'. Prussia broke her promise of 1866 to Denmark to hold a plebiscite in the northern districts of Schleswig. This plebiscite will now be guaranteed by the present Treaty.

(c) *Germany's Application of the Principle to Non-Territorial Questions.* The German Delegation apply the principle of self-determination to various parts of the settlement unconnected with the territorial frontiers of Germany. Thus: 'According to Article 147', declare the German Delegation, 'Germany shall be obliged, without consulting the Egyptian people, to recognize the protectorate over Egypt by Great Britain, and thereby to violate Egypt's right of self-determination.' The exercise of the dictatorial powers of the International Reparation Commission would result, the German delegates assert, in depriving the German people of their 'right of self-determination'. In discussing finance Germany maintains that she can bear her heavy burdens only on the condition that she is not dismembered and that her industrial and commercial system is not destroyed, 'except in so far as this may result from the right of self-determination of the inhabitants of Alsace-Lorraine, Schleswig, and parts of the province of Posen'. 'Should a diminution of her [Germany's] territory take place, as a result of the application of the right of self-determination, the indemnity to be paid on the 1st of May, 1921, will have to be distributed proportionately.' The whole constitution of democratic Germany, 'which for Germany also should be based on the right of self-determination', would be made null and void by the exercise of the powers conferred on the Reparation Commission. Germany would thus lose her right of 'economic self-determination and initiative'.

(4) *Nationality*.¹

The German Delegation, in their Letter and Observations of the 29th May 1919, fully admitted the validity of the principle of nationality in the settlement of the territorial questions of the peace; but, as we have seen, they entered vigorous protests against certain applications of the principle in the draft Treaty of Peace. They maintained that the principle was infringed by the draft Treaty in several cases, notably in those of Danzig, 'which is German to the core', Memel, 'which is purely German', and 'the purely German district of the Saar'.

The Powers equally asserted the legality of the principle of nationality in the settlement of territorial and other questions; and they defended the provisions of the draft Treaty, especially those dealing with Poland and the eastern frontiers of Germany, in which the principle of nationality had been applied.

(a) *Germany's Application of the Principle.* In respect to territorial questions, Germany relies upon 'the basis of right' recognized by both parties in the pre-Armistice Agreement, namely, President Wilson's Four Principles of the 11th February 1918 [(1) essential justice of the particular case; (2) no bartering of peoples and provinces; (3) interest and benefit of populations; (4) well-defined national aspirations to be accorded utmost satisfaction possible] and the second of President Wilson's Four Ends of the 4th July 1918 [free acceptance by the people].

The fundamental principles which emerge from the pre-Armistice Agreement, assert the German Delegation, are these: '[1] no territory shall be separated from Germany where national adherence has been proved to be indisputable by harmonious union with Germany for centuries, or [2] whose population has not declared its consent to such separation.'

'The German Government cannot, on principle', declare the German plenipotentiaries, 'consent to the cession of indisputably German territories; and a vote cannot be applied to such territories.'

'In cases where Germany can give its consent to territorial

¹ Only certain of the references to nationality in the texts embodied in Part XI, *supra*, are here brought under review. See also the references to nationality in Parts IX and X, *supra*.

cession, it must at least be preceded by a plebiscite in every community.'

The draft Treaty, assert the German Delegation, conflicts with the principle of nationality in that it demands the cession of territories of purely or predominantly German nationality, namely, (1) Neutral-Moresnet, Prussian-Moresnet, Eupen, and Malmédy to Belgium; (2) Saar Basin (ultimate annexation to France); (3) Alsace-Lorraine to France; (4) Posen (German parts) and West Prussia (German parts), Upper Silesia, East Prussia, Memel, and Danzig to Poland.

The German Delegation express their willingness to abide by the pre-Armistice Agreement and cede (apparently without plebiscite) territories of an 'incontestably' non-German nationality, namely, to Poland 'the greater part of the province of Posen, the district incontestably Polish in population, together with the capital', and 'West Prussian districts whose population is undoubtedly Polish'.

Furthermore, declare the German Delegation, although Germany is not bound in respect to the Schleswig question by the pre-Armistice Agreement, inasmuch as Schleswig was 'not expressly mentioned in President Wilson's points', Germany is willing nevertheless to cede to Denmark 'the preponderantly Danish districts of Schleswig', but only in case the populations by plebiscite vote in favour of the cession.

The German Delegation express their willingness to cede to France certain territories which they regard as predominantly German in nationality, namely Alsace-Lorraine, but only after the population by a plebiscite has pronounced in favour of the cession.

Germany 'advocates in principle the protection of national minorities'.

(b) *The Powers' Application of the Principle.* The Powers declare that 'every territorial settlement of the [draft] Treaty has been determined upon after most careful and laboured consideration of all the religious, racial, and linguistic factors in each particular country. The legitimate hopes of peoples long under alien rule have been heard'; and the decisions have been founded upon the principles of the pre-Armistice Agreement that 'peoples and provinces are not to be bartered about' and that 'all well-defined national aspirations shall be accorded the utmost satisfaction' possible, without endangering the future peace of the world.

The Powers devote particular attention to the principle of nationality as applicable to Poland and the eastern territories of Germany. Two cardinal principles have been applied: (1) the re-establishment of the independence of 'the Polish Nation' and (2) the inclusion in the territory of the restored Poland of 'those districts which are now inhabited by an indisputably Polish population'. In respect to Posen and West Prussia the two principles have been applied with due regard to the further principle of justice. Although the first of the two cardinal principles cannot be applied to Upper Silesia, which was not a part of the Polish territories when dismembered by the Partition, nevertheless the second cardinal principle applies, for in the district of Upper Silesia to be ceded to Poland 'the majority of the population is indisputably Polish'. Although, on the strict application of the principle of nationality, this cession ought to take place without a plebiscite, nevertheless, in deference to the contentions of Germany, the cession shall be preceded by a plebiscite. The cession of the district of Memel does not conflict with the principle of nationality, for this district always has been and still is Lithuanian. Although the city of Memel itself is 'in large part German', this fact should not prevent cession of the district as a whole to Lithuania, 'particularly in view of the fact that the port of Memel is the only sea outlet for Lithuania'. 'The population of Danzig is and has for long been predominantly German; just for this reason, it is not proposed to incorporate it in Poland', declare the Powers. Danzig will, however, be restored to its ancient position as a free Hanse town, in intimate relations with Poland, and free from any foreign control. Danzig will provide Poland's 'sole opening to the sea', and thus Poland will be put on an equality with the other States of Europe.

(c) *Indisputable Nationality.* Upon one important point the two parties—Germany and the Powers—seem to have been agreed: Where the nationality of a particular territory is indisputable, the principle of nationality shall be applied; and in such cases there shall be no application of the principle of self-determination by means of a plebiscite. The Powers permit a relaxation of this doctrine in the case of Upper Silesia, for, although they contend that 'the majority of the population is indisputably Polish', they allow a plebiscite in deference to

Germany's contentions. At the same time it is clear that in the case of the towns of Memel and Danzig the Powers do not apply the principle of nationality, although they admit that they are both German in character—Memel 'in large part German' and Danzig 'predominantly German'. In both cases the cession is demanded by the Powers in order to provide an outlet to the sea for an inland State—Memel for Lithuania and Danzig for Poland.

(5) *Equality of Nations*.¹

(a) *Germany's Application of the Principle*. Germany's position is that 'the equality of nations upon which peace must be founded if it is to last must be an equality of rights'.

Germany declares herself ready to 'administer her colonies according to the principles of the League of Nations—possibly as the mandatory of the latter—if a League of Nations is formed which she can enter at once as a member State, enjoying equal privileges with the other members'.

'In all countries', declares Germany, 'there are . . . people who fight for right and equality', men who know that the world would be poorer if the German people were 'excluded from the co-operation of the world'. The German people demand that they 'have the same freedom of action both in [their] own country and in the world at large as all other peoples'. 'It is necessary that Germany should be admitted on a basis of equality into the League of Nations, from the very beginning, that is from the beginning of the new era of peace.'

The German Delegation propose that an international court composed of neutrals be erected to decide the preliminary question as to whether an act committed in the War should be considered as an offence against the laws and customs of war, the meting out of punishment to be left to the national courts. It is presupposed, declare the German Delegation, that Germany shall have the same share in the constitution of the international court as the Powers, and that subjects of all parties to the present war shall be brought equally before such court.

¹ The discussion by the parties of the principle of equality embraces (a) the equality of nations, and (b) the equality of the subjects of all nations. On (b) see also Part XIII, § III, *infra*.

On the general principle of equality see also Part XII, § IV, pp. 356-7; § V (s.v. *Freedom*, p. 377; *Justice*, pp. 371-4).

Germany expresses the view that the principle of 'reciprocity' must be applied in adjusting the economic relations between Germany and Luxemburg and the relations between Germany and Poland in respect to the use of ports, waterways, and railways.

Germany maintains that on the basis of the pre-Armistice Agreement she is 'entitled . . . to demand that the economic provisions of the Treaty of Peace shall be drawn with full regard to the perfect equality of Germany's rights with those of the other nations'. Germany seeks to 'do away [as far as possible] with all preferential treatment'. Germany also 'agrees to the complete establishment of equal and reciprocal rights in the matter of maritime and river navigation'. For the principle of equality of trade conditions Germany relies on Point three.

In reference to private rights Germany demands that 'the principle of reciprocity must be accepted from the beginning and without exception as the basis for all regulations to be established [by the Treaty of Peace]'. In respect to the 'clearing system' there must be the 'absolute equality' of the two parties. 'The application of a clearing system is justified only if it is based on the principle of reciprocity and the equal standing of both parties.' 'The provisions relative to protection of industrial property are founded on a principle which would comply with the demands of right and equity if they were carried out logically, and if reciprocity were fully guaranteed.'

The Powers deny to the working-man, alleges Germany, 'the most elementary of human rights—that of equality . . . They do not regard working-men as citizens entitled to equal rights . . . [Only] that peace whose first principle is the equality of rights of the working classes will last. [Germany demands] equal rights for the working classes of all countries.'

(b) *The Powers' Application of the Principle.* The Powers base the provisions of the draft Treaty in respect to Danzig partly upon the principle that, by thus granting to Poland the control of her sole opening to the sea, the communications between Poland and the sea will not be subject to any foreign control. Thus, 'in this, one of the most important aspects of national life, Poland [will] be put on an equality with the other States of Europe'.

The Powers state that the grant to Germany of immediate equality of trade conditions would result, owing to the devastation wrought by the War on the lands of the Allied peoples, in the establishment of 'an inequality of trade conditions'. There must be a period of transition. 'A reciprocity . . . after that period . . . is very clearly that equality of trade conditions for which President Wilson has stipulated.'

In dealing with the subject of treaties the Powers state that the object of Articles 291 and 294 is to 'establish an equality as between themselves and Germany'.

The Powers state that they have applied the principle of 'reciprocity' in all cases where it has been 'possible'. Reciprocity cannot be accorded in all respects to the treatment of private rights. The Powers specify the cases in point.

The sole object of the provisions as to rivers, declare the Powers, is to 'establish complete equality between the subjects of all nations'.

(6) *Common Rights and Interests of all Nations.*

The principle of the pre-Armistice Agreement that the common interests and rights of all nations must be recognized and respected was much discussed at the Conference. Germany's contention was that the draft Treaty deprived her of an opportunity to share in many common interests and to enforce many common rights which she possessed as a member of the world's community of States, more especially the draft Treaty excluded her from the League of Nations 'to which is entrusted all work of common interest to the world'. The Powers replied that they had no intention of infringing the principle of common interests and rights, and that in due course Germany would be admitted as a member of the League of Nations, if she complied with the conditions.

A study of the documents shows that both parties to the negotiation rely upon the principle of common rights and common interests.

(a) *Germany's Application of the Principle.* Germany maintains that, if a plebiscite were not taken in Alsace-Lorraine, the purpose 'to make a peace in the interest of all' [Point Eight] would not be attained; for there would be the danger that the settlement would cause 'new hatred

among the nations'. The cession of Upper Silesia to Poland is also 'not in the interest of the remaining States of Europe and of the world, for it is certain to create new elements of discord and antagonism. . . . This will greatly endanger the peace of Europe and of the world. It is in the interest of the . . . Powers themselves to leave Upper Silesia with Germany', for Germany can meet her war liabilities only by retaining this territory.

Concerning the rights of her subjects abroad Germany maintains that 'as a great civilized nation the German people have the right and the duty to co-operate in the joint task which devolves upon civilized mankind of exploring the world scientifically and of educating the backward races'.

In regard to financial proposals Germany contends that 'the restoration of France and Belgium' is a 'task which is common to all civilized nations'.

In discussing private rights the German Delegation remark : 'In the spirit of reciprocity, resulting from the interest common to all states in an equal and just settlement of those controversies [as to Mixed Arbitral Tribunals], the courts and other authorities of all contracting Powers should within their competence assist the Mixed Arbitral Tribunals. . . .'

Dealing with the provisions of the draft Treaty as to guarantees, Germany 'demands in the interests of all nations and of all human beings, a peace to which it may give its assent in accordance with the dictates of its conscience'.

(b) *The Powers' Application of the Principle.* The Powers quote, in support of the Treaty provisions in regard to Alsace-Lorraine, the Eighth Point, namely, that 'the wrong done . . . to France . . . must be righted in order that peace may again be assured in the interest of all'.

The Powers state that the Reparation Commission is instructed by the Treaty itself so to exercise and interpret its powers as to 'ensure, in the interest of all, an early and complete discharge by Germany of her reparation obligations'.

(7) *Reign of Law.*¹

Germany contends that the draft Treaty does not establish the 'reign of law' demanded by the pre-Armistice Agreement ;

¹ See also Part XII, § IV (*s.v. International Law and Morality*, p. 349) ; § V (*s.v. Justice*, pp. 371-4) ; § IX (*s.v. Penalties*, p. 396).

on the contrary it sets up a condition of world affairs based on might.

In their Letter of the 16th June 1919, the Powers state that the draft Treaty 'represents a sincere and deliberate attempt to establish that "reign of law, based upon the consent of the governed and sustained by the organized opinion of mankind"', which was the agreed basis of the peace'.

(8) *Justice.*¹

(a) *Germany's Application of the Principle.* In respect to territorial settlements Germany relies upon the first of the Four Principles of President Wilson's address of the 11th February 1918, as part of the agreed 'basis of right', the principle that 'each part of the final settlement must be based upon the essential justice of that particular case and upon such adjustments as are most likely to bring a peace that will be permanent'. The principle of justice, asserts Germany, is infringed by the territorial settlements of the draft Treaty. Thus, the economic and the ultimate political annexation of the Saar basin to France and the immediate cession of Alsace-Lorraine to France without a plebiscite are acts of 'injustice'. An 'injustice' was committed by Germany in 1871; a 'new and far greater injustice' is now being committed by the Powers.

Germany maintains that the demand for her renunciation of her colonies is 'unjustified'. Germany 'considers her claim to the restoration of her colonial possessions just'. 'The settlement of the colonial question [in the draft Treaty] is . . . contrary to a peace of justice.'

The German Delegation contend that many provisions of the draft Treaty in regard to German rights and interests outside Germany are not 'reconcilable with the principles of an impartial justice, which knows no favours or preferences. On the contrary, to the subjects of the . . . Powers alone all those liberties are legally secured, which would, as a matter of fact, result from a free and fair competition, but from which the German merchant will be excluded by the erection of insurmountable barriers'.

¹ See also Part XII, § IV (*s.v.* *New International Order*, p. 348 and *Reduction of Armaments*, p. 355-6).

The Delegation representing Germany maintain that the satisfaction of 'the offended sense of justice in all cases where an injustice has actually been committed', one of the objects of the conclusion of peace, cannot be attained if, as the draft Treaty requires, the rôle of judge is given to the victor; for, under such circumstances, 'might is put in the place of right.' Again, argue the German Delegation, not only must the infringements of international law be expiated; a further principle ought also to govern, namely, that other wrongs should, 'so far as the general feeling for justice allows it, be consigned to oblivion upon the conclusion of peace. An amnesty of this character should have application to the nationals of both parties. Furthermore, certain acts committed by the inhabitants of a territory occupied by enemy forces should be included in this amnesty, for they may 'remain unpunished without injury to the sense of justice'.

'Justice, equity, and good faith,' declares Germany, . . . '[are the] principles [which] are the necessary and foremost condition for a successful settlement of all questions connected with the matter of reparation.' 'A surrender of business secrets is . . . not compatible with the principles of justice, equity, and good faith, laid down in Section II of Annex II.' 'Articles 259 and 261 are contrary to every conception of justice.'

Germany's position is that the principle applied by the Powers, that only such multilateral treaties of an economic or technical character will be resumed as are expressly enumerated in the Treaty of Peace, 'would not establish a sound and firm basis of justice, which is indispensable to the resumption of international relations.'

Germany holds that 'the establishment of mixed courts of arbitration [Articles 304-305] is dictated by justice and by practical reasons'. The provision [of the Annex] that the language, time, and place of the meetings of the courts shall be determined by the enemy Power is 'an injustice to Germany, unparalleled in all international and national agreements of arbitration'. In these and other ways the draft Treaty works 'great injustice'. 'Justice demands', among other things, 'that the Mixed Arbitral Tribunal [and not the national court of one Power] pass judgment in all cases.'

'A peace which threatens the existence of the German workers,' declares Germany, 'can never be a peace of justice,

which guarantees friendship among nations.' The provisions of the draft Treaty 'destroy the basic principles of justice as laid down by President Wilson . . . on September 27, 1918'. More particularly, Article 427 fails 'to do justice to the demands of the working class'.

In reference to guarantees the German Delegation say: 'The new peace must be a peace of justice and therefore of voluntary agreement . . . Justice and the free agreement of all parties to the Treaty will prove to be the strongest, in course of time the only guarantees of the pact to be concluded.'

'Justice', declares Germany, 'demands either the recognition or the indiscriminate and impartial examination of the decrees and orders issued by the Prize Courts of all contracting Powers. . . . Should such an examination be agreed upon, it can only be undertaken by an international court constituted on a footing of equality.'

(b) *The Powers' Application of the Principle.* In their Reply of the 16th June 1919, the Powers refer to the refusal of Germany to carry out any reparation, as in the case of the Saar basin arrangement, which will have the character of a 'punishment'. 'The German idea of justice,' declare the Powers, 'appears then to be one which excludes a conception which is essential to any just settlement and a necessary basis for subsequent reconciliation.' The annexation of Alsace-Lorraine by Germany in 1871 was an act of 'injustice'. 'The obligation of repairing the injustice then committed' demands the cession of Alsace-Lorraine to France. Poland, again, was 'unjustly deprived' of her independence more than a hundred years ago. 'To undo this wrong' is now the first duty of the Powers. In the settlement of the fate of Posen and West Prussia the Powers have endeavoured to give no countenance to 'the grossest acts of injustice and oppression' on the part of Germany; and they have themselves striven 'to avoid even the appearance of injustice' and 'to eliminate any possible injustice'. Poland 'justly claims', assert the Powers, 'that the control and development of the port [of Danzig], which is her sole opening to the sea, shall be in her hands.'

In dealing with the settlement of Germany's rights and interests outside Germany, the Powers 'recall the fact that Kiaochow . . . was unjustly torn from China'.

The Powers hold that, as the war was 'a crime deliberately plotted against the life and liberties of the peoples of Europe', they must therefore 'regard the punishment of those responsible . . . as essential on the score of justice'. The Powers are 'prepared to stand by the verdict of history as to the impartiality and justice with which the accused will be tried'. The arraignment of the ex-Kaiser is 'the minimum of what is demanded for a supreme offence against international morality, the sanctity of treaties and the essential rules of justice'. The Powers state that they will submit a list of those who 'must be handed over to justice'.

The Powers state that the reparation burdens of Germany, heavy though they be, are 'imposed under conditions of justice' by peoples who have suffered 'wrongs which it is beyond the utmost power of Germany to repair'. 'Justice . . . is the only possible basis for the settlement of the accounts of this terrible war . . . reparation for wrongs inflicted is of the essence of justice'.

The Powers, in their Reply of the 16th June 1919, quote their note of the 22nd May in which they declare that 'it is just that Germany, the primary cause of these calamities, should repair them to the full extent of her power'.

The Powers state that 'it is . . . a consideration of justice which has led [them] to impose on Germany, for a minimum period of five years, non-reciprocal conditions in the matter of commercial exchanges. [The Articles of the draft Treaty], drawn up on this basis, are measures of reparation. . . .'

The Powers in their Reply state that they have re-applied all multilateral treaties which seemed to them 'compatible with the new conditions arising out of the war'. It is only 'just' that the Powers reserve the right to decide which multilateral and bilateral treaties are to be revived. Furthermore, the Powers could not permit the continuance of all the treaties imposed by Germany on her allies, temporarily defeated adversaries, and neutral countries, 'with a view to securing particularly favourable conditions and special advantages of all kinds, the maintenance of which is incompatible with the re-establishment of the spirit of justice.' Certain treaties referred to by Germany (Articles 290 and 292) 'it is impossible to maintain . . . in force after the conclusion of a Treaty of Peace based upon the principles of justice'.

(9) *Right*.¹

Both parties base many of their proposals upon one or the other of the two principles of 'right' and 'justice'. Each party likewise charges the other with having committed 'wrongs' and 'injustices'. In this and the preceding section certain of the salient passages from the documents have been collected. It will appear from them that the line of distinction between 'right' and 'justice' was not always clearly drawn by the parties.

(a) *Germany's Application of the Principle.* In considering territorial questions the German Delegation maintain that the principles proposed by Germany are in accordance with 'the basis of right recognized by both parties for the settlement of territorial questions'. This 'basis of right' is embodied in the Four Principles of President Wilson's address of the 11th February, and in the second of the Four Ends of his speech of 4th July 1918. 'It must be admitted,' declare the German Delegation in dealing with the question of Alsace-Lorraine, 'that, according to the present general conceptions of right, an injustice was committed in 1871 by the failure [of Germany] to hold a plebiscite.' The German Delegation deal fully with 'the right of self-determination'.

Germany maintains that her 'claim to her colonies is, first of all, based on the fact that she has acquired them lawfully. . . . Her ownership of them has been acknowledged by all the Powers.' Germany has a 'right to remain in the possession of her colonies'.

The German Delegation take the position that the forfeiture of the rights of German nationals in various countries, as demanded by Articles 260 and 293, would do Germany a great injury. 'Germany would be deprived, in flagrant violation of duly acquired rights, of valuable opportunities throughout Europe of procuring raw materials and of selling her products outside her frontiers.'

Germany declares that she cannot allow the trial of the ex-Kaiser 'on the principles not of right, but of might'. The trial of Germans by courts of the Powers would be giving the

¹ See also Part XII, § IV (*s.v.* *New International Order*, p. 348; *International Law and Morality*, pp. 349-53); § V (*s.v.* *Democracy*, pp. 359-60; *Self-determination*, pp. 360-3; *Justice*, pp. 371-4; *Equality of Nations*, pp. 367-9); Part XIII, § III (*Private Rights of Nationals*, pp. 416-9).

rôle of judge to the victor and placing 'might' in the place of 'right'.

The financial clauses of the draft Treaty, it is alleged by the German Delegation, deprive Germany and German subjects of their rights. But 'in all countries there are . . . people who fight for right and equality'.

Germany contends, in dealing with private rights, that 'numerous provisions [of Sections III-VII, Part X, of the draft Treaty] show that . . . not the idea of right but the idea of might was decisive'.

(b) *The Powers' Application of the Principle.* The position of the Powers is that the War was 'a crime against humanity and right'. They are convinced that the draft Treaty represents a peace of 'justice'; 'they are no less convinced that it is a peace of right on the terms agreed.'

In their Letter of the 16th June 1919, the Powers seem to draw a distinction between 'right' and 'justice' as two of the agreed bases of the peace settlement. The details furnished by the Letter enable us to see the main line of difference between those provisions of the draft Treaty which, in the view of the Allied and Associated Powers, fall under the category of 'justice' and those which they regard as belonging to the category of 'right'.

Under the heading of 'justice' are reckoned, amongst others, those clauses of the draft Treaty which deal with 'reparation for wrongs inflicted'; the trial of individuals who have committed acts of barbarism and inhumanity in the conduct of the War; the submission by Germany for a few years to 'certain special disabilities and arrangements' owing to her wanton acts of devastation, despoliation, and destruction, for 'it is only justice that restitution should be made, and that these wronged peoples should be safeguarded for a time from the competition of a nation whose industries are intact'.

As opposed to the peace of 'justice', the peace of 'right' demands that the settlement of Europe be based 'on the principle of freeing oppressed peoples and redrawing national boundaries as far as possible in accordance with the will of the peoples concerned, while giving to each facilities for living an independent national and economic life'. The provisions of the draft Treaty in regard to the reconstitution of Poland

as an independent State represents the practical application of the principle of 'right'. The intentions of the Allied and Associated Powers to base the settlement on this principle of right 'were made clear not only in President Wilson's address to Congress of January 8, 1918, but in "the principles of settlement enunciated in his subsequent addresses", which was the agreed basis of the peace'.

The Powers, in their Reply, base the settlement as to Alsace-Lorraine upon 'the righting of wrong', as demanded by Point 8. Fifty years ago an 'injustice' was committed. 'To right a wrong is to replace things, so far as possible, in the state in which they were before being disturbed by the wrong.' This is the purpose of the Treaty provisions. In respect to certain districts of Posen and West Prussia the Powers have 'waived the claim of historic right [which Poland could assert] because they wished to avoid even the appearance of injustice'.

The Powers hold that 'the trial of those directly responsible for offences against humanity and international right' cannot be entrusted to their 'accomplices in their crimes'.

The proposals of the draft Treaty in regard to rivers are not, the Powers contend, in 'derogation of the rights of the . . . riparian States'.

(10) *Freedom.*

'Liberty', or 'freedom', figures largely in the documents exchanged between the two parties during the peace negotiations. The divergence of the parties' views as to the application of the principle of freedom to the settlement colours the discussion of nearly all the separate parts of the draft Treaty.

(a) *Germany's Application of the Principle.* In their Letter of the 29th May 1919, the German Delegation assert that the clauses of the draft Treaty in regard to reparation would, if enforced, condemn the German people to 'perpetual slave labour', and that the powers conferred by the draft Treaty on the International Reparation Commission would enable it to 'keep the whole German people in mental thralldom'. Germany presumes that the Treaty arrangements will enable her to 'recover her freedom of economic movement at home and abroad'. Likewise in their Observations of the

29th May 1919, the German Delegation remark that 'only the nations that enjoy freedom and independence, based upon law, may give each other the guarantee of just and honourable relations . . . freedom and life [are] the most sacred and inalienable fundamental rights [of nations]'.

This position of the German Delegation is elaborated in much detail both in their Letter and in their Observations. Thus, in dealing with the matter of German rights outside Germany, the German Delegation express the view that by the draft Treaty only the subjects of the Powers are legally assured the 'liberties' of a free and fair competition in foreign trade. Germany demands 'her full and reciprocal freedom of action within the limits of the demands made by the . . . Powers for their own trade'.

The German Delegation maintain, as already noted, that the reparation proposals of the draft Treaty would, if adopted, result in the 'perpetual slave labour' of the German people. Likewise in dealing with financial questions the German Delegation say: 'So far as infringements upon the economic liberty of the German population are necessary in order to perform the accepted obligations, the German Government will undertake them according to its own resolution.' The German people, however, 'does not live only to perform reparation; it wants, rather, to re-establish itself while freeing itself from the burden laid upon it'. The reparation and financial clauses of the draft Treaty, contends Germany, will result in this, that 'the German people would feel themselves condemned to slavery . . . But the system of slave labour has never been successful'. The draft Treaty 'leads the German people into a financial thralldom unknown in history'. The German people must have 'the same freedom of action both in [their] own country and in the world at large as all other peoples'; otherwise they cannot discharge their heavy obligations for reparation. 'What we demand', declare the German Delegation, 'is merely this, that we shall not be required to lead a life of inaction, without honour, and without liberty.'

In reference to commercial policy the German delegates contend that 'Germany can bear the burdens she has taken upon herself and can in future regain a position approximately equal to that of other nations only if economic freedom . . . is granted to her'.

In respect to private rights Germany contends that 'freedom of intercourse between the parties should be granted, as well as their free right of determination concerning assertion, remission, alteration, and postponement of the claims covered by the clearing system . . . ' 'It must be stated that these two principles, namely, the principle of complete reciprocity and the principle of maintaining the right of free disposal of the parties, have been violated by [certain provisions of the draft Treaty].'

In respect to labour, Germany contends that the general principles laid down in Article 427 'lack the first essentials for the recognition of the equal rights of the workmen of all lands, namely, the right of free movement. . . .' Germany wishes to ensure to the workers of the whole world their 'free and equal rights'.

'A permanent peace can never be established', declares Germany, in reference to guarantees, 'upon the oppression and the enslavement of a great nation'.¹

(b) *The Powers' Application of the Principle.* In their Letter and Reply of the 16th June 1919, the Allied and Associated Powers base their whole attitude towards the draft Treaty upon the fact that the war was 'the greatest crime against humanity and the freedom of peoples that any nation, calling itself civilized, has ever consciously committed'. Germany was not content to maintain a recognized position in 'the society of free and equal peoples': she sought to 'dictate and tyrannize over a subservient Europe'. 'The Allied and Associated Powers believe that they will be false to those who have given their all to save the freedom of the world if they consent to treat this war on any other basis than as a crime against humanity and right.' A peace of right demands, in accordance with the agreed terms, the 'freeing' of oppressed peoples; as, for example, the freeing of the Polish people. In their comments on the territorial and political clauses of the draft Treaty the Powers declare that they have applied the fundamental principle of liberation. 'The legitimate hopes of peoples long under alien rule have been heard' by the framers of the draft Treaty. National aspirations have been accorded the utmost possible satisfaction, in accordance with the

¹ See Part XII, § v (*s.v. Democracy*, pp. 359-60).

principles of the pre-Armistice Agreement. The German Delegation protest against certain of these territorial settlements by the Powers. 'Arising out of the territorial settlement,' continue the Allied and Associated Powers, 'are the proposals in regard to international control of rivers. It is clearly in accord with the agreed basis of the peace that inland States should have access to the sea along rivers which are navigable to their territory. They believe that the arrangements they propose are vital to the free life of the inland States.' '[The] great factor of freedom of communication must rank first.' Germany cannot be admitted to the League of Nations as one of the conditions of peace. 'In the present temper of international feeling, it is impossible to expect the free nations of the world to sit down immediately in equal association with those by whom they have been so grievously wronged.'

The Powers declare that for them 'a certain freedom of action during the period of transition [after the War] is vitally necessary'. The League of Nations will, under the Covenant, provide for economic 'freedom'. Germany will enjoy these benefits so soon as she is admitted to the League.

(11) *Guarantees.*¹

The pre-Armistice Agreement had stipulated for a guaranteed peace. There seems to have been no dispute as to the binding character of this principle; but there arose fundamental differences of opinion between the two sets of negotiators as to the nature and scope of the guarantees.

In considering the territorial clauses of the draft Treaty, Germany declares her readiness to grant France 'compensation for her destroyed coal mines with all justified guarantees'; but she cannot agree to the arrangements of the draft Treaty in respect to the Saar region. In compliance with the pre-Armistice Agreement, Germany is also 'prepared to grant to Poland, under international guarantees, free and secure access to the sea'; but she cannot consent to the provisions of the draft Treaty in regard to Danzig.

The Powers contend that, in the provisions of the draft Treaty respecting the German colonies, they have not only considered the interests of the populations; they have also

¹ See also Part XII, § IV (*s.v. League of Nations*, pp. 356-7).

'felt compelled to safeguard their own security and the Peace of the world against a military imperialism which sought to establish bases from whence it could pursue a policy of interference and intimidation against the other Powers.'

The Powers declare, in reference to the military, naval, and aerial clauses, that Germany's reduction of armaments is the first step towards the prevention of war. It will be one of the first duties of the League of Nations to promote this object by a general reduction of armaments by all members of the League.

The Powers maintain that the provisions of the draft Treaty in regard to penalties, which represent a departure from earlier settlements, will act as a deterrent and help to prevent the renewal of war.

§ VI. TERRITORIAL AND POLITICAL TERMS AND PRINCIPLES¹

A. *General Principles of Settlement.*

(1) *Self-determination.*

(2) *Nationality.*

(3) *Equality of Nations.*

(4) *Common Rights and Interests of all Nations.*

(5) *Justice.*

(6) *Right.*

(7) *Freedom.*

(8) *Wishes, Natural Connexions, Racial Aspirations, Security, and Peace of Mind of Peoples.*

(a) *Religious, Racial, Linguistic, Geographical, and Economic Factors and Conditions.* In reference to the boundaries of Germany and the political clauses for Europe the Powers declare that 'every settlement of the [draft] Treaty of Peace has been determined upon after most careful and laboured

¹ The discussion of the application of the important Principles 1-7, and 11, (c) and (p. 387, to the territorial and political settlement will be found in Part XII, § v (General Principles of the Peace Settlement), *supra*, under the appropriate headings. The principles of self-determination and nationality are applied by the parties almost exclusively to the territorial and political settlement; but they are to be regarded as principles of wider scope, affecting other aspects of the settlement as a whole.

consideration of all the religious, racial, and linguistic factors in each particular country'.¹ The fact that in 1814-15, when Eupen and Malmedy were assigned to Prussia, account was not taken of 'geographical or linguistic frontiers', is given by the Powers as one of the reasons for the cession of those territories to Belgium. In re-establishing the Polish State 'it has been the special concern of the . . . Powers to provide for the adequate protection of the Germans who will find themselves transferred to Poland, as well as of all other religious, racial, or linguistic minorities'. On the basis of the plebiscite in the northern districts of Schleswig there will be a precise delimitation of the frontier between Germany and Denmark—a delimitation in which 'geographic and economic conditions will be taken into account'.

(b) *Close Political, Economic, and Social Relations.* In reference to the boundaries of Germany and the political clauses for Europe both Germany and the Powers base arguments against or for cession of territory upon the close political, economic, and social relations of the territory in question with the rest of Germany or with the State to which such territory is to be ceded.

Thus, Germany declares that she ought not to be compelled to cede Upper Silesia to Poland, for 'it has been in close political connexion with Germany for more than seven hundred and fifty years, is instinct with German life, and forms the very foundation of industrial life throughout East Germany'. 'Germany cannot dispense with Upper Silesia, whilst Poland is not in need of it.' 'The cession of the greater part of West Prussia would completely sever East Prussia from the German Empire.' A 'connecting bridge between Germany and East Prussia . . . absolutely must be preserved to Germany'.

The Powers declare that the territories of Eupen and Malmedy have 'continued [ever since they were assigned to Prussia in 1814-15] in close economic and social relations with the adjacent portions of Belgium'. This is one of the several reasons which justify the union of those territories to

¹ The Powers state in their Reply of 16th June 1919, that 'union' to Belgium is justified, 'provided the petitions to this effect are sufficiently supported by the population of the district. The Treaty makes provision for consulting the population under the auspices of the League of Nations.'

Belgium, provided the plebiscite supports this settlement. The 'interests which the Germans in East Prussia . . . have in establishing a land connexion with Germany, is much less vital than the interest of the whole Polish nation in securing direct access to the sea'. In reference to Posen and West Prussia the Powers declare that they have left to Germany those districts on the West in which there is an 'undisputed German predominance in immediate contiguity' to German territory.

(c) *Free and Secure Access to the Sea.* Germany recognizes that she is bound by Point 13 to assure to Poland 'a free and secure access to the sea'. 'To fulfil her obligation' Germany declares her readiness to make Memel, Königsberg, and Danzig free ports, to grant far-reaching rights to Poland in these ports, and to make arrangements with Poland in reference to the use of railways and the navigation of the Vistula.

The Powers declare, in dealing with the settlement of East Prussia, that 'the interests which the Germans in East Prussia, who number less than two millions, have in establishing a land connexion with Germany, is much less vital than the interest of the whole Polish nation in securing direct access to the sea'. The city of Memel, as distinct from the district of Memel, is 'in large part German'; but this fact, assert the Powers, is 'no justification for maintaining the district under German sovereignty, particularly in view of the fact that the port of Memel is the only sea outlet for Lithuania'. Poland, again, justly claims that the port of Danzig, although its population is 'predominantly German', must be under her control, for it is 'her sole opening to the sea'.

It is a striking fact, it may be remarked, that in the case of the ports of Memel and Danzig the Powers, confronted with the choice between the two opposing principles of nationality and access to the sea, deliberately set aside the principle of nationality and apply that of access to the sea for inland States.

In dealing with waterways the Powers state, in general terms, that the draft Treaty provides for inland States free and secure access to the sea along navigable rivers, as stipulated in the pre-Armistice Agreement.

(9) *No Conquests and No Annexations.*

Germany contends that the draft Treaty 'demands the annexation of purely German territory and the suppression of the German nationality'. The German Delegation assert that in respect of the Saar region and of Danzig the arrangements provided by the draft Treaty give France in the one case and Poland in the other economic control over purely German territories and thus prepare the way, by economic pressure, for political annexation sooner or later.

In discussing financial arrangements, Germany contends that according to Point 5 there is 'no question of a seizure of colonies in general, and especially without making deduction therefor'.

The Powers, in reply, draw attention to the temporary character of the Saar arrangement and the plebiscite at the end of fifteen years. Danzig had been forcibly annexed to Prussia: the Treaty provisions restore it to its former position as a free town.

(10) *No Bartering of Peoples and Provinces: Interest and Benefit of Populations.*

(a) *No Bartering.* The German Delegation draw attention to the second of the Four Principles of President Wilson's address of the 11th February 1918, in which he declared that 'peoples and provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game'. This principle, maintains Germany, must be applied in the Treaty. An illustration of the conflict of the draft Treaty with this principle, asserts Germany, is to be found in the provision for the cession to Belgium of the forests of the Eupen district. 'The German Government must point out the inadmissibility of bartering human beings from one sovereignty to another, merely for the sake of wood and zinc ore.'

The Powers 'emphatically reject the suggestion that there has been any "bartering about" of peoples and provinces'.

(b) *No mere Adjustment or Compromise of Claims amongst Rival States.* In considering the boundaries of Germany, the German Delegation draw attention to this as one of the agreed principles of the peace (the third Principle of President Wilson's address of the 11th February 1918).

(c) *No Material Interest or Advantage of any other Nation or People: Free Acceptance of the People Immediately Concerned.* In dealing with territorial questions, the German Delegation draw attention to this second of the 'Four Ends' in President Wilson's speech of the 4th July 1918, as one of the agreed principles of the peace. In reference to the provisions of the draft Treaty respecting the Saar district the German Delegation say: 'The attempt to tear away a nationally undisputed territory from the [German] Fatherland, merely for the sake of material interests [of France and the other Powers], and to place it for the present under the League of Nations, must degrade the idea of the League of Nations.'

In reference to East Prussia the Powers balance the material interests of Germans and of Poles. 'The interests', they maintain, 'which the Germans in East Prussia . . . have in establishing a land connexion with Germany, is much less vital than the interest of the whole Polish nation in securing direct access to the sea.'

(d) *Interest and Benefit of Populations.* In dealing with the question of the boundaries of Germany the German Delegation expressly rely on the third Principle of President Wilson's address of the 11th February 1918, which demanded that 'every territorial settlement . . . must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival States'. Thus, the 'cession of Upper Silesia to Poland is not in the interest of the Upper Silesian population', for living conditions, especially health and social precautions, are far better in Upper Silesia than in Poland. The proposed régime for the Saar district would be harmful to the population. While the dismantling of the Heligoland fortifications is conceded, necessary measures 'in the interest of the insular population' must be maintained.

In reference to her oversea possessions Germany maintains that she has cared for the physical, mental, and spiritual welfare of the colonial population. 'Germany has looked after the interests of her natives.' 'The demand . . . that Germany renounce her colonies is considered unjustified.'

The occupation of German territory, declares Germany, would be a 'harsh and cruel punishment for the populations which would suffer under it'.

The Powers base the Saar arrangements of the draft Treaty partly upon the necessity of assuring 'the rights and welfare of the population'. 'In every point their interests have been most scrupulously guarded, and in fact their condition will be improved.' In dealing with the Upper Silesian settlement the Powers declare that they have specially provided for 'the adequate protection of the Germans who will find themselves transferred to Poland, as well as of all other religious, racial, or linguistic minorities'.

The Powers state that they have 'placed before every other consideration the interests of the native populations advocated by President Wilson [in Point Five]'. Germany's colonial administration has been cruel, repressive, and detrimental to the interests of the populations. Owing to Germany's 'dereliction in the sphere of colonial civilization' she cannot again be entrusted with the government of the natives. Furthermore, it is 'necessary in the interest of the natives, as well as in that of a general peace, to restrict Germany's influence over her former colonies and the territories of the Powers'.

(11) *Political Independence and Territorial Integrity of All States : Mutual Guarantees.*

(a) *Re-establishment of the Political Independence of Nations.* The Powers state that it is one of the two cardinal principles of their settlement of the eastern frontiers of Germany that the independence of the Polish nation shall be re-established.

Germany accepts the principle of Polish independence as one which was embodied in the pre-Armistice Agreement.

(b) *Sovereignty of States.* The draft Treaty, argue the

German representatives, requires Germany to renounce her political and economic 'sovereignty' and 'independence'. Thus, by subjecting her waterways to international administration, the Powers are infringing her sovereign rights as a State. The exercise of the powers of the Reparation Commission would likewise result in an encroachment upon Germany's sovereignty.

In respect to the permanent recognition of the independence of Austria within her Treaty frontiers, Germany declares that she will never alter the Austro-German frontier by force, but that she cannot pledge herself to oppose Austrian self-determination to unite with Germany.

The Reparation Commission, the Powers declare, is not a machinery for 'interfering with German sovereignty'; nor does the international regulation of river navigation have this result.

The Powers take note of Germany's declaration in regard to the frontiers of Austria.

(c) *Autocracy and Militarism.*¹

(d) *Guarantees.*¹

B. *Terms and Principles of the Fourteen Points.*

The discussion at Paris of the boundaries of Germany and the political clauses for Europe involved a consideration of the terms and principles of such of the Fourteen Points as related to countries and territories. The following outline² will indicate the scope of the discussion:

I. *Principles applicable to Allied Territories.*

(1) *Russia (Point Six).*

(2) *Belgium (Point Seven).*

(3) *France (Point Eight).*

¹ See Part XII, § v, (1), pp. 357-9, (11), pp. 380-1, *supra*.

² Framed on the lines of the arrangement of subject-matter adopted in the study of the Fourteen Points as part of the pre-Armistice Agreement (see Vol. I, Chap. IX).

II. *Principles applicable to German Territories.*

- (1) *Alsace-Lorraine (Point Eight).*
- (2) *Eastern Provinces and Regions (Point Thirteen : Poland).*
- (3) *Oversea Possessions (Point Five).*

III. *Principles applicable to both Allied and German Territories.¹*
*Poland (Point Thirteen).*IV. *Summary of the Principles.*

The following principles were applied by the parties to the territorial and political settlement demanded by these Points :

(1-11) Most of the general principles, 1-11, of the territorial and political settlement (see A : General Principles of Settlement, p. 381).

(12) *Reparation* (transfer of Eupen forests to Belgium ; Saar Basin settlement).

(13) *Security for Reparation = Guarantee* (Saar).

(14) *Punishment* (Saar).

(15) *Restitution* (Alsace-Lorraine to France² ; Eastern territories to Poland ; Northern Schleswig to Denmark).

(16-23) The principles as to oversea possessions (Point Five ; see § VII, 1-8, pp. 393-5).

C. *Comments on the Principles of the Territorial and Political Settlement.*

An examination of the documents reveals the fact that one or both of the parties to the negotiation applied several terms and principles of the pre-Armistice Agreement to the solution of each one of the territorial and political questions involved in a settlement of the boundaries of Germany.

(1) *Eupen, Malmédy, and Prussian Moresnet.* The Powers base the transfer of the territories of Eupen and Malmédy to Belgian sovereignty upon their long and close economic and

¹ The re-establishment of the independence of the Polish Nation, under the terms of Point Thirteen, meant that the territories of Poland would be drawn from both the Russian and the German Empires.

² Restitution underlies the position of the Powers in reference to the provisions of the draft Treaty regarding Alsace-Lorraine. The righting of the wrong of 1871 demands the restitution of these provinces to France.

social relationship with adjacent portions of Belgian territory, and upon the fact that they were made a basis for German militarism. These reasons justify the transfer, the Powers assert, provided such transfer is ratified by the self-determination of the population.

Germany bases her position upon the principle of nationality: those regions of preponderantly German nationality ought not to be severed from Germany: but if they must be, then the independence of their self-determination should be adequately guaranteed.

The transfer of the domanial and communal woods in Prussian Moresnet to Belgium is based by the Powers upon the principle of reparation—'partial compensation for the destruction of Belgian forests'.

(2) *Saar Basin.* Germany's position in regard to the Saar Basin is that the terms of the draft Treaty would result in ultimate annexation to France; and this, the German Delegation imply, would mean an infringement of the principle of the Agreement that there should be no annexations.

The Powers base their settlement of the Saar Basin region upon the principle of reparation. The terms of the draft Treaty provide 'compensation' for the destruction of French coal-mines and 'part payment towards the total reparation due from Germany for the damage resulting from the War'. This particular form of reparation was chosen because the wanton destruction of French mines rendered 'a definite and exemplary retribution' essential. To the German objection that such form of reparation would have the character of a 'punishment', the Powers reply that punishment is of the very essence of a settlement based on the principle of justice. Furthermore, the Powers contend, the Saar Basin settlement gives them 'immediate possession of a security for reparation'; it does not conflict with the principle of no annexations, for it is a temporary arrangement; and, in any event, at the end of fifteen years the population can, on the principle of self-determination, choose their own sovereignty.

(3) *Alsace-Lorraine.* While renouncing her sovereignty in Alsace-Lorraine, Germany desires nevertheless the application of the principle of self-determination.

The position assumed by the Powers is based upon the terms and principles of the pre-Armistice Agreement, more

particularly the Eighth Point, and also upon the Armistice Convention. The annexation of Alsace-Lorraine, a 'French country', in 1871, conflicted with the principles of justice, right, and self-determination. The transfer to French sovereignty under the provisions of the draft Treaty is based upon 'the righting of the wrong' of 1871 by 'replacing things, so far as possible, in the state in which they were before being disturbed by the wrong'. The transfer to France is in accordance with the following terms and principles of the pre-Armistice Agreement: (1) restitution, (2) justice, (3) right, (4) common interests of all. The principle of self-determination is inapplicable, inasmuch as wrong is being righted: and Germany cannot demand a plebiscite, for she has agreed to the Eighth Point of the pre-Armistice Agreement and also to the Armistice Convention, which treats Alsace-Lorraine as evacuated territory. But, though a plebiscite cannot be taken, the people of the provinces have already clearly manifested their decision in favour of French sovereignty. The right of self-determination, upon which the draft Treaty is founded is, therefore, in no way infringed.

(4) *Poland and the Eastern Territories of Germany.* The German Delegation assert that the provisions of the draft Treaty about Poland and the eastern frontiers of Germany infringe the principles of nationality and no annexations. Germany is prepared to apply the principle of nationality to that portion of Posen which is incontestably Polish in population and to apply also, in the case of Poland, the principle of free and secure access to the sea, under international guarantees.

The Allied and Associated Powers contend that the Partition of Poland more than a hundred years ago conflicted with the principles of justice and right. To 'undo this wrong' is now the first duty of the Powers. In dealing with the eastern frontiers of Germany they have, therefore, followed two fundamental or cardinal principles: (1) The re-establishment of the Polish nation in its territorial and political independence. This principle is 'the law of historic retribution'. Its application is in accordance with justice and right. (2) The principle of nationality. Those districts 'now inhabited by an indisputably Polish population' shall be included in the 'restored Poland', in accordance with this second principle, the law of 'the ethnographical division'.

The Powers maintain that, in the case of Posen and West Prussia, the application of the principle of nationality only to a very small degree modifies the principle of the re-establishment of Polish independence.

In the case of Upper Silesia the first of the two cardinal principles, the 'law of historic retribution', cannot be applied, because Upper Silesia was not a part of the Polish territories when they were dismembered by the Partition. But the principle of nationality is clearly applicable to the district to be ceded to Poland, for the majority of the population is indisputably Polish. Strictly speaking, therefore, no plebiscite is necessary; but, in deference to the opinion of Germany, a plebiscite will be held before cession, on the principle of self-determination.

In the case of the settlement in regard to East Prussia the Powers apply the principle of direct access to the sea for the benefit of Poland. To certain regions of East Prussia where the 'affinities of the population' are in doubt the Powers apply the principle of self-determination and not that of nationality.

The position of the Powers in respect to the district of Memel is that the draft Treaty provisions are clearly an application of the principle of nationality, for the district has always been Lithuanian and the majority of its population is Lithuanian in origin and in speech. To the city of Memel, 'in large part German', the principle of direct access to the sea is applied in the interests of Lithuania.

In the solution of the Danzig problem the Powers apply several principles. On the principle of nationality Danzig cannot be incorporated in Poland, for the population has long been predominantly German. Danzig was forcibly, and contrary to the will of its inhabitants, annexed to Prussia. The present settlement is based fundamentally upon the principle of restitution or restoration. Danzig is to be given once more the position, which it long enjoyed, of a free city closely allied to Poland. This solution of the problem enables the Powers to apply also the principle of direct and free access to the sea for the benefit of Poland. The principle of the equality of States is equally applied, for only by having an outlet to the sea, free from foreign control, can Poland be placed on an 'equality with the other States of Europe'. Furthermore, this solution is but an application of the principle of right, for Poland's direct access

to the sea was hers 'by right' until she was wrongly deprived of it by the annexation of West Prussia, including Danzig, to Germany.

(5) *Schleswig*. To the solution of the Schleswig problem Germany desires to apply concurrently the two principles of nationality and self-determination. She is willing to surrender the preponderantly Danish districts to Denmark, but only on the basis of a plebiscite.

The Powers seem to take up in general the same position in regard to Schleswig. On the basis of the plebiscite the frontiers will be drawn, but taking into account also 'geographic and economic conditions'.

(6) *Oversea Possessions*. The Powers base the provisions of the draft Treaty in regard to Germany's oversea possessions upon the principle of the Fifth Point, namely, the interests of the native population, and also upon the principle of guarantees. The interests of the native populations and the safeguarding of the security and peace of the world's States alike require Germany to renounce her rights and claims.

(7) *Comments*. This brief (and incomplete) survey of the principles applied by the parties to the territorial and political settlement illustrates several main aspects of the work of the Peace Conference: (a) the conflict between the two parties as to the nature of the principles to be applied to a given problem; (b) the application of conflicting principles to the solution of certain of the more complex problems (e.g. Danzig and the Saar); (c) the tendency to rely on broad general principles (e.g. justice, right, equality) as well as upon narrow territorial principles (e.g. nationality); (d) the tendency to employ territorial settlements as forms of reparation (e.g. woods of Prussian Moresnet and Saar Basin).

It is clear indeed that the many principles of the pre-Armistice Agreement (some of them narrow and specific, others broad and general) were employed by each one of the parties in a manner best suited to attain his desired purpose and end. If one principle would not suffice, there was always another which might be invoked. At the back of all the territorial and political principles proper (e.g. nationality, self-determination) stood the more general (and vaguer) principles (e.g. justice, right) always ready for use in case of need. It is not suggested that the parties employed any one of these several principles

with improper motives; but it is suggested that no one will ever understand the nature of any one of the several settlements unless he realizes that the existence of many diverse principles in the common stock of agreed principles gave to each party an opportunity for the proposal of solutions, based on certain principles, which conflicted with other proposed solutions, based on certain other principles. When one party to the negotiation was the victor and the stronger party, capable of forcing his solutions upon the vanquished and the weaker party, the conformity of his solutions with the agreed basis of the peace depended less upon the legality of principles than upon the morality and manner of their application to the problem in hand. The principles applied to a given problem might all fall within the four corners of the pre-Armistice Agreement, and yet they might, when combined, produce a result which was in direct conflict with other principles of the same Agreement. Everything depended on the moral rectitude—the fidelity to ‘impartial justice’—of the one who had it in his power to compel the adoption of his solutions. Morality, not legality, is the primary test of most of the final settlements. Both legality and morality are the tests of certain of them.

§ VII. GERMAN RIGHTS AND INTERESTS OUTSIDE GERMANY : PRINCIPLES.

(1) *Impartial Settlement of Colonial Claims : Interests of Populations and Equitable Claims of Governments.*¹

The Powers base the provisions of the draft Treaty on (1) the principle of the interests of the populations, and (2) the principle of protecting the peace of the world against German ‘military imperialism’, which has been the basis of German colonial policy.

Germany maintains that the pre-Armistice Agreement provided for a ‘free, sincere, and absolutely impartial settlement of all colonial claims’.² ‘The basis of every impartial settlement’, contends Germany, ‘is that, before the decision, the parties should be heard and their claims examined. Article 119 [of the draft Treaty] at once rejects the German claims without even giving Germany a chance to put them forward’.

Germany maintains that she has cared for the interests of

¹ See also Part XII, § VI, (10), (d), pp. 385–6.

² Based on Point Five.

the colonial populations and that she is, therefore, entitled to retain her colonies.

Germany maintains that Point Five establishes the principle that 'the interests of the Governments should carry equal weight with those of population'.¹ In the light of Point Five Germany proposes that 'the colonial questions be handed over to a special committee'.

Germany asserts that the retention of her colonies is essential from the financial point of view. 'The colonies have become for Germany to such an extent integral parts of her own social economy, they are such valuable parts of her national capital, that she cannot, if only for financial reasons, renounce her colonial possessions.'

(2) *Autocracy and Militarism.*

The Powers base the provisions of the draft Treaty in regard to the German colonies partly upon the principle of removing, in the interest of the world's security, these bases of German 'military imperialism' from German control.

(3) *Equality of Nations.*

Germany expresses herself as willing to subject her colonies to the League of Nations, provided she is admitted to the League with privileges equal to those of other member-States. The mandate for the German Colonies should be given to her.

(4) *Common Rights and Interests of all Nations.*

Germany maintains that she has the right to share in colonial administration as one of the common rights and interests of all civilized nations.

(5) *Justice.*

Germany contends that her forced renunciation of her colonies would conflict with the principle of justice.

Germany contends also that by the draft Treaty her subjects abroad (especially her merchants) are treated in a way contrary to the principles of 'impartial justice'.

The Powers reply that Germany's possessions have in some cases (e. g. Kiaochow) been obtained by force and injustice.

¹ Point Five : . . . the interests of the populations concerned must have equal weight with the equitable claims of the Government whose title is to be determined.'

(6) *Right.*

Germany contends that the acquisition and retention of her colonies are based on right (lawful title).

Germany contends also that the forfeiture of the rights of German nationals abroad, as demanded by the draft Treaty, would conflict with the principle of right ('violation of duly acquired rights').

(7) *Freedom.*

Germany maintains that the draft Treaty conflicts with the principle of freedom, inasmuch as it secures only to the subjects of the Powers the 'liberties' of a free and fair competition in foreign trade.

(8) *Reparation.*

Germany contends that the provisions of the draft Treaty in regard to German rights and interests abroad cannot be justified on the ground that they are measures of reparation.

§ VIII. MILITARY, NAVAL, AND AERIAL TERMS AND PRINCIPLES.¹

(1) *Autocracy and Militarism.*

The Powers base the provisions of the draft Treaty partly upon the necessity of preventing Germany from resuming her policy of 'military aggression'.

(2) *Right.*

The Powers rely also upon the principle of right.

(3) *Guarantees.*

The Powers apply also the principle that peace must be guaranteed.

Do the provisions of the draft Treaty fulfil the requirement of the Fourth Point that 'adequate guarantees' will be 'given and taken' by the parties that 'national armaments will be reduced'?

It is clear that the Fourth Point contemplates the taking of guarantees by both parties to the peace. Broadly

¹ See also Part XII, § IV (*s.v.* *Reduction of Armaments*, pp. 355-6; *League of Nations*, pp. 356-7), *supra*.

speaking the guarantees taken by the Powers consist of Germany's treaty promise to reduce her armaments in advance of other States; the military occupation of German territory; the necessity of German expenditure of vast sums upon reparation, thus rendering it impossible for her to devote huge budgets to the upkeep of large armed forces; and the machinery of the League of Nations. The guarantees taken by Germany consist of the treaty promise of the Powers to reduce their own armaments under the machinery of the League of Nations. While the guarantees taken by the Powers are thus of a far more practical character than those received by Germany, it can hardly be denied, in view of Germany's responsibility for the War and of her barbarous method of waging it, that the Powers complied, in the proposals embodied in the draft Treaty, with the principle of the Fourth Point.

The Powers have strengthened their position by reliance upon the principle of 'right'. 'It is . . . right', they declare, 'that Germany should lead the way in the reduction of armaments, for she was responsible for their expansion.' Germany, on her side, expresses willingness to disarm in advance of other States, in order to indicate that she will help to usher in the new era of the peace of 'justice'. Justice and right are thus, as fundamental principles of the Agreement, accorded their place in the proposed settlement of the question of armaments.

§. IX. PENALTIES.

(1) *Justice.*

Both parties appeal equally to the principle of justice.

(2) *Right.*

Both parties likewise rely on the principle of right.

Justice and right—two of the fundamental principles of the Agreement—thus lie at the basis of the proposals of both parties in regard to penalties.

(3) *Equality of Nations.*

Germany proposes the establishment of an international court formed on the principle of the equality of Germany and

her enemies, the subjects of all belligerents to be brought equally before the court.

(4) *Guarantees.*

The Powers rely on the principle of guarantees ; the penal provisions of the Treaty will act as a deterrent and thus help to prevent the outbreak of war.

§ X. REPARATION.

A. *The Conflict of Principles.*

(1) *No Punitive Damages.* Germany contends that the Saar arrangements conflict with this principle.

The Powers frankly base the Saar provisions upon the principle that punitive reparation is essential to a settlement based on justice.

(2) *No Conquests and No Annexations.* Germany relies on this principle in opposing the Saar settlement as a form of reparation.

The Powers deny that they contemplate annexation to France. After fifteen years the population will exercise the right of self-determination.

(3) *No Bartering of Peoples and Provinces.* Germany contends that this principle is violated by the proposed cession of the forests of Eupen to Belgium as reparation for the destruction of Belgian forests.

(4) *Compensation.* Both parties admit the validity of the principle of compensation for damage done ; but they differ widely in their views as to the scope of the application of the principle.

(5) *Sovereignty.* Germany contends that certain provisions of the draft Treaty require Germany to renounce her rights of sovereignty ; for example, those in regard to reparation and waterways.

The Powers deny that this is the effect of the draft Treaty provisions.

(6) *Self-determination.* Germany contends that the exercise of the powers of the Reparation Commission would deprive the German people of their 'right of self-determination'.

The Powers deny that this is the effect of their proposals.

(7) *Common Rights and Interests of all Nations.* The Powers declare that the establishment of the Reparation Commission 'ensures, in the interest of all, an early and complete discharge by Germany of her reparation obligations'.

(8) *Justice.* The Powers rely on justice: 'reparation for wrongs inflicted is of the essence of justice'.

Germany contends that certain provisions of the draft Treaty are based on injustice.

(9) *Freedom.* Germany maintains that the reparation proposals of the Powers would deprive the German people of their freedom.

The Powers deny that this would be the result of their proposals.

B. *Germany's Position.*¹

The principle of compensation for damage done formed one of the most important of all the principles applicable to the settlement. Germany fully admitted responsibility, but contended that the provisions of the draft Treaty conflicted not only with those of the pre-Armistice Agreement, but also with those of the Armistice Convention. Thus, the German Delegation asserted, by the draft Treaty Germany is required to pay 'all the war expenses' of the Allied and Associated Powers; and, 'in excess of the agreed conditions', to make 'reparation for damage suffered' by the 'civil population' of the Powers. Furthermore, it was alleged, Germany 'must go bail for her allies'. The sum to be paid is to be fixed unilaterally by Germany's enemies; and no limit is fixed

¹ See also Part XI, § VI, pp. 308-13 and Part XII, § II, pp. 341-4, for important information as to Germany's position.

In considering the problems connected with Russia and the Russian States, Germany draws a distinction between reparation and restitution, declaring that Germany 'cannot recognize any right on the part of Russia to demand restitution and reparation'.

by the draft Treaty, save the 'capacity of the German people for payment'. In short, declared Germany, the reparation proposals of the draft Treaty conflict with the following principles of the pre-Armistice Agreement: (1) sovereignty; (2) self-determination; (3) justice; (4) freedom; (5) no conquests and no annexations; (6) no bartering of peoples and provinces; (7) no punitive damages. The Powers denied that their proposals conflicted with these principles of the Agreement.

C. The Scope of the Reparation Proposals of the Powers.

Reference will be made later to certain aspects of the whole reparations problem. Here it is important to point out that the reparation proposals of the Powers affect not only the economic and financial clauses of the Treaty; they touch also upon other parts of it, such as, for example, the territorial and political clauses for Europe, commercial policy, and German rights outside Germany.

Germany protests against all these proposals. Thus, the German Delegation maintain that the cession of the forests of Eupen to Belgium as reparation for the Belgian forests destroyed during the War would be inconsistent with President Wilson's principles. 'The German Government must point out the inadmissibility of bartering human beings from one sovereignty to another, merely for the sake of wood and zinc ore.' The Treaty arrangements for the Saar region contemplate exemplary or punitive reparation and the political control of the Saar region by France. The question of reparation for the mines of northern France can be settled only on an economic, and not on a territorial or political, basis. Germany must reject the proposal that she should make any reparation as a form of punishment. Again, Germany has promised to make reparation for the injury done in 1871 in respect to Alsace-Lorraine; but 'reparation would not be made' by the immediate cession of these provinces to France. Furthermore, 'the German Government cannot recognize any right on the part of Russia to demand restitution and reparation'.

The Powers, in their Reply, defend the cession of forests to Belgium as 'partial compensation' for the destruction of Belgian woods; and they defend also the Saar arrangement

as a form of punitive reparation, on the ground that punishment is essential to a just settlement. The Powers introduce the important principle that the Saar arrangement assures them 'immediate possession of a security for reparation'.

Germany also holds, in regard to certain clauses of the draft Treaty, that 'none of these measures which are taken against German rights and interests abroad can be justified from the standpoint of reparation . . . they do nothing towards repairing the damages which Germany has bound herself to make good'.

According to the Powers the imposition on Germany of temporary non-reciprocal conditions in the matter of commercial exchanges is a 'measure of reparation' due to a 'consideration of justice'.

D. *The Principles Applied by the Powers.*

The main principles applied by the Powers in the reparation clauses of the draft Treaty are the following :

(1) *Compensation* for all damage to the persons and property of the civilian population of the Allies caused by Germany's aggression by land, by sea, and from the air. The Powers contend that their reparation proposals have been framed with 'scrupulous regard' to this principle of the Agreement, which was set forth in the memorandum of the Allies and embodied in President Wilson's note of the 5th November 1918.

(2) *Justice*¹. Justice, contend the Powers, is the agreed basis of the peace settlement. Germany must undertake to make reparation to the 'very uttermost of her power, for reparation for wrongs inflicted is of the essence of justice'. 'The [reparation] burdens' of Germany 'are imposed under conditions of justice'.

(3) *Punishment*. The Saar arrangement, contend the Powers, is 'a definite and exemplary retribution' for the wanton destruction of French mines. In reply to the German contention that this form of reparation is a 'punishment', the Powers maintain that punishment is 'a conception which is essential to any just settlement'.

(4) *Security*. The Powers contend that the Saar settlement gives them 'immediate possession of a security for reparation'.

(5) *Common Rights and Interests of all Nations*. The Re-

¹ See also *s.v.* (3) *Punishment, infra*.

paration Commission 'ensures, in the interest of all, an early and complete discharge by Germany of her reparation obligations'.

E. *Comments.*

Any detailed criticism of the reparation proposals of the Powers would necessitate (1) a consideration of the German allegations of infringement of several principles of the Agreement and the Armistice Convention, together with a study of the Powers' replies to these allegations, and (2) a consideration also of the principles actually applied by the Powers, together with a study of the German position in respect to these principles. No effort will be made in this place to deal with these several aspects of the controversy between the two parties; but a few words may be said in reference to the principles applied by the Powers.

The reparation proposals of the draft Treaty must be judged upon the standard of the principles embodied in them. If 'justice' were the sole contractual principle to be applied in testing reparation proposals, it is obvious that under it the Powers, by interpreting the term 'justice' in their own sense, might well have exacted not only compensation for civilian damage, but compensation for all the costs of the War, because Germany, by her aggression, was responsible for the War. But there can be no doubt that, on sound canons of interpretation, the principle of justice is to be viewed as expressly limited and defined by the Allies in their memorandum of the 5th November 1918, a document which formed a vital part of the Agreement. Under this express limitation it may be said that 'justice' demands at least 'compensation for civilian damage' and that the Allies impliedly renounce any further payments under the heading of reparation, such as, for example, the costs of the War over and above civilian damage.

Both in their Letter and in their Reply of the 16th June 1919, the Powers employ language which seems to imply that under 'reparation' they intended to include more than compensation for civilian damage. Thus, they declare that Germany must undertake to make 'reparation to the very uttermost of her power', 'reparation for wrongs inflicted', 'reparation to her neighbours for the damage she has done'; and that she must 'suffer for the consequences of the war'. They speak of the

'damage and cost of repair', of 'the vast extent and manifold character of the damage caused to the Allied and Associated Powers', of 'the loss and damage', of 'satisfaction' to the victims of Germany's aggression, of their past sufferings and permanent burden, of 'wrongs which it is beyond the utmost power of Germany to repair'.

But it is clear from certain passages in the Letter and in the Reply that the Powers intended to restrict reparation to civilian damage. Thus, in their Reply they expressly state that they have prepared their reparation proposals with 'scrupulous regard' for the principle, contained in their memorandum of the 5th November 1918, that 'compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air'. Likewise, in their covering Letter they declare expressly that their reparation proposals 'confine the amounts payable by Germany to what is clearly justifiable under the terms of the Armistice in respect of damage caused to the civilian population of the Allies by the aggression of Germany'.

It should be observed that, although both Reply and Letter restrict reparation proposals to civilian damage, the Reply refers to the pre-Armistice Agreement, while the Letter refers to the Armistice Convention, as the basis of the principle of civilian damage. Is Germany's liability under the Armistice Convention a more extensive liability than that under the pre-Armistice Agreement? Has the Agreement been modified by the Convention in such a way as to permit, under the terms of the Convention, demands by the Powers in excess of the terms of the Allied Memorandum of the 5th November 1918? Reasons have already been advanced which lead to the conclusion that the answer to this question must be in the affirmative.¹ Germany was a party to the Convention; and legally she promised to make whatever reparation might be brought within the terms of the Convention, for, in any case of conflict between the Agreement and the Convention, the Convention, being the later instrument and an instrument signed by both parties, must govern. But were the Powers justified, on moral grounds, in exacting a modification of the Agreement in the sense of the terms of the Convention? This main question is,

¹ See Vol. I, Chap. IX, Part VI, pp. 420-7.

indeed, a moral question; and upon that question opinions may well differ. An absolutely correct standard of moral conduct would certainly have been preserved by the Powers had they adhered strictly to the terms of their Memorandum (5th November 1918) in framing the reparation terms of the Convention (11th November 1918). It is unfortunate that the exact terms of the Allied Memorandum (5th November 1918) were not reproduced textually in the Armistice Convention.

There is one special form of reparation proposed by the Powers which is worthy of notice. The territorial settlement of the Saar Basin is based in large measure on the principle of reparation. This particular form of reparation was chosen as 'a definite and exemplary retribution', as a reparation of 'exceptional nature' which should be 'a definite and visible symbol'. If, the Powers argue, it be contended that it amounts to 'punishment', then clearly it is justifiable on the ground of justice; for punishment is of the very essence of a settlement based on the principle of justice.

The question arises as to whether this particular form of reparation in respect of the Saar Basin conflicts with the declaration of President Wilson in his Address of the 11th February 1918, that there shall be 'no punitive damages'. This declaration forms a part of the pre-Armistice Agreement; and, if the reparation aspects of the proposed Saar settlement amount to the infliction of punitive damages, then the Powers would seem to be guilty of a breach of the Agreement. Punitive or exemplary damages are recognized in most systems of private law as permissible in certain exceptional cases of 'civil wrong'. If the Powers had not been bound by the principle of 'no punitive damages', they might well have exacted punitive reparation of one sort or another so long as it fell within the terms of the legal obligations assumed by them in the pre-Armistice Agreement (or in the Armistice Convention). But it would seem clear that the Powers were bound by the principle of 'no punitive damages', and that they should have applied this principle rigorously and not the vague general principle of 'justice'. In a case of conflict between two terms or principles of an agreement between parties the more explicit and definite term or principle narrows and limits the scope of one which is more general and extensive. If this canon of interpretation be applied to the case in hand, it may be held that the explicit

and definite 'no punitive damages' narrows and limits the vague, general, and extensive 'justice'. In fact, 'justice' in such case demands the application of the principle that 'there shall be . . . no punitive damages' (President Wilson's Address of 11th February 1918).

Only one word need be said with respect to the principles that (a) the Saar arrangement gives the Powers immediate possession of a security for Germany's payment of her reparation obligations, and that (b) the Reparation Commission 'ensures, in the interest of all, an early and complete' payment. Both of these principles would seem to fall within the broader principle of the pre-Armistice Agreement that the Powers are entitled to demand guarantees. The occupation and government of the Saar Basin and the Reparation Commission are machineries which guarantee the payment of obligations by a party to the settlement whose promises have proved in the past to be untrustworthy.

§ XI. FINANCIAL TERMS AND PRINCIPLES.

(1) *Autocracy and Militarism.*

Germany: The Reparation Commission has greater powers than any monarch 'in the time of absolutism'.

(2) *Democracy.*

Germany: The Reparation Commission destroys 'German democracy'.

(3) *Self-determination.*

Germany: The Reparation Commission deprives Germany of her right of economic and financial self-determination.

(4) *Equality of Nations.*

Germany demands equality with other nations.

(5) *Common Rights and Interests of all Nations.*

Germany applies this principle to the 'restoration of France and Belgium'—a task 'common to all civilized nations'.

(6) *Justice.*

Certain financial provisions of the draft Treaty, contends Germany, conflict with 'the principles of justice, equity, and good faith'.

The Powers also rely on the principle of justice.

(7) *Right.*

Germany: The financial clauses deprive Germany and German subjects of their rights.

(8) *Freedom.*

Germany: The draft Treaty 'leads the German people into a financial thralldom unknown in history'. The German people must not be compelled to lead a life 'without honour and without liberty'. 'Economic freedom' must be granted to Germany.

The Powers demand 'freedom of action' during the period of transition to normal conditions.

§ XII. ECONOMIC TERMS AND PRINCIPLES.¹(1) *Removal of Economic Barriers,*² and(2) *Equality of Trade Conditions.*³

Germany contends that the provisions of the draft Treaty exclude German merchants from 'free and fair competition' in the world's trade by the 'erection of insurmountable barriers' in favour of subjects of the Powers alone. This is not consistent with the principles of impartial justice.

Discussing private rights, Germany maintains that 'the economic life not only of a single state but of the whole world would be impaired [by preventing 'free intercourse' between creditor and debtor] and an economic barrier would be erected between the peoples, which would be incompatible with the legal bases of peace'.

In respect to commercial policy Germany relies on Point Three as binding on the Powers: they must grant to Germany 'equality of trade conditions'. Germany must have the

¹ See also Part XII, §§ x and xi, pp. 379-405.

² See Part XII, § v (*s.v. Justice*), pp. 371-4.

³ See Part XII, § v (*s.v. Equality*), pp. 367-9.

'perfect equality of Germany's rights with those of the other nations'.

In respect of private rights Germany demands the immediate and complete application of the principle of 'reciprocity'.

The Powers reply that, owing to the fact that the War has wrought the devastation of Allied lands, while at the same time it has left Germany in a position of economic advantage, the immediate grant of equality of trade conditions to Germany would actually produce an 'inequality of trade conditions'. President Wilson envisaged a period of transition, after which reciprocity in the matter of trade should be established. That was the 'equality of trade conditions' for which he stipulated.

The Powers state that Articles 291 and 294 [treaties] have the object of establishing 'an equality as between themselves and Germany'.

The Powers reply that complete reciprocity in the matter of private rights is impossible.

(3) *No Separate and Selfish Compacts and Combinations with regard to Trade.*¹

(4) *No Employment of Economic Boycott or Exclusion; except by the League of Nations.*¹

(5) *Free Acceptance by People Immediately Concerned.*²

In dealing with commercial policy Germany relies on the second of the Four Ends of President Wilson's speech of the 4th July 1918: 'Second, the settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship, upon the basis of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery.'

(6) *No Material Interest or Advantage of any other Nation or People: Free Acceptance by People immediately concerned.*³

(7) *Autocracy and Militarism.*

Germany contends that, in respect to private rights, the

¹ See Part XII, § iv, (4), *supra*, pp. 264-6.

² See also Part X, § v (*Self-determination*), pp. 266-8; Part XII, § vi, A (10), (c), p. 385: *No Material Interest or Advantage of any other Nation or People.*

³ See (5) *Free Acceptance by People Immediately Concerned*, *supra*, cp. p. 385.

draft Treaty is based not on the idea of 'right', but on that of 'might'.

The Powers base provisions of the draft Treaty in regard to the abrogation by Germany of certain treaties on the ground that they had been concluded owing to Germany's 'military preponderance'. They must, in the interests of 'justice', be abrogated.

(8) *Democracy.*

Germany contends that the principle of democracy is infringed by the draft Treaty in that it treats the private property of former German sovereigns differently from that of other Germans.

(9) *Common Rights and Interests of all Nations.*

Germany applies this principle in dealing with the question of Mixed Arbitral Tribunals.

(10) *Justice.*

In dealing with certain aspects of commercial policy the Powers apply the principle of justice. 'Justice' demands, for a limited period, 'non-reciprocal conditions in the matter of commercial exchanges'.

In dealing with the question of the resumption of commercial treaties after the Peace both parties rely on the principle of justice, although they reach opposite conclusions.

In dealing with the question of Mixed Arbitral Tribunals Germany appeals to the principle of justice.

(11) *Right.*

Germany contends, in dealing with private rights, that many provisions of the draft Treaty show that 'not the idea of right but the idea of might was decisive'.

(12) *Freedom.*¹

(13) *Reparation.*

The Powers base the imposition on Germany of temporary non-reciprocal conditions in the matter of commercial exchanges on the ground that it is a 'measure of reparation' due to a 'consideration of justice'.

See Part XII, § XI : Financial Terms and Principles, s.v. *Freedom*, p. 405.

Five fundamental terms or principles of the Agreement were thus relied upon by the Powers in framing the economic clauses of the draft Treaty :

(1) and (2) *Removal of Economic Barriers and Equality of Trade Conditions.* Point Three had stipulated for ' the removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all nations consenting to the peace and associating themselves for its maintenance ' . The Powers admit that they are bound by this and other provisions of the Agreement ; but they argue that the principle of the equality of trade conditions is applicable only to a later time, after the passing of a transitory period in which the present position of the economic inferiority of many of the Allied States, caused by Germany's illegal aggression, has been altered to one of economic equality with that of Germany. During this transition period Germany must be ' deprived of the right she claims to be treated on a footing of complete equality with other nations ' .

(3) *Justice.* The principle of justice requires this temporary imposition on Germany of ' non-reciprocal conditions in the matter of commercial exchanges ' .

(4) *Reparation.* The clauses of the draft Treaty which provide for those ' non-reciprocal conditions ' are measures of reparation.

(5) *Autocracy and Militarism.*

§ XIII. PORTS, WATERWAYS, AND RAILWAYS.¹

(1) *Sovereignty.*²

Germany contends that by subjecting her waterways to international administration the Powers are infringing her sovereign rights as a State.

The Powers deny that this is the effect of the draft Treaty.

(2) *Equality of all Nations.*

The Powers declare that the sole object of the draft Treaty

¹ The aerial navigation Articles of the Treaty of Versailles, which confer rights only on aircraft of the Powers and are therefore non-reciprocal in character, are considered in a paper on ' International Air Law in Time of Peace ' by the author, which is to be published in the annual Proceedings of the International Law Association for 1920.

² See (5) *Right, infra*, p. 409.

provisions in regard to rivers is to 'establish complete equality between the subjects of all nations'.

(3) *Freedom.*

The Powers believe that the proposals of the draft Treaty in regard to rivers are 'vital to the free life of inland States'. '[The] great factor of freedom of communication must rank first'.

(4) *Free and Secure Access to the Sea.*

The Powers state that the draft Treaty provides, in compliance with the stipulations of the pre-Armistice Agreement, free and secure access to the sea for inland States.

(5) *Right.*

The proposals of the draft Treaty respecting rivers, contend the Powers, are not 'in derogation of the rights of the . . . riparian States'.

The provisions of the draft Treaty in regard to rivers are thus based by the Powers upon three fundamental principles of the Agreement—(1) direct access to the sea, and (2) the equality of nations in the matter of (3) freedom of communication.

§ XIV. LABOUR.¹

(1) *Democracy.*

(2) *Equality of Rights.*

(3) *Justice.*

(4) *Freedom.*

(5) *Free Acceptance.*

Germany applies the second of the Four Ends of President Wilson's speech of the 4th July 1918, to the working-men. 'The regulation of all labour questions must be conducted on the basis of the free acceptance of that settlement by the working-men themselves, and not on the basis of the material interest or advantage of any other class of the nation, or of another people which may desire a different settlement for the sake of its own foreign influence or mastery.'

¹ For the discussion of the following Principles 1-4, see Part XII, § v, p. 357, under the appropriate headings.

§ XV. GUARANTEES.¹

- (1) *Autocracy and Militarism.*
- (2) *Democracy.*
- (3) *Common Rights and Interests of all Nations.*
- (4) *Justice.*
- (5) *Freedom.*
- (6) *Free and Secure Access to the Sea: International Guarantees.*

Germany is 'prepared to grant to Poland, under international guarantees, free and secure access to the sea'; in accordance with Point Thirteen; but she is unwilling to consent to the draft Treaty provisions in regard to Danzig.

- (7) *Sanctity and Guarantee of Treaties.*
- (8) *Reduction of Armaments.*
- (9) *League of Nations.*

§ XVI. MISCELLANEOUS PROVISIONS: MARITIME LAW.²

- (1) *Justice.*
- (2) *Equality.*
- (3) *Restitution.*³

PART XIII

THE WORLD-WIDE SCOPE OF THE PEACE SETTLEMENT WITH GERMANY

CLASSIFICATION OF THE PRINCIPLES APPLIED BY THE PARTIES

In the present Part an effort will be made to classify the many principles which one or both of the parties applied to the settlement. The chief advantage of a classification of this character is to make it possible to see each one of the

¹ For discussion of Principles 1-5, *infra*, see Part XII, § v, *supra*, under the appropriate headings. For discussion of Principles 7-9, *infra*, see Part XII, § iv, 7 (*Sanctity and Guarantee of Treaties*, pp. 354-5), 9 (*Reduction of Armaments*, pp. 355-6), 10 (*League of Nations*, pp. 356-7); and § v, 11 (*Guarantees*, 380-1).

² See Part XI, § xii, *supra*, pp. 339-40.

³ In her discussion of the provisions of the draft Treaty respecting maritime law Germany demands restitution of her tonnage.

many parts of the complex settlement in its true perspective. It is possible to arrange the principles according to any one of several different plans ; but the arrangement which seems the simplest and best is the one which enables us to classify the principles under three main headings, as follows : (1) nations, (2) international relations, and (3) private rights of nationals. This arrangement of subject-matters serves as the basis of the classification of principles set forth in the following pages.

§ I. NATIONS.

A. *Sovereignty.*

I. Re-establishment of the Independence of Nations.

Applied to Poland (‘ Polish Nation ’).

II. Restitution of Provinces to former Sovereigns.

Applied to Alsace-Lorraine, eastern territories of Germany (Poland), and northern Schleswig.

III. Territorial, Political, and Economic Integrity of States.

Applied to Austria.

Applied by Germany to German Empire, including oversea possessions.

Applied to international regulation of river navigation. Germany : The draft Treaty infringes German sovereignty.—The Powers : The draft Treaty is ‘ not in derogation of the [sovereign] rights of the . . . riparian States ’.

Applied to reparation. Germany : The draft Treaty infringes German sovereignty.—The Powers : The draft Treaty has not this effect.

IV. Rights of Self-preservation and Self-determination of States.

Germany : The draft Treaty infringes this ‘ inalienable fundamental right of every State ’.

B. *Principles to be applied in determining the Question as to whether a particular State shall retain, or another particular State acquire, the territorial and political Sovereignty over a particular Territory.*

I. Principles which Prohibit Change of Sovereignty.

(1) No conquests and no annexations.

(2) No bartering of peoples and provinces : interest and benefit of populations.

(3) No mere adjustment or compromise of claims amongst rival States.

(4) No material interest or advantage of any other nation or people: free acceptance by the people immediately concerned.

II. Principles which, on their application to the actual facts of the case, either Prohibit or Permit Change of Sovereignty.

(1) *Ethnic Principles.*

- (a) Nationality.
- (b) Protection of racial minorities.
- (c) Racial factors and conditions.¹
- (d) Racial aspirations.¹

(2) *Political Principles.*

- (a) Re-establishment of the political independence of nations.
- (b) Self-determination.
- (c) Free acceptance by the people immediately concerned.
- (d) Freedom.
- (e) Close political, economic, and social relations between two territories.
- (f) Destruction of arbitrary power (autocracy and militarism).
- (g) Equality of nations.
- (h) Common rights and interests of all nations.

(3) *Juridical Principles.*

- (a) Right.
- (b) Justice.
- (c) Restitution.²
- (d) Punishment.³
- (e) Security for reparation.³

(4) *Economic Principles.*

- (a) Free and secure access to the sea for inland States.⁴
- (b) Close political, economic, and social relations between two territories.
- (c) Religious, racial, linguistic, geographical, and economic factors and conditions.
- (d) Freedom.

¹ See (4) *Economic Principles* and (5) *Social Principles*, *infra*.

² Alsace-Lorraine; northern Schleswig; eastern territories of Germany (Poland).

³ Saar Basin.

⁴ Poland; Lithuania.

(5) *Social Principles.*

- (a) Interest and benefit of populations.
- (b) Wishes, natural connexions, racial aspirations, security, and peace of mind of peoples.
- (c) Close political, economic, and social relations between two territories.
- (d) Religious, racial, linguistic, geographical, and economic factors and conditions.

C. Forms of Government.

- I. Destruction of arbitrary power (autocracy and militarism), or at least its reduction to virtual impotency.
- II. Rule of free democratic institutions.

D. Rights and Duties of Governments.

- I. Equitable claims of Governments to colonial possessions.
- II. Duty of Governments to reduce their armaments.

§ II. INTERNATIONAL RELATIONS.

A. Juridical Relations.

- I. New International Order : Fundamentals.
 - (1) Common will and consent of mankind.
 - (2) Reign of law.
 - (3) Right and justice.
 - (4) Equal and common rights and interests of all nations.
- II. Governance of Inter-Relations of States according to International Law and Morality.
 - (1) Binding character of International Law in respect of the Peace Settlement.
 - (a) Violation of the neutrality of Belgium. Claimed by the Powers and admitted by Germany.
 - (b) Punishment of violations of international law (especially laws and customs of warfare) during the War. Claimed by the Powers and admitted by Germany.
 - (c) Conflict of draft Treaty with international law. Claimed by Germany; but not admitted by the Powers.

(2) Binding character of International Law in respect of the Future.

- (a) Reign of law.
- (b) Right as opposed to wrong.
- (c) Justice as opposed to injustice.
- (d) Sanctity and guarantee of international covenants.

III. International Justice.

(1) The Powers based the reparation proposals of the draft Treaty on the principle of international justice; and demanded security for reparation (Saar).

(2) Germany claimed that no form of reparation should be in the form of a punishment (Saar).

The Powers declared that punishment was essential to a just settlement.

(3) Germany made claims in respect of (a) an international court to try offences against international law, and (b) Prize Courts.

IV. International Agreements, Treaties, and Conventions.

(1) *The Treaty of Peace.*

Germany claimed :

(a) The draft Treaty conflicts with pre-Armistice Agreement and Armistice Convention.

(b) The Treaty should be based on the voluntary agreement of all parties, not on force.

(c) The Treaty should be a final settlement; but the draft Treaty introduces, as a matter of fact, elements of future discord and conflict.

(d) The Treaty should provide for resumption, on principle, of all multilateral and bilateral treaties.

(e) The draft Treaty possesses features which indicate conflict with the principle that there should be no separate and selfish alliances, covenants, understandings, and combinations of states.

The Powers claimed :

(a) The Treaty should provide (as the draft Treaty does actually provide) for the abrogation of certain treaties concluded by Germany by means of her 'military preponderance'.

(b) Justice demands the arraignment of the Kaiser for a supreme offence against the sanctity of treaties.

(c) Only such multilateral treaties should be resumed as are named in the Treaty of Peace; and only such bilateral treaties should be resumed as are acceptable to the Power concerned.

(d) The object of certain provisions of the draft Treaty in respect to treaties is to establish an equality between the Powers and Germany.

(2) *General Principles governing the Conclusion of Treaties and Conventions in the Future.*

(a) Open covenants.

(b) Common covenants and understandings.

(c) No separate and selfish alliances, covenants, understandings, and combinations of states.

(d) Sanctity and guarantee of treaties.

(e) Covenant of the League of Nations.

V. Equality of the Rights of all Nations.

Claimed by the Powers and Germany alike.

Illustrations :

(1) Germany claimed the 'perfect equality of Germany's rights' in economic matters, and Germany's immediate admission to the League of Nations on an equality of rights and privileges.

(2) The Powers claimed that certain provisions of the draft Treaty in regard to treaties were framed with the object of placing the Powers on an equality with Germany; and that their refusal to grant immediate reciprocity was based on the principle of restoring equality after a period of transition.

VI. Common Rights and Interests of all Nations.

Claimed by the Powers and Germany alike.

Illustrations :

(1) The Powers adopted this principle in the settlement of certain territorial questions.

(2) Germany advocated this principle for the settlement of the colonial question.

VII. Reduction of Armaments.

Claimed by the Powers and admitted by Germany.

VIII. Freedom of the Seas.

Claimed by Germany.

IX. Protectorates.

Germany claimed that her recognition of Great Britain's protectorate over Egypt would violate Egypt's right of self-determination.

X. International Government.

- (1) Guarantees.
- (2) The League of Nations.

B. *Economic Relations.*

I. Freedom of International Trade and Communication.

- (1) Removal of economic barriers.
- (2) Freedom of river navigation.
- (3) Free and secure access to the sea for inland States.
- (4) Freedom of the seas. Claimed by Germany.

II. Equality of Trade Conditions.

- (1) No separate and selfish compacts and combinations with regard to trade.
- (2) No employment of economic boycott or exclusion; except by the League of Nations.

III. Justice.

The Powers contended that justice demands non-reciprocal conditions for a limited period.

§ III. PRIVATE RIGHTS OF NATIONALS.

Many of the general principles applied by the parties to the settlement affect private as well as public rights; for example, the principles of 'self-determination', protection of minorities, and the 'interest of populations'. Of the principles more closely affecting private rights the following are important:

I. Democracy.

The draft Treaty, contended Germany, infringes democratic principles. Thus, it draws distinctions between the private property of former German sovereigns and other Germans. Again, the occupation of democratic Germany would hamper German citizens in the exercise of their rights and liberties.

II. Freedom.

Germany contended that in various ways the draft Treaty conflicts with the civil liberty of German nationals in respect of their private rights.

III. Equality.

Germany demanded equality of private rights of the subjects of all nations; for instance, in trials before the proposed international court to try offences against international law; and in economic and labour settlements.

The Powers claimed 'complete equality between subjects of all nations' in the matter of river navigation.

The Powers stated that the principle of the equality of private rights cannot be applied in all cases.

IV. Justice.

Germany contended that her subjects abroad (especially her merchants) are treated by the draft Treaty in a way which is contrary to 'impartial justice': only to the subjects of the Powers are secured 'liberties' in the matter of trade. The surrender of business secrets likewise conflicts with the principles of 'justice, equity, and good faith'. The draft Treaty also threatens the existence of the German working classes, and is thus contrary to justice.

V. Right.

Germany contended that the draft Treaty provisions in regard to private rights are based on might and not on right. In many ways the draft Treaty exacts the forfeiture of the rights of German nationals at home and abroad. This violation of duly-acquired rights conflicts with the principle of Right. Furthermore, the trial of German nationals by courts of the Powers would be giving the rôle of judge to the victor, and placing might in the place of right.

The Powers replied that the trial of persons cannot be entrusted to their accomplices.

VI. Common Rights and Interests of the Nationals of all States.

This principle was applied by Germany to colonization.

PART XIV

THE TREATY OF PEACE WITH GERMANY

THE FULFILMENT OF THE PRE-ARMISTICE AGREEMENT

The question as to how far the signed and ratified Treaty of Peace with Germany is a fulfilment of the obligations assumed by both parties when they concluded the pre-Armistice Agreement, is one of those fundamental questions raised by the World War which will occupy the attention of all succeeding generations. Those who concern themselves with this vast problem must consider several all-important matters. What exactly were the terms and principles of the Agreement? In what respects, if any, was the Agreement modified by the Armistice Convention? In what respects does the Treaty of Peace conform to these two earlier documents; and in what respects does it conflict with them?

The solution of these problems is (1) partly a matter of judging as to the soundness of the *interpretation of the two earlier agreements*, the interpretation being embodied in the Treaty of Peace; and it is (2) partly a question of the soundness of the *application of agreed principles* to the world-wide range of the many complex facts and sets of facts produced by the War.

Upon both of these important matters the two parties to the Paris negotiations held, and still hold, diametrically opposite opinions. It is for posterity to decide between them by holding the even scales of an impartial justice. Impartial justice will prevail only if posterity takes fully into account (1) the complexity and the vast scope of the *settlements* effected by the Treaty of Peace; (2) the nature of the *agreed terms of peace and principles of settlement*; (3) the legality and morality of their *interpretation and application* by the parties, confronted as the parties were with the harmony or (in most cases) with the conflict of two or more principles applicable to each one of the many closely related sets of facts; and, finally, (4) the

statesmanship of the whole settlement, viewing the settlement as an adjustment of vast world-wide interests of humanity to the end that Peace and not War may be the permanent condition of the nations.

PART XV

THE RE-ESTABLISHMENT OF THE WORLD'S PEACE
BY TREATIES

The War was a World War and not only a war with Germany. In these two chapters upon the legal basis of international relations, attention has been chiefly directed to the relations between the Powers and Germany as the principal enemy State. But each one of the several Armistice Conventions and Treaties of Peace should be studied from the same point of view; for the Wilsonian terms and principles have affected all of them. Only by an all-embracing survey of the several separate settlements with Germany, Austria, Hungary, Bulgaria, and Turkey shall we be able to draw sound and comprehensive conclusions as to the full meaning of the World War and of the World Peace.

Step by step the break-up of the treaty relations of the world's States in 1914 is being slowly replaced by the new world order based on Treaties of Peace. But the world has not yet reached this final stage. Many international relations are still based upon pre-Armistice Agreements and Armistice Conventions. Several of the final settlements are as yet only in the stage of negotiation; and, even after peace has been concluded, Treaties of Peace may need revision. The new world order, based on law and right and justice and the other fundamental principles of a secure and lasting Peace, is not replacing the state of War as rapidly as humanity desires. The reconstruction of the World is a slow process. Statesmanship—a wise, just, humane, and far-seeing statesmanship—is needed in international counsels; for that alone can give the League of Nations life and vigour as the fundamental guarantee of Peace and as the instrument of Law, Right, and Justice in international affairs.

CHAPTER VII

THE NEW GERMANY

1. *Preliminary.*¹ The overthrow of the two greatest military autocracies of the twentieth century was accompanied in each case by a political revolution. The historian of the future, with the advantage of an undistorted perspective and a complete knowledge of the facts, must decide how far these revolutions were hastened by military events and how far revolutionary tendencies affected military operations. So far as Germany is concerned, the political revolution was preceded by a mutiny of the fleet and a military revolt of the garrisons on the lines of communication which converted the military defeat into a *débâcle* from which recovery was impossible.

The new Germany, in contrast to the new Russia, has already assumed a definite outline and form as a result of the political and military factors which have affected it. The military autocracy of 1914, founded in the days of the Great Elector and Frederic the Great, developed by Scharnhorst's introduction of conscription, and finally consolidated by Bismarck, emerges from the world war as a democratic republic with a constitution in accordance with the most modern liberal conceptions. Economic forces transformed Agrarian Germany into the industrial Capitalist world-power of 1914 with a corresponding population, the readjustment of whose conditions of existence under the new political and social order of things is not the least of the many problems which the new school of German statesmen are endeavouring to solve.

Any consideration of the new State must be prefaced by a summary reference to the political activities of the Party or its derivatives which eventually undertook the government and the political reconstruction of the country. The revolution was not a spontaneous movement due to the vicissitudes of war. Influenced and hastened by these, it was rather the logical outcome of half a century of agitation since the foundation of

¹ This chapter does not deal with events in Germany after the 10th January, 1920, the date of the deposit of ratifications of the Treaty.

the Social-Democratic Party at the conference summoned in 1869 by Wilhelm Liebknecht at Eisenach.

The political history of Germany during the War justifies the assumption that a parliamentary system of Government would have superseded the autocratic, inasmuch as it did not escape the notice of the seven million members of the German Trade Unions that the principles of Socialism had been converted into practice when the necessities of war compelled it. The vast and complicated organization for the collection and equitable distribution of food, the emergency measures for the supply and remuneration of labour were weapons borrowed from the arsenal of the Social Reformers.

When the Government stated its case for war in 1914, all political parties acquiesced with apparent unanimity. But the internal history of the Social-Democratic Party in the Reichstag discloses a continuous conflict of opinion which led eventually to the establishment of an Opposition Party which did not represent more than a fraction of the existing opposition.¹

At the Party meeting fourteen members voted against the first war loan, but at the Reichstag only one member voted against it. Seventeen members at the Party meeting voted against the second loan, Karl Liebknecht actually voting against it in the Reichstag. His speech was not delivered in the House but circulated as a pamphlet throughout Germany. It marked the commencement of the pamphlet war against which the censor was powerless, and which continued with ever-increasing violence to propagate revolutionary theory. Thirty members voted in committee against the third war loan. Finally, in March 1916, eighteen members actually voted against their party and formed the Independent-Socialist Party under Hugo Haase, while three others, including Wilhelm Liebknecht, avowed themselves communists. Even in 1916 some industrial areas, such as Greater Berlin and Bremen, were conspicuous strongholds of revolution. The general strike in the Westphalian industrial complex in January 1918 was the first tangible result of the agitation.

2. *The End of the Old Regime, 9th November 1918.* The Russian revolution overthrew the Empire in March 1917 with

¹ The International Socialist Congresses prior to 1914 were pacifist. The German Trade Union Congress at Munich in 1914 displayed a hostility to the Government which must have led to an internal crisis, if the necessity of defending the frontiers had not released the tension.

an ease and rapidity which might have acted as a warning to the only remaining autocracy in Europe. The revolutionary forces in Germany received a new impetus. The German prisoners of war, eye-witnesses of the military revolt, and of the formation of Soldiers' Councils, were hastily repatriated to meet military exigencies, without regard to their political contamination. The occupation troops of the protectorates established by the General Staff from Lake Peipus to the Caucasus were exposed to the propaganda of the Soviet Government. The *élite* troops on the West front remained more immune; the line of communication, garrison troops, and the fleet were canvassed by their comrades from Russia, or by the political agitators of the Independent Party, who had been enrolled as conscripts by the military authorities as a reprisal for their activities at home.

The authority of the Home Government had been so completely usurped by the military authorities that when the situation forced these to demand an armistice, the internal political consequences were obvious. The only existing authority recognized by the masses disappeared. The spark of revolution came from Kiel. On the 29th October it was rumoured that the fleet was about to undertake a final attack, and at the cost of annihilation reduce the English fleet to less strength than that of the United States, in order that the latter might have a preponderating influence at the Peace Conference. When orders were issued to raise steam on 31st October, the crews of the *Markgraf* and *Kaiser* mutinied. The fleet and port garrisons made common cause, elected Soldiers' and Sailors' Councils on the Russian model, and sent delegates inland who proclaimed the new order of things.

The abdication of the Kaiser was made known at midday on the 9th November, and was followed by the proclamation of the Republic from the steps of the Reichstag at 2 p.m. by Philip Scheidemann, on behalf of the Social-Democratic Party. Berlin declared a general strike as an expression of sympathy. Surprised and somewhat dismayed by the elementary force and universality of the new movement, the Majority-Socialists realized that no time should be lost in identifying the Party officially with the Revolution, especially as the garrison in Berlin had declared in its favour.

Prince Max of Baden resigned on the evening of the 9th,

and nominated the leader of the Social-Democratic Party, Friedrich Ebert, to succeed him. Ebert, Scheidemann, and Landsberg undertook the provisional Government. A battalion, with orders to arrest the Socialist leaders, surrounded the Reichstag; but after some parley the men threw their rifles into the Spree and demobilized without further orders. Karl Liebknecht, released from political imprisonment, raised the red flag on the Royal Palace. A few picturesque incidents of this kind occurred. No armed resistance on any scale was attempted by the Monarchists.

Similarly the country acquiesced. The twenty-two reigning princely families abdicated. The only energetic supporters of the Monarchy were still with the army in the field. Concerted resistance was impossible. The succession of military disasters, the abdication and flight of the Kaiser, the irresistible tidal-wave of revolution, stunned and blunted the minds of men accustomed to implicit belief in the old order.

Following the procedure of the Russian revolutionaries, Workers' and Soldiers' Councils were established everywhere. Those elected in Berlin were for the moment in possession of the executive power and sanctioned the agreement between the two Socialist Parties to appoint a new cabinet of the three Social-Democrats above-named and three Independent-Socialists, Haase, Dittmann, and Barth ('six tribunes of the people'). On the 11th November the new Government promptly signed the Armistice agreement. The terms aroused little interest. The people had resolved to end the War. The revolution rendered the signature of the Armistice inevitable, even if armistice involved capitulation. The Executive Council of the Soldiers' and Workers' Councils appointed five Socialists to replace the Prussian Cabinet, which was dissolved on the 10th November.

3. *After the Armistice: The Soldiers' and Workers' Councils. November-December.* Seldom has a revolution dealt so generously with its enemies. The army, with the exception of some formations where discipline still obtained, deposed its officers. Swords and epaulettes were confiscated, but life and property were inviolable. Weapons and stores were abandoned. In the general haste to return home most troops dispensed with the formality of demobilization. The general situation was critical. The army was returning in

disorder, after four years of hardship, to the home country where starvation was reigning. The police had disappeared. Law and order depended on the people or on the local Soldiers' Councils. Winter was at hand. The ingrained discipline of the German people alone warded off a catastrophe. Any interruption in the elaborate and delicate organization for the collection and distribution of food would have been followed by starvation in the industrial areas. Failure, for instance, to observe conscientiously the multitude of Government orders issued in the course of the War to ensure that the steadily diminishing milk supply should be reserved for infants, would have had fateful results. In response to the appeal of the new Government, the army of small officials throughout the country and in the great public departments continued to function with the same diligence as heretofore. Hindenburg's army order, recognizing the new authority, discouraged the Monarchist leaders, who retired to their country homes in sullen resentment.

The opposition was also modified by the consideration that republican Germany would meet with better treatment at the Peace Conference than the militarist empire. The political parties of the Right and Centre disappeared from public notice for the ensuing weeks, to emerge with new names and new programmes for the General Election of January 1919. The three parties of the Left, the Social-Democrats, the Independent-Socialists, and the Communist or Spartacist Party, under the leadership of Liebknecht, Rosa Luxemburg, and Karl Radek, which was in touch with and partly subsidized by the Russian Soviet Government, were in possession of the political arena. The Councils of Workers and Soldiers throughout Germany were all powerful. The Executive Council of the Berlin area had installed its representatives in all the Government Departments, to supervise the activities of the permanent officials, civil and military, and countersign all official documents. It had a right of veto as far as the Cabinet was concerned, as its followers included all three parties of the Left, but the Independents had made the entry of their three representatives into the Cabinet dependent on the recognition of the authority of the Councils by the Cabinet. The Governments of the Federal States were everywhere replaced, with the sanction of the local Councils, by provisional Cabinets of members of the parties of the Left.

Prince Max of Baden, in his proclamation of the Kaiser's abdication of the 9th November, had alluded to the necessity of convening a National Assembly to draw up the new constitution. The Social-Democrats, true to the principles of the Erfurt programme, declared their intention to hold the Assembly as early as possible, but the Independents were divided, and the Communists opposed to this plan. As far as the Social-Democrats were concerned, revolution had never been an essential or even desirable short cut to reform. Bebel and Engels had declared that a European or world war would hasten the world revolution, but opposed any direct revolutionary action by the Socialist Party to attain its aims. Their agitation and propaganda, prior to and during the War, had prepared the way, but the initial movement and subsequent impetus came mainly from the Independents and the much more radical 'Spartacus' group.

The political and especially the economic programme of the Independents, still somewhat vague after a year's lapse, was obscure in the winter of 1919. The party aim was the establishment of a Dictatorship of the Proletariat, for the purpose of introducing a Councils or Soviet system akin to the Russian, and for this purpose favoured the maintenance of the unconstitutional Workers' Councils. Its leaders were not prepared, however, to reject the parliamentary system, root and branch. The Spartacus group, Socialists of the international type, denying nationality, aiming at the establishment of a purely Communist State, the abolition of capital and wages, and requiring as a preliminary condition an international revolution, were known to contemplate violence, if necessary, to fulfil their aims. The leading exponents of this theory were Karl Liebknecht (the son of the more famous Wilhelm, whose Socialist pioneer work in Germany had resulted in imprisonment and flight to England), and the highly gifted Rosa Luxemburg, a Russian Jewess, whose personality and intellect dominated the extremist leaders. Karl Radek, the associate of Lenin and Trotsky in Russia and Switzerland, acted as intermediary with the members of the Moscow Government, which contributed financial support then and later.

The Spartacist Party obtained an unexpected support from some irreconcilable Conservatives, who were willing to sacrifice their interest as a class in the hope that a radical revolution in

Germany might lead to the overthrow of her enemies by a similar internal upheaval in their countries; failing which the Entente would at any rate be powerless to obtain any reparation from a Communist or Socialist Germany.

The Executive Committee of the Councils met on the 19th November for the purpose of coming to a decision on the question of the Constituent Assembly. The President declared that the Revolution was in danger if the people surrendered their newly won authority to a parliamentary assembly. Haase, speaking on behalf of the Cabinet, although his party was anything but unanimous, defended the view of the Majority-Socialists. Unable to come to a decision, the Council summoned a meeting of all Workers' and Soldiers' Councils in Germany for the purpose of electing a Central Council and drafting a constitution. Intense political agitation followed. Philip Scheidemann declared that the Revolution which had overthrown the tyranny of one class must not establish the dictatorship of another. The Entente had declared that it would not negotiate with the representatives of any one class. The suggestion of a German-Russian Bolshevik front on the Rhine was childish. The hunger blockade of the Entente would continue. South Germany would leave the federation, Poland was hostile, and the province of Posen was in danger. A revolution in France or England was unlikely. Revolution followed defeat, but victory strengthened Imperialism. The right of self-determination might induce German-Austria to enter a German Federation but not a German Soviet Republic.

The Committee of the Social-Democratic Party issued a resolution in favour of universal political equality, and demanded immediate General Elections, in accordance with universal, equal, direct, and secret franchise, for the purpose of electing a National Assembly and transforming the Industrial Capitalist into a Socialist system by gradual reform. Simultaneously the Central Council of the soldiers of the East front and the Councils of many of the larger military formations declared themselves in favour of the National Assembly that the Socialist Parties would easily obtain a majority and place the Revolution on a Constitutional basis.

It was difficult in the existing chaos for political leaders to determine the strength and wishes of their followers. The Independent leaders disagreed among themselves. Rühle, the

first member of the Reichstag who possessed the unheard-of courage to register his solitary vote against the third war loan, opposed Haase. Kautsky, the scientific historian of Socialism, opposed Ledebour, the organizer of the munition workers' strike in 1918. Dittmann, who had so successfully canvassed the fleet for revolution, supported Liebknecht. Kurt Eisner, one time editor of the *Vorwärts*, the leader of the newly-elected Bavarian Cabinet, in a timely speech on the 1st December, reminded his followers of the party principles as laid down in the Erfurt programme and warned them against dangerous experiments in socialization at a moment when conditions in Germany were abnormal and semi-starvation was universal.

4. *The Struggle with the Spartacists, December 1918–15th January 1919.* The Spartacist Party, however, proceeded to action, in the hope of seizing the capital and obtaining control of the executive power in order to forestall the decision of the General Congress, which might be adverse, owing to the preponderance of the Trade Unions representatives in its ranks. During demobilization the mob had obtained possession of a large quantity of arms, including field guns and aeroplanes. Desultory street fighting took place on the 21st November and again on the 6th December, when some secretaries of the Foreign Office, with the aid of a few companies, arrested the Executive Council of the Berlin Workers' Council by a *coup de main*. The Council was immediately liberated, but the arrest was wrongly ascribed to the Cabinet by the populace. On the same day the mob seized the newspaper offices in Munich, in the course of an unsuccessful effort to overthrow the Eisner Government.

The general Congress of Councils met on the 16th December, and on the 18th passed a resolution in favour of the National Assembly by a majority of 400 votes to 50, and decided that its Central Council should have a right of veto in the matter of appointment to the German and Prussian Cabinets as well as provisional legislative measures. The elections to the National Assembly were fixed for the 19th January 1919. The judgment of the General Congress decided the fate of Germany.

The Independent-Socialists left the Congress in protest. Curiously enough the Spartacist Party, owing to the attitude of the Independent leaders, Haase and Cohn, in supporting the Majority-Socialists, issued an ultimatum to the

Independents demanding that the latter should state their policy definitely. This was refused. Street fighting became general. A marine infantry division had taken up its quarters in the Royal Palace, and on the 23rd December arbitrarily arrested Wells, a soldier appointed Commandant of the Berlin area by the Cabinet. The Cabinet summoned the Guard troops, who were then and later the most reliable supporters of the Social-Democratic Party. In the meantime the Independents decided to support the Naval Division, and their three representatives in the Cabinet opposed the decision of their three Majority colleagues to compel the liberation of Wells by force, if necessary. This impossible situation ended with the resignation of the three Independents. The Social-Democrats demanded a popular demonstration, and on the 29th a vast concourse assembled in the streets of Berlin. The Central Council sanctioned the appointment of three Majority-Socialists, Noske, Wissell, and Löwe, to replace the Independents. The new Cabinet issued a pamphlet containing a rough draft of its programme. Elections would be held for a National Assembly which would take steps to socialize the means of production, and conclude peace as early as possible. This was signed by Ebert (Minister of the Interior), Scheidemann (Foreign Minister), Noske (Minister of National Defence), Landsberg (Finance Minister), and Wissell (Minister for Social Policy).

On the platform, in the press, and in pamphlets a flood of political discussion followed. The form of the new Government, its programme, its attitude towards the Entente, its financial measures, the position of Prussia and the other provinces in the new State, the Polish claims, the right of self-determination within the federation were themes which henceforth occupied the politicians and theorists of all parties.

The Independent supporters made common cause to a considerable extent with the Spartacus Party and it was decided to forestall the Social-Democrats and prevent the holding of elections by a *coup d'état*. More serious street-fighting ensued. The Prefect of Police in Berlin, a secret sympathizer with the Spartacus group, distributed large quantities of arms and refused to recognize his dismissal by the Prussian Minister of the Interior. On the 5th January a large armed mob attacked and seized the newspaper offices as a preliminary to the seizure of the Government offices and the overthrow of the executive

power. The Central Council furnished the Cabinet with dictatorial powers which it transferred in turn to Noske, whose energetic action at Kiel during the first days of November had prevented bloodshed and largely determined the peaceful course of the Revolution inland.

The unreliability and apathy of the troops rendered the situation highly critical for the Government. Formations, apparently loyal, dispersed or deserted to the opposing faction. Noske, however, received support from the officers of the old army who enrolled themselves as soldiers in battalions formed on the spur of the moment. Remnants of the guard and of cavalry regiments rejoined their officers. In spite of numerical inferiority they invariably remained victors in the fierce street-fighting of the following days. Critical moments occurred, as when a handful of officers, disguised as soldiers armed with machine guns and hand grenades, held the approaches to the Wilhelm-Strasse and the Government buildings hard by. A special characteristic of the street warfare was its confinement to the political parties of the Left. On certain days in December and again in January when the city, with the exception of the Wilhelm-Strasse and the adjoining streets, was in the hands of the Independents, the newspaper offices of the Democratic and Majority-Socialist newspapers were seized and the newspapers suppressed, or published as Independent or Communist organs. At the same time the papers of the Right continued unmolested. The staid official journal, the *Norddeutsche Allgemeine Zeitung*, appeared as a Spartacist publication.

The Independents wavered in their attitude and sent three representatives, Dittmann, Kautsky, and Breitscheid, on the 8th, to negotiate with the Government, but no agreement could be reached as the Spartacus group would make no serious concession. Fighting continued until the 10th January when the recapture of the newspapers, especially of the *Vorwärts* building, by Colonel Reinhardt was accepted as a symbol of defeat by the rebels, whose losses had been very considerable. The loss of life was great among innocent passers-by.

The situation in the capital was mirrored in the provinces. Bremen, Hamburg, Düsseldorf, Leipzig, and Upper Silesia periodically indulged during the winter in miniature civil war.

The movement collapsed, however, on the evening of the 15th January when Liebknecht and Rosa Luxemburg were

arrested in their hiding-place and murdered by the populace with the partial connivance of their military escort. These idealists of the Revolution, whose fanaticism impelled them to violence, were singularly keen-witted politically and their speeches at the time displayed a prophetic insight into the political development of German politics after the election of the National Assembly. The compromise with the bourgeois parties, which would modify the effects of the Revolution, came to pass.

5. *The Election Campaign and the Parties.*—The political campaign for the general elections commenced in due form. The parties of the Centre and Right appeared disguised under new names in deference to the victorious democratic idea and to the new spirit of freedom. The Conservatives renamed themselves the German National Peoples' Party, the right wing of the National Liberals became the German Peoples' Party, the left Liberal wing and the Progressives became the Democratic Party. The Centre sought to recruit from the Evangelicals, and adopted the title of the Christian Peoples' Party. These curious concessions to the new democratic spirit were accompanied by corresponding changes more apparent than real in the old Party programmes.

All parties united in condemning the old Imperial Government. The German National Peoples' Party adopted the old Conservative programme including the monarchical principle and a modified conscript army. The independence of the various Federal States must be preserved. It even admitted the necessity of socializing certain undertakings such as the electrical power syndicates. The Centre (which nobody has ever designated by its new name) declared itself in favour of the League of Nations, of a democratic State with or without a monarch, but against conscription. It was prepared to approve within limits of the nationalization of the means of production and of heavy taxation of big incomes, private fortunes, and legacies. It retained, of course, its policy of Agrarian Reform, Freedom of Religious Orders, and the maintenance by the State of denominational schools. The German Peoples' Party retained the doctrine of the old National Liberals whittled down to meet the times, conscription, and protection, adding a clause in favour of the junction of German-Austria to Germany. The Democratic Party was the most important of the new political factors. They were

really the old Progressives, represented by the influential *Berliner Tageblatt* and *Frankfurter Zeitung*, and supported by a very powerful following in the industrial world including the Jewish capitalists, and had attracted recruits from all parties except the extreme Left. They differed from the Social-Democrats in their desire to maintain capital as a fundamental principle of the industrial system, urging the maintenance of a strong army, and favouring the introduction of gradual progressive social legislation as far as the frontier where nationalization of the means of production begins. The Social-Democrats alone retained the old Erfurt programme of 1891 unchanged, with its abolition of the capitalist system by steady reform coupled with the socialization of the means of production. In view of the secession of the Independents it emphasized its opposition to class dictatorship whether reactionary or democratic. The Independents, who accepted representation in parliament for the purpose of propaganda, would overthrow the parliamentary institution itself, and would insist without delay on the utmost demands of the Socialist programme, including the immediate abolition of the right of inheritance and the confiscation of private fortune above a fixed sum. Neither Socialist Party would maintain an armed force. The Franchise Bill, drafted in the Ministry of the Interior and sanctioned by the general Congress of Councils, provided for universal direct and secret ballot for persons of both sexes over 20 years of age and resident for at least one year in Germany, and for a system of proportional representation. A deputy would represent on the average 150,000 voters.

The Elections.—The elections took place as arranged on the 19th January. The Social-Democrats obtained 163 mandates, the Centre 92, Democrats 75, German Nationalists 40, Independents 22, and the German Peoples' Party 21. Small Peasant Parties obtained 6 seats. The province of Posen, where the Poles had established a temporary Government under Warsaw, did not participate. The Allied Military Authorities forbade elections in Alsace-Lorraine where 12 seats remained vacant. The new assembly consisted of 421 members, only 45 of whom had been members of the dissolved Reichstag.¹ Well aware of the grave

¹ The Reichstag in August 1914 numbered 397 members, of whom 110 were Social-Democrats, 89 Centre, 46 National Liberals, 46 Progressives, 43 Conservatives, and 19 Poles, the remainder being independents or very small parties. v. further Vol. I, c. ii.

issues at stake, the electorate went to the polls to an unprecedented extent: 30 million votes or 90 per cent. were recorded, 36 women deputies were elected.

The results were received with intense relief by the bourgeois parties. The ease with which the revolutionary movement swept the country in November had filled the supporters of the parliamentary system with dismay. It was feared that a radical change in the political convictions of the electorate had taken place. The establishment of Workmens' and Soldiers' Councils everywhere throughout Germany was taken as an indication that the extreme Socialist views of the Independents had been accepted to a much greater extent than was actually the case, and that measures would be taken as soon as the elections were over to annul the war loan, confiscate capital, and socialize industry.

The bourgeois parties recovered their aplomb when it was clear that both Socialist parties in alliance would not have a working majority and that a Coalition Government was inevitable. The passive resignation to the dictatorship of the mob, which had been characteristic of the preceding week, came to an end. In the ensuing strikes and disorders far greater support was given by the public to the small army of volunteers when the Spartacus Party again appealed to arms in Berlin or elsewhere. Army officers commenced to reappear in public in uniform and, proving bolder by experience, with swords and epaulettes. Ever since the military revolt, they had donned civilian clothing to avoid the disgrace of public degradation by the Soldiers' Councils.

The excesses committed by the Spartacists and the confusion caused by the continual strikes damped the enthusiasm of the working classes. It is likely that the Independents and Social-Democrats, who polled some 45 per cent. of the total votes, lost the absolute majority owing to the prejudice which events in Berlin had awakened, not that the two parties were ever likely to collaborate. The Social-Democrats, Centrists, and Democrats formed a Coalition on the 12th February. Ebert was elected President of the German Republic. A provisional draft of the new constitution came into force pending the introduction and passage of the Constitution Bill through the National Assembly. Philip Scheidemann became Prime Minister. His Cabinet included Count Brockdorff-Rantzau as

Foreign Minister, whose reputation had been enhanced by his record as German representative at Copenhagen during the War, and Dernburg as Minister of Finance. Preuss, as Minister of the Interior, was responsible for drafting the new constitution. Noske became Minister of Defence, and was responsible for the maintenance of public order with his newly-organized volunteer force. Erzberger, as minister without portfolio, continued to represent Germany on the Armistice Commission. The Cabinet contained 9 Socialist, 3 Democratic, and 3 Centre members. In view of the threats of the Extreme Left to prevent the National Assembly from meeting, and as a symbol of the new Liberal spirit, the Government decided to convene it at Weimar, where the new constitution should be drawn up.

6. *German Attitude towards the Entente.*—The abrupt change from the Imperial to the Parliamentary system of Government found the political parties unprepared. The Empire recruited its secretaries of State outside the Reichstag. No school of politicians existed in Germany like that in Western countries where routine committee work serves as an introduction to the administration of the Government department. The criticism of the Parliamentary system has proved to be justified, inasmuch as the new ministers were largely dependent on the permanent officials of their departments in questions of administration or the drafting of bills. This was especially true of the diplomatic service. A dearth of men of outstanding ability had existed here for a decade prior to the War. In the circumstances the choice of a foreign minister was a very difficult problem for the new democratic Government. Eventually, as stated, it was decided to compromise and nominate a diplomat of the old régime with a reputation for democratic sympathies.

The position was unusually difficult. Politicians accustomed to criticize from the benches of the Reichstag were vested with the responsibility of creating a new Germany, with the drafting of a new constitution and with framing a vast legislative programme, without any indication in advance of the outlines of the peace terms likely to be imposed by the victors. The failure of the Social-Democrats to obtain a majority over all parties necessitated a coalition. A programme of legislation calculated to satisfy its followers would be comparatively simple and would

resolve itself into the conversion of the theories of Bebel and of the principles of the Erfurt programme into practice. The difficulties of satisfying a Coalition were very much greater.

The blockade was still in force and had been extended to the Baltic. The meagre supplies of food and raw material from Scandinavia were cut off. The mass of the population had expected immediate and radical improvement of the general conditions of life from the Revolution. The chaos resulting from that movement had made conditions still more unsatisfactory. The untimely display of a large class of war profiteers, whose wealth enabled them to live in luxury and to evade the restrictions which pressed on the multitude, aggravated the working-classes in the large towns. Illicit traffic in foodstuffs and indispensable commodities thrived in spite of the authorities. The burthen of existence pressed here as elsewhere most heavily on the families of the numerous Government officials and of the lower middle class.

The task of re-establishing order and governing the country after an upheaval of such magnitude was rendered easier by the legacy of a century of Prussian Government. The principle of authority, cultivated since the reign of Frederic the Great existed universally. Fifty years of uniform teaching in the schools and in the army since the unification of Germany had trained the mass of the people to think on parallel lines. Defeat signified that the authority of the Imperial Government was replaced by another authority, that of the Entente. The fact that a ukase was issued from Berlin or Paris did not affect the docile population. The ukase must be issued from somewhere and must be obeyed. A fresh conviction had been added. War was unthinkable and peace must be concluded with all possible haste. Four years of war had taught patience. It seemed that, if the representatives of Germany at the Peace Conference could interpret the mental and physical weariness of 60 millions of half-starved people, the Entente would impose tolerable terms. The cause of the Entente had attracted a score of Allies from the East and West. So much support could not be based on selfish interests or meaningless hostility to Germany and to her concept of civilization. Hostility to a world alliance of the nature of the Entente or to individual members of it was absurd. The attitude of the people was conciliatory to the foreigners who entered Germany after the

Armistice. These were somewhat astonished to find that they were regarded less as representatives of the victors than as envoys from the outer world signifying the end of the four years of isolation. Their presence was in a sense an admission that Germany was not an outcast among nations, otherwise the enemy would not venture unprotected within her gates.

Entente propaganda had penetrated from the neutral press, and a people trained to accept what appeared by sanction of the censor, placed the most favourable interpretation on the speeches of enemy Statesmen, especially the memorandum of President Wilson indicating the terms on which a settlement might be based.¹ The principle of self-determination was readily accepted, and there was little opposition to the seizure of the Executive of the Province of Posen by the Polish population at the instigation of Warsaw in the month of January.

The Polish Government issued an ultimatum to Germany on the 15th January, on the 28th, after some street-fighting, the Polish Nationalists seized the town of Posen and set up a provisional Government under Warsaw. This movement met with little opposition. The Government in Berlin was powerless. When, however, Polish troops evinced an intention, in their newly-developed patriotic zeal, to penetrate and occupy German territory the populace organized resistance on its own initiative. The intervention of the Allies in February led to the conclusion of an armistice, and the delimitation of a provisional frontier.²

7. *Economic Situation, November 1918–March 1919.*—The economic situation was critical. The Armistice and Revolution affected the industrial population directly. Industries engaged in supplying war material either closed down or reverted to peace-time production without any control by a central authority. Formation of workers' councils in every industry led to a feeling of general relaxation. Factory hands felt that the new era would bring immediate improvement in the conditions of life. The working hours were shortened by the local councils. In many cases the councils assumed the management. Strikes multiplied. The theory that reduction of output would lead to bankruptcy of the proprietors and to the

¹ i.e. that of 5th November 1918. v. correspondence preceding the Armistice. App. Vol. I.

² v. Vol. I, Chap. VIII, pt. iii, § 8.

transfer of the factory to the hands found considerable favour. Demobilized soldiers returning from their campaigns and relieved of onerous discipline were not inclined to return to regular occupation. To avoid political disturbances and riots the Government instituted generous unemployment grants. In the Halle mining area the unemployment wage approximated so closely to the earning wage that the miners on one occasion left work for this reason alone.

The coal mines had been exploited during the War to obtain the greatest output with a limited supply of labour. The upkeep of machinery and underground plant had been neglected. The effect on the railway system and on industry was immediate. Drastic reductions in the supply of electric current and passenger train services became necessary. Transport conditions resulted in a further rise of the price of food and coal, necessitating the readjustment of wages.

The surrender of railway material to the Allies had reduced the supply of rolling stock available in the country very considerably. The scarcity of lubricating oils during the War caused undue wear and the replacement of copper and brass by corrosive metals consigned quantities of rolling stock to the sidings. As the supply of skilled labour increased and the railway organization recovered, improvement was effected, but traffic still remains a fraction of that which existed before the War.

The maintenance of the blockade, the continual strikes, and the scarcity of food and coal, engendered a feeling of apathy and indifference to the future, which has been characteristic of the country throughout the year 1919. The gloomy prospects of the future were not reflected in the artificial life of the large towns. Night-clubs, dancing, and gambling flourished. The traffic in food and clothing at exorbitant prices, in excess of the amount allowed by the Government rationing system, increased everywhere. The smuggling of goods, the importation of which was forbidden on the ground that they were not indispensable and tended to lower the rate of exchange, assumed huge proportions. The lack of housing accommodation was intensified by the influx of fugitives from Alsace-Lorraine, from East Prussia, and from Posen.

The note issue of the Reichsbank covered by $2\frac{1}{2}$ milliards of gold amounted in peace-time to three times the gold reserve,

or about 7 milliards of marks. In March 1919 it amounted to 23 milliards. During the War municipalities had issued their own local currency and the liability in bank notes already amounted to some 40 milliards. In February Hamburg alone had 65,000 unemployed, while Berlin had over 250,000 in receipt of ten marks per day unemployment pay; unemployment pay to the amount of 67 millions of marks was issued in February as against 17 millions in December. In spite of the lack of work, wages, both for skilled workmen and for unskilled labour had risen in January. As the output of the individual worker diminished, the employers reintroduced piece-work. The reorganization of industry in accordance with the Hindenburg programme had been employed by the war profiteers to amass fortunes and, owing to the scarcity of workmen, factories vied with each other to obtain hands by raising wages. The wage movement continued when the War ended.

A general Congress of the Independent Party took place in March and showed that the majority favoured a Councils system of Government. At the same time the Berlin Councils passed a resolution in favour of inserting a clause in the Constitution, providing for the establishment of Workers' Councils in all factories and large business concerns including State services such as the railway system. A proposal to establish monopolies, to socialize a number of industries, especially the coal mines and the potash industry, was rejected by the Government, on the ground that so sudden a change in such critical circumstances might bring about an economic catastrophe. A series of big protest strikes followed; nevertheless the Government view prevailed.

8. *Government Legislative Policy, March.* Extensive constructive legislation was promised in the programme which Scheidemann announced on behalf of his Cabinet on the 13th February. In addition to a series of army measures disestablishing the Imperial forces, the new Defence Force Bill was passed, constituting the Volunteer Force organized by Noske into a regular army with a definite establishment. The reform of taxation outlined the measures which were worked out in detail during the ensuing year in the various Financial Bills, most of which have now become law. Income tax, death duties, war profits, private capital, should in future contribute

the main part of the income of the State. In March a general Socialization Bill became law, empowering the Government to introduce legislation for the purpose of nationalizing the coal mines, the potash industry, electrical power supply, and any industries in which a tendency to establish a capitalist monopoly existed. The Coal Bill was the first of the measures to obtain the sanction of parliament. The influence of the democrats and the Centre Party changed the character of the Bill, and in its first form it merely reorganized the mines in the various States into syndicates, under the authority of a Central Coal Council which included owners, representatives of the consumers, miners and experts, and was authorized to fix prices and control distribution and export.

The legislation required for the transfer of the railways of the component States to the Realm, as well as the necessary compensation, was drafted in accordance with the provisions of the New Constitution, which became law later in the year.¹ A similar measure for the nationalization of electric power throughout Germany occupied a special Committee for some months.

9. *Communist and Spartacist movements in the smaller German States, December–March.* In spite of the severity with which the political revolts had been quelled, armed disturbances recurred from time to time in different parts of the country; Munich was one of the principal storm centres. In 1917 the Bavarian Government had requested a share of the war contracts and the firm of Krupps had made use of the occasion to establish a branch factory in Munich and to transfer thither some thousands of refractory metal workers. These introduced up-to-date propaganda from the Ruhr Valley area with the result that the republic was proclaimed in Munich as early as the 7th November 1918. Henceforth strikes and demonstrations were rife in Nuremberg, Augsburg, and Munich. The murder of the Social-Democratic Prime Minister, Kurt Eisner, on the 21st February by a Monarchist, and the assassination on the same day of another Minister by Communist conspirators led to anarchy during which the Spartacists seized the Government buildings and controlled the Executive for some days. In April the Communist Party, encouraged by the

¹ Arts. 89–96. v. App. 4, Vol. III for full text of new German constitution.

establishment of a Soviet Government in Budapest, won over the garrison, again seized Munich and established a Councils Republic which existed for some three weeks. It was ultimately suppressed with considerable bloodshed by a contingent of Noske's volunteer army. The excesses committed by the mob leaders, especially the murder of hostages, discredited the Communists and reacted against the Independents everywhere.

In March the Communist Party demanded the abolition of martial law and issued an ultimatum to the Government. This was rejected and the Spartacist Party appealed once more to arms. This led to a repetition of the street-fighting of January. The movement was again suppressed with considerable bloodshed by the troops. In contrast to the political street-fighting of December and January, where both sides respected private property and, to some extent, State property, the mob proceeded to loot the shops and levy contributions during the March revolt. When one considers that, owing to the weakness of the Government and the absence of any police or military force, certain quarters of the town were in the hands of the mob, reinforced by the inmates of the prisons which the Spartacists had thrown open in misguided zeal for the cause of Liberty, the discipline and moderation displayed were remarkable, and probably unique in the history of popular revolutions. A mere catalogue of the armed revolts and strike movements of the weeks following the formation of the Government indicated the chaotic condition of the country in the early months of 1919. Brunswick, the Ruhr Valley, and Munich were repeatedly in uproar. No sooner had order been restored than a general strike paralysed Central Germany for a week. Persuaded eventually of the futility of armed revolt, and deprived of their arms by the volunteer troops, the workmen returned to the normal weapon—the strike. The arrest of Karl Radek on the 13th of February had deprived the Communist movement of a very capable leader and henceforth concerted action became rare.

10. *Attitude towards Poland and peace terms.* During all this turmoil, when the attention of the Government was incessantly occupied with the internal situation and the organization of defence forces on the East Front, in view of the threatening attitude of the Polish levies, the spectre of retribution haunted

those whose patriotism was not soured by dissension, when the need of the country for unity was greatest, and who had not consoled themselves with the reflection that the Entente would be powerless to exact reparation from Germany in anarchy. The Armistice Conventions foreshadowed the terms which were being prepared at Versailles.

Owing to the serious food-shortage in Germany, and to the impossibility of maintaining the food-supply until the harvest, the Allies, mainly as a result of British pressure, agreed to allow foodstuffs to be sent to Germany (Jan.). The surrender of the commercial fleet for the duration of the Armistice, as a preliminary condition to the supply of food, was accepted as a warning that the German mercantile marine would be confiscated by the Peace Treaty. The proposal to disembark Haller's army at Danzig caused dismay, and was interpreted as a preliminary to the military occupation of the town by the Poles.¹

News of the course of the negotiations, and especially of the demands of Poland, filtered slowly through. In the month of March the outlines of the Peace conditions were known. The population had cherished some hope that Germany's entry into the democratic society of nations would have attracted sympathy, if not from her hereditary enemy, at any rate from the British democracy and the great republic of the West. Towards the end of the month, popular demonstrations, encouraged by the authorities, against the 'Peace of Force', became general. The hope that the German delegates would be allowed to take part in the preliminary conference was not fulfilled, and when the Peace conditions were officially transmitted to the German Delegation on the 7th May, consternation was universal. With the exception of the Independent Party, and the still more radical Communists, the country was unanimous in its hostility to the proposed settlement. The enthusiasm of 1914, which had so soon given way to preoccupation, and eventually to resignation and despair, was forgotten by a people who failed to realize that they would be held accountable for the misdeeds of a Government over which they had little control, and whose policy they had been trained for half a century to accept without question.

The surrender of a portion of West Prussia and the rich

¹ Cf. Vol. I, Chap. VIII, pt. iii, § 7.

province of Posen, where the majority of the population was of Polish extraction, accorded with Wilson's principle of self-determination, but the feeling that the German minority would be abandoned to Polish misgovernment outraged the traditional and deeply-rooted sense of loyalty of the race to its members. The threatened loss of the historic port of Danzig caused greater bitterness, both because of its predominantly German character and because it imperilled the rich agricultural province of East Prussia. In the event of the re-establishment of Russia by the volunteer armies, the Polish Republic would get short shrift, and the future frontier of the Slavs would be at the gates of the Capital.

Germany spared no effort, both on the Armistice Commission and elsewhere, to save Upper Silesia from cession to Poland. The terms of the Draft Treaty provided for cession without a plebiscite. As a result of strong German protests and with British support, this clause was amended, and a plebiscite was accorded. The 'Kulturkampf' had alienated the Catholic clergy and accentuated the hostility between it and the imported Protestant official class. Bismarck's scheme for German colonization began simultaneously with, and was met by the Polish National movement emanating from Cracow, which took the form of a league for the preservation of the Polish language and tradition. The intellectual and industrial element had supported the popular movement against the unsympathetic if efficient Prussian bureaucracy. When war broke out, the enthusiasm here as in Posen was just as universal as elsewhere. The hastily conceived plan, adopted by the Imperial Government on the 5th November 1916, of creating a Polish kingdom under German suzerainty revived the National movement among the German Poles, who resumed relations with Warsaw, and demanded the removal of the language grievance. As late as September 1918, the short-sighted administration suppressed Polish newspapers, and closed the theatres and places of amusement. Even the revolution had not effected a complete change. As elsewhere in Germany, the democratic Government was powerless to control the local officials in the Provinces. To replace them *en masse* was impracticable even if feasible, in view of the turmoil which followed defeat and revolt.

The loss of Alsace-Lorraine was a foregone conclusion, but the cession of the Saar Valley to France for fifteen years, and

of the Upper Silesian Coal Basin to Poland, were proposals incompatible with the demands that Germany should pay an enormous indemnity which would tax even the industry of the whole country before the War to its utmost limit. Upper Silesia aroused even more resentment than the clauses relating to Posen and Danzig. The unique standard of efficiency attained in the production of coal was due to the excellent technical training of the German mining engineers. The unexampled prosperity of Breslau and Berlin in the decade before the War was the direct result of the exploitation of Silesia.

As regards the military conditions, the Armistice had put an end to any possibility of resuscitating the military system, and the Revolution to any desire to do so. For reasons of economy alone, Germany could not afford the luxury of an army on the old scale. The loss of the colonies affected the public very remotely. Colonization was intimately associated with the Imperialist system. Germany's aggressive policy in the colonial domain had aroused the animosity of those Powers who were first in the field, and an earlier outbreak of the world war at the time of the Agadir crisis had only been avoided with difficulty. The loss of the colonies made the maintenance of a navy superfluous. The confiscation of the commercial fleet was a more or less natural corollary to the destruction of Allied shipping by the submarine boat warfare, which the majority of the people had deprecated.

In 1864, 1866, and 1870 Germany had emerged victorious and, though wisely treating Austria with comparative lenity, had appropriated the territory of the vanquished. This was in accordance with the traditional usage of war. Germany had never assigned territory to another country, and failed to grasp the principle which determined the cession of her territory to a nation like Poland, which had not fought on the side of the Allies, and which Germany regarded as inferior in civilization and in military prowess to herself. The troops who had occupied Poland during the War reported that the public administration was corrupt, and that the conditions of existence were miserable. They compared the integrity of the Prussian official administration before the War with what they described as the corrupt and inefficient system of the Russian Public Services in Poland. It is probable that further acquisition of territory in the Rhine Province by France would not have

caused so much surprise as the unexpected Polish settlement. In a word, everybody asked how Poland had won the War when the contest had been with France and England.

11. *General attitude towards the peace terms.* In spite of all these considerations resistance by force was unthinkable. A Government had seldom been in such a dilemma. Having rescued the country from anarchy and starvation, it was faced with a desperate choice. It could accept conditions which it could not hope to fulfil without reducing the people to economic slavery, or refuse the terms, a refusal which would result in the resumption of the blockade and the occupation of the Westphalian coal fields, measures which the scarcity of food, of raw material and of coal, would turn into a catastrophe. The Government depended for its authority on a very slender thread. The industrial areas could only be kept in order by the use of armed force. The only reliable force was a voluntary organization of the débris of the Imperial army, by officers who were avowed reactionaries, and whose services were merely lent to the democratic Government in order to save Germany from a still more extreme form of democracy.

A demonstration in the Capital against the Peace Terms was arranged for the 21st May, but the Independent supporters appeared simultaneously in far greater numbers and converted the meeting into a demonstration in favour of signature.

The Government based its opposition to the Treaty on the promises given to Max of Baden by President Wilson that the principles contained in his various messages to Congress would be observed. According to the Germans the fundamental principles of the Right of Self-determination were being denied to the Eastern Provinces of Germany in which plebiscites were not to be allowed. The junction of German-Austria with Germany was forbidden. The extradition of German subjects for trial by their enemies was contrary to historical precedent. Even the tyrannical Treaties of Brest-Litovsk and Bucharest contained no reprisal clauses in spite of the oppression of the inhabitants and the pillage of East Prussia by the Russians.¹ There was no indication that general disarmament would follow signature, or that Germany would be received on an equal footing in the League of Nations. The idea of the League of Nations raised no great enthusiasm. It was agreed that

¹ v. Vol. III, App. i.

a League of combined nations existed virtually before the War, as International Congresses and scientific meetings proved, but it was pointed out that this had not prevented hostilities.

In spite of these considerations there was a curious lack of any spontaneous expression of feelings throughout the country. Demonstrations took place in Berlin, but the weariness of the starved population engendered the feeling that conditions could hardly be much worse than they had been during the past three years. The Entente had refused peace when the situation was gloomy, after the Russian, Rumanian, and Italian defeats, and the defeat of the 21st March 1918! Entente Statesmen had shown their superiority to their own, knew that Germany would capitulate, and knew what terms they would enforce. There was nothing to do but to sign. Food was so valuable that the surrender of live-stock caused more bitterness among the women than did the far-reaching political clauses among the men.

The Pan-Germans maintained sullen apathy. They admitted that they had been expecting a victory which would have enabled Germany to impose terms on her enemies like they had already made at Brest-Litovsk and Bucharest. At the same time they derived a malicious pleasure in observing the plight of the Social-Democrats and their allies, who, having renounced militarism and all its works and pomps, found themselves powerless against the Western champions of democracy, reconciliation, and the rights of small nations.

The Independents were disunited, and their dilemma was even greater. The party leaders had decided to sign, partly to embarrass the Government, and partly in deference to the Extreme Left, which demanded peace, food and supplies, and relying on the international solidarity of the proletariat, was indifferent to the adjustment of frontiers. In case of refusal by the other parties, the Government would devolve on them. They deprecated its acceptance, knowing that as soon as they had fulfilled their invidious task and incurred the odium of delivering Germany to the Western capitalists, they would be promptly thrown out of power. They feared, furthermore, that the surrender of Upper Silesia, without a plebiscite, would lead to war between the Eastern populations and the Poles, which might enhance the prestige of the Military Party and encourage an attempt at a *coup d'état*. To sign the Treaty, in

the hope that world revolution would annul it, would be a gamble. Furthermore, the German miners in Silesia and the Saar Valley would feel that they were condemned to toil for the benefit of foreign capitalists, and would fail to benefit by the Socialist legislation which the German working classes would compel the Government to introduce.

The only possible course for the Government was to demand a revision of the Treaty, to gain time, and to obtain some tangible concessions which would enable them to sign with good grace.

12. *The Entente modifies the Conditions of Peace.* In view of the moderate concessions which the Supreme Council offered to the German Government, it might well be assumed that the danger of the situation in Germany, though accurately known and appreciated by some, was not realized by all, of the Allied Powers. An Independent Government, the only possible alternative to the Coalition Cabinet, would have involved the disbanding of the Reichswehr and produced general chaos in the interior. It would have accentuated the tendency to separatism already noticed in Bavaria, Hanover, and the Rhineland. It is difficult to decide whether the Allies disposed of a weapon which could compel fulfilment of the reparation clauses, if Germany became a group of independent States and Communist Republics, where the Governments would indulge in fantastic experiments in the socialization of industry. German Communists derived encouragement from the experience of Munich and Bavaria, the least likely of all German States, in view of its Catholic population, to tolerate crude Communism, and by the recent establishment of a Communist Government in Budapest. The blockade might be an effective if cruel measure to effect compliance. The German troops had been contaminated with Bolshevist propaganda during the occupation of Russia. It might be equally dangerous for Entente troops to occupy revolutionary Germany. The delay between the delivery of the first note and the arrival of amended proposals, as well as the fact that the details of the Treaty only transpired gradually, helped to calm the population, and obviated any spontaneous movement of revolt which might have followed an abrupt communication of the terms, with a peremptory order to sign within a fixed period.

The clause placing all responsibility for the War on the

German people aroused surprising resentment among all classes. This fact is rendered more intelligible since even Kautsky's publication of the secret Foreign Office documents, later in the year, did not persuade the public conscience that Germany alone was guilty.

13. *Ministerial Crisis and Decision to Sign, 20th-24th June.* In the middle of June, when the delegates returned from Versailles with the modified conditions, the Government was in an awkward position; having fomented resistance, no course remained except to resign or refuse to append its signature. Erzberger, whose authority over the Centre Party was complete, favoured signature, placing his hopes for the future in the League of Nations, by which a revision of the Treaty might be obtained when the bitterness of the world feeling had abated. Inasmuch as signature was ensured if his party followed him, he became the most important figure in Germany at the moment, and, as Finance Minister later, remained the most striking of the rather mediocre politicians who formed the Cabinet. He acted with courage and resolution in difficult circumstances, and is mainly responsible for the final signature.

Noske favoured signature for the sake of internal peace, and his authority over the troops and their officers was sufficient to guarantee that signature by the Government would not alienate their sympathies. At the same time the Independent leaders, encouraged by the strength of the May demonstrations in Berlin and the great industrial towns, worked energetically to support Erzberger. Oscar Cohn and Haase used their influence within the National Assembly and in the Press to obtain the united support of the Independent Party for signature. The Democrats in the Cabinet decided to resign and return to office later when the crisis was over. On the 20th June, as the time limit for signature was expiring, the Social-Democrats decided that those of their members who opposed signature should abstain from voting. The Government decided to resign. The Social-Democrats and Centre Parties formed a Coalition, and re-formed the Cabinet from those members of both parties who were uncompromised by opposition. The Social-Democrats, Independents, Centre, and a small group of Democrats would furnish the necessary majority in the House. The Labour Minister, Bauer, was nominated Prime Minister, and formed his Cabinet from the

Social-Democrats and Centre. Hermann Müller was appointed Foreign Secretary, Erzberger became Vice-Chancellor and Minister of Finance. On the 23rd June the House met, voted, and decided the tragic fate of Germany, just as a French National Assembly had met in 1871 at Bordeaux for a similar purpose. In the House, and on the Government benches, no speaker existed capable of interpreting the feelings of Germany to the outer world as Victor Hugo had then done for France. By 237 votes to 138, the representatives of the German people decided in favour of signing peace, five members refrained from voting, including the late Chancellor, Scheidemann and the minister, Landsberg. The late Secretary for Foreign Affairs, who had defended Germany's cause at Versailles, Count Brockdorff-Rantzau, was not present. The majority consisted of Social-Democrats, Centrists, Independents, and the minority of the Democratic Party. History must give credit to the German people for endeavouring all through the negotiations, and again at the eleventh hour, to protest against the paragraph admitting that it had been responsible for the outbreak of war, and also against the articles pledging them to surrender to an enemy tribunal those officers who were accused of cruelty in the course of the campaign on land and at sea.

The refusal of the Allies to admit these last two reservations, and to grant any further time for consideration necessitated a fresh vote of the National Assembly. The Centre wavered and a fresh crisis took place, which Erzberger succeeded in allaying by pointing out that the vote of the preceding day was binding. A fresh majority of three-fourths was obtained, not without some political jugglery, and the final act in the drama came to an end.

A statesman of the old régime summed up his views in the words: 'We have signed peace, and with an amazing absence of honourable feeling we have pledged ourselves to surrender those who opposed the starvation of their countrymen by a weapon of corresponding sharpness. We have confessed our guilt, although circumstances alone, over which no human agency had any control, were responsible for the conflagration of 1914, and led to a crisis which nobody succeeded in mastering. The fact that Germany, owing to the incapacity of her diplomats, fought almost single-handed against the world, is regarded as criminal irresponsibility, and not as a mitigating circumstance.'

The conclusion of peace marked the end of the period which commenced on the 1st August 1914, in the course of which the German people had, by the vicissitudes of war, fallen from the first rank of great powers to a negligible position among the military and industrial powers of the world. The only benefit which had accrued was the conversion of an autocracy into a republic and democracy. It remained for her statesmen to evolve a body of legislation which would incorporate the wishes of the people, and prepare a programme of taxation which would enable them to reconstruct the economic and industrial life of the country, if that were possible. The confirmation by the Peace Treaty of a military *débâcle* had at any rate the beneficial result that a new feeling of unity sprang up, different from that which existed since 1870, based on community in misfortune. The separatist tendencies, which threatened to dismember revolutionary Germany, waned as soon as the authority of Prussia as predominant partner diminished.

14. *Economic Difficulties of the Peace Treaty.* The task awaiting the Government was colossal. In addition to the immediate needs of the moment, the Peace Treaty had brought a host of obligations, which necessitated a formidable programme of legislation. The Government was reproached for the mediocrity of its members, but the situation in Germany after the Treaty was not calculated to attract the ablest politicians to power. Her position as European power was beyond remedy unless the Treaty were revised. Revision was only possible through a League of Nations in which nobody, not even the Independent-Socialists, believed. Anyhow the League was closed to Germany until she had proved, by fulfilment of the provisions, that she was worthy to enter it.

Although the Treaty was known in outline to the mass of the people, some time elapsed before the knowledge of the detailed conditions filtered through. The feeling that reconstruction was impossible was strengthened by the articles dealing with international waterways. The control of the German rivers by international committees so constituted that, with the possible exception of the Oder, a hostile majority was provided for in every case, strengthened the feeling that reconstruction was difficult. The loss of the oversea cables, the limitation of wireless communication, the supervision of German business abroad and of German exports, the clauses relating to shipping,

confirmed the view that the Treaty differed from all former international settlements in the lasting nature of its effects. The country in prosperity before the War raised a revenue of 5 milliards. Its future needs were calculated at 24 milliards yearly in addition to 100 milliards of gold marks as a contribution towards indemnity. In whatever direction an outlet was sought, the way was barred. Food would be scarce in the future, as the rate of exchange made importation prohibitive. The maximum price of wheat was fixed by legislation at 870 marks per ton within the country, imported wheat at Hamburg cost 8,000 marks per ton. It was impossible to foretell the effects which would fall with the coming into force of the Treaty. It was asserted that Posen and East Prussia supplied 25 per cent. of the potatoes, 45 per cent. breadstuffs, 23 per cent. barley, and 25 per cent. beetroot, while $1\frac{3}{4}$ millions of hectares of woods and forests with an approximate value of $6\frac{1}{2}$ milliards of gold marks would be handed over to Poland. The plebiscites might entail a further loss of half a million hectares of woods.¹

A further study of the 440 articles supported the arguments of the extreme Right that the Revolution had completed the ruin of Germany, and that the treachery of the whole population in depriving the army of any possibility of further resistance until the spring, had recoiled on all classes of the population. The Independent-Socialists, so far as they were capable of grasping the economic problems, recognized that the revival of German industry after the War had not been facilitated by their rashness in overthrowing the Government, and surrendering the country to the mercy of its enemies. The importation of raw material was impossible owing to the rate of exchange, and this could not be improved unless manufactured goods could be exported. The only other solution, enormous credits from abroad, was a further admission of the capitalist principle. An immediate improvement in the conditions of life of the working class had not followed the upheaval of November; on the contrary, the cost of living had steadily increased, and murmurs were heard that things had been better under the old Government. The labour settlement, promised in the shape of a Councils Bill, was not sufficiently

¹ For further estimates of losses, etc. *v. supra* Chap. I, and *supra* Chap. IV, pt. ii; *v. also* Keynes, *Economic Consequences of the Peace*, pp. 77-8 *sqq.* A full consideration of the Polish problem is reserved for Vol. V.

radical, and the factory hands saw in it merely a new ruse for the purpose of abolishing strikes by the compulsory arbitration clauses contained in the draft.

15. *The new Constitution. Terms.* The new constitution had been outlined at a conference of the representatives of the Federal States with the Minister of the Interior, before the elections for the National Assembly. The draft had been submitted to a committee as soon as the Assembly met, but its labours had been interrupted by the Peace negotiations, and considerable delay was caused by the difficulty of satisfying the Centre and Democratic Parties. The deliberations in the Assembly itself continued slowly until the end of July, when the third and final reading took place.

The foreword reads: 'The German people united in its every branch and inspired by the determination to restore and confirm the Realm in liberty and justice, to serve peace at home and peace abroad and to further social progress, has given itself this constitution.'

The 181 articles of the new constitution define the functions and rights of the Realm, as well as the duties and privileges of its citizens. A clause providing for the maintenance of existing laws and institutions, pending fresh legislation in the Reichstag, and annulling the constitution of 16th April, 1871, was also included. A summary of the articles indicates the fundamental ideas which determined its provisions.

'The German Realm is a republic'.¹ Constitutional power proceeds from the people.' Other areas than those at present German may be incorporated in the Realm, should their population so desire. International law is binding in German law courts. The Realm reserves for itself exclusively legislation relative to its relations with foreign countries, colonies, nationality, freedom of domicile, immigration and emigration, extradition, national defence, customs, post and telegraph service, currency (Art. 6). It has power of legislation on civil and criminal law, labour and the protection of employees, the nationalization of natural resources and industrial undertakings, ocean shipping,

¹ This dictum is important. The word Reich, often translated 'Empire', is best rendered by 'Realm'. Its retention means not that the Empire persists but that the 'Realm' is republican. The word 'Staaten' has been removed and Lands (Länder) seems the only word to express the subjection of the component states. According to Art. 3 the national colours are black-red-gold. The mercantile flag is black-white-red with the Realm colours in the upper inner corner. For text of constitution v. App. 4, vol. III.

railways and internal waterways (Art. 7). It has the right of legislating as to taxation and revenue, in so far as these are wholly or partially claimed to meet its expenditure (Art. 8). It can 'in the course of legislation' lay down principles concerning the following, the rights and duties of religious societies, education, rights of public officials, home colonization, property, and land (Art. 10). The Government of the Realm has the right of veto on legislation of the constituent Lands which affects natural resources, industries, and commodities valuable to the community in general, 'in so far as the interests of the whole community of persons comprised in the Realm are thereby affected'. The Lands retain the right of legislation only as long as and in so far as the Realm 'makes no use of its right of legislation' (Art. 12). 'Law of the Realm prevails over Law of the Lands' (Art. 13).

Each Land will draw up its own constitution in an assembly of the people selected by universal, equal, direct and secret ballot of both sexes, by proportional representation. A Land Government must possess the confidence of the assembly of the people. The same principles will obtain for rural district councils (Art. 17). Alterations in Land territories, and the establishment of new Lands, may take place if the population of the area in question so desires. If the Lands interested assent to the alteration, or failing this, if the population demands a plebiscite, the Realm may determine the change by direct legislation. Three-fifths of the votes cast, and at least a bare majority of the electorate, is required at such a plebiscite (Art. 18). General elections to the assembly of the Realm (Reichstag) will take place every four years, by the votes of both sexes on universal, direct, secret, and equal suffrage and proportional representation (Arts. 22-23). A simple majority suffices for the passage of a Bill through the Reichstag. The President is elected by universal suffrage of those who have completed their 35th year (Art. 41). He shall hold office for seven years and may be re-elected. He may be removed from office by a majority of two-thirds of the Reichstag or by popular plebiscite (Art. 43). The declaration of war and the conclusions of peace treaties shall be made by the Reichstag; alliances with foreign states, and treaties 'which have reference to subjects covered by national legislation, require the sanction of the Reichstag. The President has supreme command of the army and navy

(Art. 47). The Government consists of the Chancellor and his ministers, who must have the confidence of the Reichstag, and any one of them must resign on a special vote of no confidence being passed against him by the Reichstag (Art. 54). All legislative drafts and bills must receive the sanction of the Reichstag (Art. 68).

The Federal Council (Reichsrat) will represent the German States, and have a voice in the legislation and ministration of the Realm. Each Land shall have one vote (one representative) for every million inhabitants, with a minimum of one representative. No Land may have more than two-fifths of the votes at the Reichsrat. A simple majority suffices for the passage of a Bill or a measure in the Reichsrat. The Government of the Realm requires the consent of the Reichsrat to introduce legislation to the Reichstag. But in case of disagreement the Government of the Realm can initiate legislation independently in the Reichstag, provided the dissenting opinion of the Reichsrat is made clear to the Reichstag. In a similar way the Reichsrat can compel the Government, which dissents from any measure passed in the Reichsrat, to introduce it in the Reichstag (Art. 69). The President of the Realm may decide on a plebiscite, if he disapproves of a measure passed by the Reichstag.¹ The Reichsrat may likewise demand a plebiscite if it disapproves of a legislative measure passed by the Reichstag, provided the President consents. Failing his consent the measure shall be null and void (Art. 74). A change in the constitution requires a two-thirds majority of the members of the Reichstag or the Reichsrat (Art. 76).² A plebiscite will decide in the event of disagreement between these two bodies, if the President so decides, or if two-thirds of the National Assembly demand it (Art. 74).

A yearly budget of receipts and expenditure must be passed. The Reichstag cannot increase expenditure without the con-

¹ Art. 73 : ' If one-tenth of the voters demand the discussion of a proposed bill a popular plebiscite must be taken, but such popular request must be based on a bill completely drafted.' One-twentieth of the voters can demand the submission to popular plebiscite of ' a law whereof the proclamation has been deferred on request of one-third of the members of the National Assembly ' (Art. 73).

² I. e. in the case of initiation. If, on the other hand, the Reichstag votes a constitutional amendment over the veto of the Reichsrat, the latter can demand a plebiscite within two weeks of the passing of the measure. Votes of the Reichstag can only be abrogated by the plebiscite if a majority of voters record their votes (Art. 74 and 76).

sent of the Reichsrat (Art. 85). The Realm will take over all railway lines and inland waterways, and administer the transport service as a unit. Lands and private companies will transfer or sell their rights to the Realm when required (Arts. 89-100). A State Tribunal for the German Realm will be established by a law of the Realm (Art. 108):

All Germans are equal before the law, and orders and titles, other than academic or professional, are abolished (Art. 109). A German citizen may not be extradited for a trial by a foreign tribunal (Art. 112).¹ Freedom of speech and of the press is guaranteed (Art. 118). Illegitimate children shall be granted equal rights with legitimate children by a special legislation (Art. 121). The right to hold meetings shall be universal, likewise the formation of societies and unions, whether political or religious (Arts. 123-4). National officials shall hold office for life unless contrary regulations are laid down by law. They will be protected against dismissal by a special legislation (Art. 129). Every citizen is bound to undertake honorary duties in accordance with the law. There is no State Church (Art. 137). Every child must attend school for at least eight years. Religious instruction is permitted in schools, provided a sufficient number of parents demand it. Otherwise a uniform school will be established everywhere in which religious instruction will be imparted (Art. 146). The Realm, the Lands, and the Communes, will provide funds to enable children to attend secondary and higher schools, should they manifest sufficient ability in the uniform school. Private schools may be established by permission of the State, provided class distinctions, as a result of the private fortunes of the parents, are not emphasized (Art. 147). In no case is religious instruction compulsory (Art. 149).

Property is guaranteed but its rights are to be laid down by law (Art. 153), and entails abolished (Art. 155). The Realm may nationalize private industrial undertakings which serve the weal of the Community at large, or may ordain that existing undertakings may be fused together in syndicates and administered under direct supervision by the State (Art. 156).

Legislation will be introduced to establish Workers' Councils

¹ Art. 178, however, states that the conditions of the Peace Treaty are not affected by the German constitution. The Penal Clauses in the Peace Treaty, which override Art. 112, are Art. 227-230 (*v.* Vol. III).

in all commercial undertakings, which shall, in turn, elect District Workers' Councils and a Central Workers' Council of the Realm for the purpose of ensuring that the employees shall collaborate with the employers in fixing scales of wages, conditions of labour, and the general economic development of the means of production. The Central Workers' Council of the Realm shall have advisory powers in all proposed legislation affecting industry before its introduction to the Reichstag. The Central Council may initiate new legislation on industrial questions and submit it to the Reichstag (Art. 165). The Constitution of 1871 was cancelled. The oath of allegiance to the Kaiser is replaced by an oath of allegiance to the Constitution.

16. *Comments on the Constitution.* After debates in Committee and in the House, which lasted from January to July, the Bill was passed by 263 votes to 75. The school clauses were a modification of the original draft, which aimed at uniform undenominational schools for all classes, irrespective of religious belief, private fortune, or class distinction. The reception of a child into a middle or higher school shall be decided by his capacity in the National School, and not by the social position or religious convictions of his parents. A clause, excluding members of the reigning families from the office of President of the German Republic, was struck out by a vote of the House.¹

The Constitution provided for the continuation of the old two-chamber system, with the difference that the veto of the Bundesrat was abolished, and the predominance of Prussia disappeared by a readjustment of the votes of the Lands in the new Reichsrat.

The general tendency of the new Constitution is to increase the power and responsibility of the central authorities, while reducing that of the component Lands. The multiplication of officials, due to the presence of so many separate Governments with some 168 ministers, permanently hindered economy and unity in the administration, at which the Social-Democrats aim; but the time is not yet ripe for the abolition of the Land Governments, which can only be slowly attained by the absorption of their functions. It also provides for the formation of new

¹ For the action of the Conference see Article 61, permitting Austria to enter the German 'Realm', v. Vol. I, Chap. 8, pt. iii, § 11, 'Maintenance of Authority of the Conference'.

Lands within the German Federation. This was a concession due to the revival, after the Revolution, of the traditional opposition to the paramount influence of Prussia, due to her population, wealth, and status as the militarist state *par excellence*. Hanover and the Rhineland had manifested tendencies, which were favoured to some extent by the French in the case of the latter, to deny the authority of Berlin and to establish autonomous Lands within the Federation. As soon as the intention of the Peace Conference to cede Upper Silesia to the Poles became known, feeling was roused to a high pitch, for the Prussian Administration had not undergone a radical change in spite of the Revolution. Here, as elsewhere, the Democratic Government was faced by a difficult problem. To replace the existing bureaucracy, with its repressive tendencies, was a political necessity. To do so when the general economic situation, especially in the coal industry, was critical, would increase the general confusion. For the sake of stability the six representatives of the people had proclaimed in November that all officials desirous of remaining at their posts would be permitted to do so. Subordinate officials in Silesia had accordingly continued to exercise the executive authority as hitherto, to the disadvantage of the Polish population. The concession came too late. In the middle of August, in the course of a general strike, a political rising took place, which led to extensive fighting and the usual excesses on both sides. This state of affairs compelled the Prussian Government to change its attitude and sanction an Act, on the 14th October, for the establishment of the two autonomous provinces of Upper and Lower Silesia. At the same time the Allies intervened to ensure justice to both parties until the plebiscite takes place.

17. *The Workers' Councils.* The most important innovation contained in the new Constitution was contained in the clauses which laid down the principle of Workers' Councils (Art. 165). In December 1916, when the National Service Bill was introduced in order to provide compulsory labour for the factories, in accordance with the Hindenburg ammunition programme, the Imperial Government decided to make a concession to Labour in return for the suspension of existing labour legislation. The establishment of Committees of Workers in all factories and concerns employing not less than fifty hands, was ordained. These Committees were given certain rights of intervention in

the administration in such matters as working hours, conditions of labour, overtime rates, dismissal and employment of hands.

The Revolution led to a spontaneous extension of the powers of these Committees. Representative bodies were elected in the industrial areas and in every large town, representatives of which formed a General Congress of Workers' Councils, whose decision in favour of the three Social-Democratic representatives of the people led to the reintroduction of the parliamentary system. The power of this unofficial body continued to be recognized by the new Government elected by the National Assembly. The temporary measures and provisional orders, necessitated by strikes, recognized the existence of Workers' Councils and the General Congress. For instance, the provisional measure of the 23rd November 1918, loosely defines certain rights for factory Councils. As the authority and stability of the new Government increased, the existence of the General Congress became embarrassing. On the 5th April 1919, however, at a general meeting, the Congress passed a resolution tantamount to a 'self-denying ordinance'. It was decided that political activity of the Labour Councils must cease, as a parliamentary system had been introduced, and the new Government programme contemplated social legislation in accordance with the Erfurt programme. The Government was requested to introduce a clause providing for the compulsory establishment of these Councils. The Congress defined the task of a Factory Council (Betriebsrat) as follows :

- (a) Control of the execution of the agreements made by the Trades Unions relative to the wages and conditions of labour.
- (b) The supervision of the execution of the State orders for the protection of factory hands, as well as of the National Insurance provisions.
- (c) Right of co-operation of the employees with the employers in the actual output, with the object of developing production, as well as the right to examine the books and business affairs generally of the concern.
- (d) Election of representatives to the Arbeitsgemeinschaften (common councils of the employees, clerks, managers, and owners).

This resolution, which embodied the views of the majority of the Social-Democrats, was followed by interminable discussions in the Press and by the usual pamphlet war. The Government had already held conferences at the Ministry of Labour between representatives of the employers and the employees, at which a draft of the text of the articles providing for Workers' Councils in the Constitution Bill was prepared, and eventually passed with serious modifications as the result of a compromise between the Coalition parties.

In spite of the decision of the Central Council, the Workers' Councils continued an irregular activity, especially in Berlin, where the Independents predominated. The Berlin Councils were suppressed by an order of Noske on the 3rd May, on account of the encouragement given to strikes and violent political movements in March and April. Throughout the country they died a natural death.

The return of the Democrats to the Cabinet in October was a welcome increase in strength. In January 1920, it contained six Social-Democrats, four Centre, and three Democratic members. A programme of social legislation was issued after Peace was signed, which included the establishment of Workers' Councils, which had been repeatedly promised, and was urgently necessary to allay the perpetual strike movement, and pave the way for the reconstruction of the country. Equally urgent was the reorganization of the financial system. The Bill for the nationalization of all railways will presumably become law, and the measure will come into force at latest in April 1921.

On the 16th August the Government introduced a draft of the Bill to establish Workers' Councils and announced that further legislations establishing District Councils and an Industrial Council of the Realm would be introduced at the next session. A measure of such fundamental importance was bound to meet with considerable opposition, not only within the Government, but from the extreme Left, and the extreme Right, for opposite reasons. The extreme Left, led by Däumig, but also influenced by Radek, a political prisoner in Moabit, opposed the measure in advance inasmuch as it had been their object to establish a system of Councils Government, which would supersede the parliamentary system altogether, and were opposed to any compromise by which the system of Workers' Councils would be absorbed into the existing parliamentary system.

On the 27th July 1919, a General Congress of the Central Councils of the Shipyards and Seamen's Union of Hamburg, of the Essen miners, and a number of important other organizations met at Halle and passed a resolution condemning the Government proposals. The Majority-Socialists, however, as representatives of the Trades Unions, pointed out that the membership of these latter had increased to 7 millions, and that the unions therefore represented the working classes. At a sitting of the Reichstag on the 16th August, the Government introduced the draft, and although every effort was made to pass the third reading before the end of the year, opposition, which at one moment led to a crisis in the Cabinet itself, proved too strong. As this is merely the first of a series of measures, some considerable time must elapse before the whole scheme becomes law. In addition to Workers' Councils, District Councils and an Industrial Council of the Realm must also be formed. The Bill, as it stands, says these shall be established in all industrial organizations, whether State or private, where employers or superiors exist with not less than twenty employees, whether clerks or factory hands or otherwise. Shipping and inland waterways, owing to their peculiar nature, will be dealt with by special legislation. Any person receiving wages, with the exception of civil servants or military persons, is an employee. The definitions, which hold good for German National Insurance Legislation, are generally adhered to. All employees not under 20 years of age are entitled to vote. In concerns employing less than 50 hands, a Council of 3 representatives should be elected. A concern employing 50 to 100 hands would elect 5 representatives. For every further 200 persons employed, 1 representative would be elected, and in factories or concerns with over a thousand hands, 1 representative should be chosen for each 500. The maximum number of representatives in any one concern would be 20. Where workmen and clerks are employed, each of these two groups should be represented, in accordance with their numerical strength. Representatives are chosen for a period of two years. The Council so elected is given rights of veto in the matter of employment, dismissal, and reduction of staff.

The object underlying the Bill was to give the Council representation on the Board of Directors and an insight into the books and general administration of the concern, in order

that the employees might not only have a controlling voice in the general administration, but also in the economic working of the undertaking. The proposal to admit representatives to the meetings of the Directors was opposed mainly by the Democrats within the Coalition, and a compromise was eventually attained, which allowed two representatives of the Workers' Councils to gain an insight into the books and the internal administration only in so far as their direct interests, working hours, conditions of labour, and scale of wages are concerned.

A practical example of the efficiency of the Betriebsrat was furnished by the Spandau Army Workshops in Berlin. On the 22nd April some 42,000 hands were employed. The production had fallen to 5 per cent. as compared with the normal. The Treasury, who now control army workshops instead of the War Ministry, were faced with a difficult problem. Their representative was given full powers in view of the fact that the closing of the works would lead to extraordinary unrest in labour circles.

The eight factories were accordingly represented by eight councils, which again were represented by a central Betriebsrat. The members of this council were given full powers to inquire into the management, contracts, and book-keeping of the concern, with the request to find a solution which would enable the authorities to refrain from closing down the works. The wages controversy was settled by the introduction of the Akkord system (agreement by each worker to carry out a definite task for a fixed sum without regard to the time occupied). On the 2nd August, by agreement of the Factory Council, the number of hands had been reduced from 39,000 to 11,000, and production had again attained its normal peacetime intensity. The result was that Spandau, which had been a centre of industrial unrest, became comparatively tranquil. Similar results were obtained elsewhere, by co-operation between the owners and the Workers' Councils.

The effect of the establishment of the Council system may not easily be forecast, but the tendency in productive industries will be to facilitate the translation of Socialist theory into practice. The resultant change in the relations between employer and employee, and the concessions which the latter would obtain through the medium of the Reichs-Arbeiterrat,

will represent the concrete gain of the German Proletariat, as a result of the November Revolution.

18. *Other Problems of the German Government.* The problems which faced the new Government were so vast that their solution will occupy a series of years of parliamentary work in Committee and in debate before the measures giving effect to them will appear on the Statute Book. Problems requiring urgent solution, the Rate of Exchange, Import and Export policy, agreement with the neighbouring States, the Parliamentary Inquiry into the conduct of the War, intervened to delay the reforms promised in February 1919. The Committee of Inquiry sat for some weeks in the autumn, but the proceedings were unsatisfactory, and the evidence of the statesmen and military leaders contributed to increase the bewilderment of public opinion as to the culpability or otherwise of the servants of the old régime. The Supreme Tribunal of 15 judges, including five judges of Appeal, is intended to meet later and try those members of the Government and army officers whom the Committee deem guilty of conduct prejudicial to the welfare of Germany during the War.

The outstanding feature of the parliamentary Committee was the exposure of the disunion and jealousy which existed among the chiefs of the great public departments during the War, and especially of the unreliable information furnished by the Admiralty to the Chancellor as to the numbers of submarines available at different dates, as well as to the figures of Allied merchant shipping sunk. The intrigues at Army Head-quarters and the conflicts with the Home Government, details of which are found in the interesting memoirs of soldiers and sailors, which have recently appeared, only add to the general uncertainty. The sifting of the material evidence will be no light task for the Supreme Tribunal, and the death of some of the leading statesmen and generals in the meantime excludes the possibility of a final inquiry into the motives which led to the rejection of peace overtures or to the initiation of diplomatic action by the Government during the War. Furthermore it is questionable whether the authority and stability of the Cabinet will be enhanced by the public examination of the military commanders and by the resuscitation of controversy about events so recent that passionate public opinion is readily aroused.

The political demonstrations by the Right, when Field-

marshal Hindenburg and General Ludendorff appeared in November before the Committee, were highly embarrassing. All the more was it the case as their evidence recalled to the country the services which they had rendered when the Russian hosts were attacking the eastern frontier.

19. *The New Defence Force.* The volunteer formations which had established internal order were given a separate establishment in March by the National Assembly and formed a nucleus force, which increased in strength by recruiting to some 450,000 men in June, nearly half of whom were employed on the Polish frontier. In the month of August a scheme for the reduction of this force, known as the Reichswehr, was issued in order to comply with the terms of the Peace Treaty. In view of the uncertainty of the intentions of the extreme Right and the extreme Left respectively, and the possibility of an organized general movement throughout the country, whether in the form of a general strike or an armed rebellion, the Government was anxious to maintain a force greater than that allowed by the Peace Treaty.¹

In accordance with the terms of the Peace Treaty, the 43 brigades, of which this force consisted in the autumn of 1919, will be reduced to some 20 brigades, each with a strength of about 9,000 men. The former army corps districts and the War Ministries of the various States are abolished. In future the 20 brigades will be grouped under four general commands, Kolberg, Berlin, Cassel, Munich, of which Berlin will be the strongest, with nine brigades. At the same time the provinces of Prussia, Bavaria, Saxony, and Württemberg will be represented by a commander-in-chief, under the authority of the Reichswehr-Minister. Eventually the total strength is not to exceed 100,000. The active intervention of the Reichswehr has so far suppressed all revolutionary movements, but it is claimed that, if riots and revolutions took place simultaneously in different districts, the force ordained by the Peace Treaty would not suffice to quell disorder, especially if a portion of the troops had to be employed on the eastern frontier to guard against Bolshevist invasion.

Owing to the insecurity of life and property, the inhabitants of the larger and smaller towns organized themselves into a local force for self-defence entitled 'the Einwohnerwehr.

¹ Vide discussion, *supra*, ii, Chap. II, pt. ii, The Military Terms.

It assembles when necessity arises and is only used locally. Its strength varies considerably, as the period of service is not fixed, so that it is impossible to estimate its strength. The Government applies no pressure in favour of the formation of these local forces, but recruits may not be taken from the Independent-Socialist Party, and consequently industrial districts such as the Westphalian Coal Basin, where strikes recur constantly, have no local force for the maintenance of order. A local institution similar in character exists in other districts where the population has declared its willingness to assist the Reichswehr formation in a case of need by providing temporary volunteers (*Zeitfreiwillige*). These differ from the *Einwohnerwehr* inasmuch as they are under military leadership. Another analogous institution was spontaneously established and is now officially recognized—the *Technische Nothilfe*, or Emergency Technical Corps for the purpose of intervening when works of vital importance to the general community, such as electrical power stations, gas and waterworks are closed down during strikes. None of these formations are mobile. The Reichswehr remains the only properly constituted military force.

Owing to the breakdown of the former police force during the Revolution and the necessity of creating a force with special personnel and training to counteract organized crime, a new police force was formed, known as the *Sicherheitspolizei*. This is a strictly disciplined force similar in uniform and equipment to the Reichswehr and provided with trench mortars, flame throwers, and machine guns, weapons which were found necessary in street and house fighting in the large towns during the various disturbances. Their organization is such that they are not able to fight in large formations. They have been recruited largely from the non-commissioned officers of the old army and number some 40,000 men. At first sight their existence seems superfluous, but it is contended that the existence of a separate unit in addition to the Reichswehr forms a further security for the democratic Government in the event of the Reichswehr proving unreliable as the result of political propaganda from the extreme Left. The discipline of the *Sicherheitspolizei* should be such that a Government could rely on its support against any party. At the same time it enables the authorities to suppress violent political movements by armed force without the use of regular troops. The organizers of

the new army were averse to exposing it to the odium which one-sided political intervention always involves. At the same time it afforded employment to a considerable number of ex-soldiers without any regular trade whom defeat had deprived of a means of existence. To counteract the outspoken tendency to sympathize with the parties of the Right which existed in the officers' corps of the Reichswehr, the Minister of Defence adopted the policy of obtaining officers, whose private means make them dependent on their military career for their material welfare. The officers of the old army were replaced to a large extent by non-commissioned officers of long service, who had distinguished themselves in the disturbances of the winter and spring. In spite of these democratic measures, the inborn love of the military profession overruled the repugnance of the higher officers to these changes and sins against tradition. They were volunteers after the Revolution, and are still brigade or battalion commanders in the new army. Discipline remains good, especially in those formations which grew up around the nuclei of the old guard and cavalry regiments. As none of the formations mentioned is mobile, except the Reichswehr, and inasmuch as they are under the authority of the Minister of the Interior, the Germans claim that their existence is not in contravention of Article 178 of the Peace Treaty, and that the maintenance of order and safety in the country is indispensable to all contracting parties for the fulfilment of the Treaty.¹

20. *Financial Position and Policy of the Government.* During the first phase of the War the Imperial Government refrained from introducing new taxation, out of consideration, as it alleged, for the moral of the country. The enormous War expenditure was partly met by new loans. When it became unavoidable later to introduce fresh taxation in order to pay the interest on the War loans and meet increasing internal expenditure, the successive Finance Ministers failed to initiate any radical changes. The first Finance Minister of the Revolutionary Government came to the conclusion that drastic taxation was the only remedy, and his views are outlined in Scheidemann's opening speech in the National Assembly at Weimar in February. His successor, who left the Cabinet owing to his opposition to the Peace Treaty, transferred his portfolio to the energetic and versatile Erzberger, whose robust political

¹ *v. supra*, Chap. II, The Military Terms, pt. ii.

constitution was most fitted for the onerous and invidious task of instituting a drastic reform.¹ The new constitution ordained that in future, for the sake of economy, the whole financial system should be readjusted, and that the realm should take over the main burthen of expenditure and consequently the major portion of the revenue. The anomalies which existed before the War, especially in the case of the income tax which varied considerably in the different States, should disappear, and a uniform scale should be substituted.

The national debt in July 1919 amounted to 76 milliards floating debt and 90·4 milliards War loan. Considerable anxiety was felt as soon as the War was lost lest the revolutionary Government might annul the War loan, but the necessity of forming a Coalition with the Centre and Democrats, staved off the possibility that the Social-Democrats might introduce this measure. Inasmuch as the War loans were subscribed by 39 millions of people, and 34 millions of the total sum were contributed in subscriptions of 5,000 marks or less, and 21 milliards are being subscribed by the Savings Bank and insurance companies, nullification of the loans would be highly unpopular. Erzberger abandoned the idea as unsound, and declared his intention of rectifying the injustices committed by his predecessors during the War. Broad masses of the population after the Revolution expected the wealthy classes to make the greatest sacrifices and hoped that the Government would recover as far as possible the profits made during the War, whether from Government contracts or otherwise. He decided to institute direct taxation which should throw the burthen mainly on to the shoulders of the Capitalists, and claimed that the increase in wages and the fall in the purchasing power of money was an advance in the direction of socialization.

Before the War the German Empire raised a revenue of some two milliards, while the provinces and communes raised some three milliards per year. The ordinary budget of the year 1918 amounted to a little over nine milliards, while the extraordinary budget amounted to 70 milliards. The total estimates for the ordinary budget of 1919 amount to 17½ milliards of marks for the realm, and 6½ milliards for the provinces and

¹ Erzberger was obliged to bring a libel action against Helfferich at the beginning of February 1920. Though he gained the action (12th March) he was much discredited and forced to resign.

communes. This expenditure includes 10 milliards for interest on war loans. The extraordinary expenditure would amount to 41 milliards, which includes the cost of demobilization and devolution from the old army system to the new defence organization, pensions to wounded and next of kin, expenditure amounting to 17 milliards incurred in fulfilment of the Peace Treaty, advances amounting to nearly four milliards for reducing the price of food, and two milliards for increasing the salaries of officials. The extraordinary expenditure of 1919 is less therefore by nearly 29 milliards than that of 1918.

To meet the ordinary expenditure for the realm, states, and communes, Erzberger proposed direct taxation to the extent of 15 milliards and indirect taxation to the amount of 11 milliards. The indirect taxation will in future be much less important in view of the uncertainty of German trade relations with foreign countries, as the result of which the rate of exchange may remain so low that the country must curtail its import and the revenue from customs will shrink. The mainstay of the indirect taxation will be the new 'tax on turnover' passed by the National Assembly. This is really a tax on articles of luxury or articles which are not indispensable, and is levied partly during the manufacturing stages and partly at the final sale of the article by retail to the public. This tax is calculated to yield 4 milliards. Erzberger modified the taxes on indispensable articles, coal, salt, matches, sugar, mineral oils, which will yield 4·5 milliards. The coal tax alone, estimated on an average price of 100 marks per ton, reckoning the yearly production at 100 million tons, should produce 2 milliards. Commodities which are not indispensable—brandy, spirits, wine, beer, and tobacco—will be more heavily taxed, so as to yield 2½ milliards. Taxation of goods and passenger traffic, together with stamps, will contribute 1 milliard, while Customs contribute 1½ milliards.

Erzberger's revolutionary ideas in the financial domain are incorporated in the scheme which proposes to raise 15 milliards yearly by direct taxation. The new universal income tax levied direct on the individual is supplemented by a uniform tax on income from capital at its source and is calculated to yield 10·4 milliards. Increased death-duties will increase the revenue from this source to 1 milliard. Erzberger's immediate predecessors in office followed the example of the Imperial

Government, which instituted a levy on war profits in 1917 and 1918. A non-recurring levy on the total profits made during the War, calculated to contribute a sum of 12 milliards, equivalent to an income of 720 millions a year for the next generation, was sanctioned in Weimar. Erzberger accepted this dole, but exploited the idea to its fullest extent. His non-recurring levy was raised from capital, generally with special reference to the proportionate increase during the War, and is in effect much greater in proportion as the initial capital at the outbreak of war was smaller.¹ Owing to the lack of reliable statistics of the wealth of Germany and the complexity of the rebates, especially for children, the Treasury could only furnish an approximate estimate of the contribution from this source. Some 45 milliards are expected, or a yearly revenue of 2,860 millions for the next 30 years. In conjunction with the taxation of war profits sanctioned at Weimar a total revenue of 3.6 milliards per year is expected, inasmuch as the confiscation of capital wealth may be spread over a period of 30 years at the discretion of the Treasury, unless death duties are paid in the meantime, when the total amount due is confiscated. The outline of the new budget is as follows :

<i>Direct Taxation.</i>	<i>Milliards.</i>
1. Annual yield from confiscation of capital	3.6
2. Income tax plus supplementary tax on yield from capital	10.4
3. Death duties	1.0
	<hr style="width: 10%; margin-left: auto; margin-right: 0;"/> 15.0
<i>Indirect Taxation.</i>	<i>Milliards.</i>
1. Tax on Turnover	4.0
2. Tax on articles of consumption	2.5
3. Coal tax	2.0
4. Customs	1.5
5. Traffic and stamps	1.0
	<hr style="width: 10%; margin-left: auto; margin-right: 0;"/> 11.0

Direct and indirect taxation produce a revenue of 26 milliards in the ratio of 6 to 4, and the total revenue has been readjusted in such a way that 75 per cent. is calculated to fall on the propertied classes. Even the smaller taxes, the traffic and tobacco tax, are progressive. A rough calculation on the

¹ The effect of the sliding scale is such that an increase in wealth during the War, in so far as it exceeds 167,000 marks, flows into the coffers of the Treasury.

basis of the financial adjustment Bill for the provinces and communes indicates that some 75 per cent. of the total revenue is allotted to the Realm and 25 per cent. to the Lands. Prior to the War the Empire received 40 per cent., the States and communes 60 per cent., of the total amount raised by taxation in Germany. In future a share of the income tax, together with the local ground rents and rates, will furnish the main source of income of the provinces and communes. The fulfilment of the Treaty obligations alone makes it imperative to effect this readjustment.

The new income tax proposals have been passed into law. Incomes from 1,000 to 24,000 marks are taxed at an ever-increasing rate of 1 per cent. per thousand marks, commencing with the minimum tax of 10 per cent. The tax progresses to a maximum of 60 per cent. on incomes over 500,000 marks. An income of 20,000 marks will pay 3,570 marks, while an income of 100,000 will pay 33,850 marks under the new system. This only refers to earned incomes. Unearned incomes from sources paying a fixed rate of interest, pay in addition at a uniform rate of 10 per cent., while incomes from sources paying a variable rate, will pay 20 per cent. The Bill for the confiscation of capital entitled 'Reichsnotopfer' or contribution to the Realm in need, was more violently contested than any of the other innovations. It was argued that the Allies might confiscate the total yield from this source and direct the German Government to levy fresh contributions on the same system towards the war indemnity. Erzberger succeeded, however, in convincing the National Assembly that this was impossible according to the provisions of the Treaty. It is impossible to foretell its effect on the economic life of the country. A few examples of the effect in practical application will give a general idea of its nature. An individual whose private fortune amounted to 500,000 marks at the end of the War and whose capital at the outbreak of war was less than 20,000 marks will only retain 156,118 marks after payment of his contribution to the State. If death duties are paid in the year 1920 the fortune diminishes further to 150,887 marks. An individual whose wealth at the end of the War was 500,000 marks, representing an increase of 20 per cent. on his initial capital in 1914, will retain 402,326 marks, and if death duties are paid in 1920 a sum of 382,920 marks will remain. An

individual whose fortune is five millions, made wholly during the War, will practically lose his entire capital. He will retain 156,118 marks. After payment of death duties in 1920 150,887 marks will remain. A person with five millions, which represented an increase of 20 per cent. during the War, will retain 2,413,755 marks, which death duties in 1920 would reduce to 2,165,065 marks. A fortune of 500,000 marks, which registered no increase during the War, will decrease to 424,262 marks, and on payment of death duty in 1920 to 403,397 marks. A capitalist with a fortune of ten millions of marks, seven of which represented his pre-war fortune, and 3 millions his increase in wealth during the War, will pay a contribution of 2,827,900 marks as a war contribution from his war profit of 3 millions. There remain 172,100 marks. Next comes the contribution to the State on the remainder. As this is an industrial concern a rebate is given of 20 per cent. or 1,434,120 marks. The remainder, 5,747,680 marks, must contribute 2,710,858 marks, in accordance with the Reichsnotopfer Bill. This sum is subtracted, however, from his capital before abatement, i. e. 7,172,100 marks, and there remains 4,461,242 marks. The Reichsnotopfer contribution may, however, be spread over a period of 30 years at a rate of interest of 5 per cent. If we now assume that this capitalist dies in the first decade of the 30-year period, paragraph 33 of the Reichsnotopfer Bill comes into force, and the total amount then due must be paid at once, unless the Treasury departs from this rule, as it has power to do. The whittling down of this fortune to 4,461,242 marks is followed, assuming death in 1925, by the death-duty tax amounting to 186,062 marks, leaving 4,275,180 marks. Assuming that one son inherits the estate, he pays an inheritance tax of 1,289,938 marks. If several children inherit, the amount deducted is smaller. If, however, the inheritance falls to relatives, taxation is higher, as the degree of relation is remote. The legacy finally amounts to something less than 3 millions out of an original ten millions.¹

According to Article 233 of the Peace Treaty, Germany's obligations to the Entente will not be definitely known until the 1st May 1921.² They must be paid within 30 years from

¹ The War Profits tax and the Reichsnotopfer may be paid to the Treasury in War Loan.

² i. e. unless the German Government offers a lump sum to the Reparation Commission; *v. supra*, Introduction, and Chap. I, pts. iii and iv.

that date, but in the meantime 20 milliards of gold marks must be paid which will be reckoned towards the indemnity. The Treaty does not give the Allies power to dictate financial legislation to Germany. Without venturing any figure for reparation, Erzberger's fundamental idea was to issue as frank a statement as possible showing the needs of Germany and her financial capacity in the hope that these would modify the view of the Reparation Committee. He estimated German currency abroad at 17 milliards which he proposed to convert into a loan. The War has cost 69 milliards, of which only 19 milliards have been raised in loans. It is no longer possible after defeat to convert the floating debt into firm loans. Nevertheless the only loan raised since the Revolution by the Government during Erzberger's term of office realized some 4 milliards at 5 per cent.

The extraordinary budget for 1919 balances at $41\frac{1}{2}$ milliards, of which 13 milliards are for demobilization and 3 milliards for evolution from the old army administration to the new Reichswehr system, 17 milliards for obligations under the Peace Treaty, $3\frac{1}{2}$ milliards as a State contribution to reduce the price of food, and half a milliard for expenses incurred owing to the occupation of the Rhineland. As the total daily issue of bank notes from the 15th January to the 15th October 1919 amounted to an average of 27·6 millions per day, the floating debt on the 31st March 1920 may be expected to show a gigantic increase.

It is too early to form an estimate of the general results of this vast programme of taxation. The financial and economic questions involved aroused a flood of discussion hardly inferior in volume to the controversy on the Factory Councils Bill. The levy on capital and the amputation of big fortunes is a concession to the new spirit and represents an advance in the direction of socialization almost as radical in effect as the establishment of the Factory Councils. Both measures are introduced at a moment when the development of German trade in the future is wholly uncertain. The main criticism levelled at Erzberger's vast programme is based on the haste with which it has been passed through the Reichstag in defiance of expert advice and of the protests of the Chambers of Commerce of the large towns.

21. *Foreign Trade.* The first opportunity for importation

into Germany occurred in March 1919, and applied only to the occupied territory. The French immediately flooded this area, including the British zone, with textiles, mainly of British origin, hosiery, silks, and articles of luxury generally. Wares of every kind, which had become scarce owing to the blockade, were greedily absorbed and paid for in francs, if marks were not accepted, apparently without much effort. A similar importation from Great Britain into the occupied area followed some four weeks later; textiles, boots, waterproofs, tobacco, and cigarettes, as well as the more luxurious kinds of comestibles found a ready market during the period of unrestricted import. The Allies having decided that economic commercial control should remain in their hands in the occupied territory, a collateral German organization could not be allowed. The collection of German customs duties continued unhindered, but the authorities in Berlin endeavoured to restrict imports by the application of Customs duties at the Gold Rate. The Allies, however, forbade this measure, with the result that the German ports were deprived of such small trade as was reaching them, and an accumulation of large stocks of Allied goods took place on the left bank of the Rhine. The transfer of these goods to unoccupied Germany by smuggling or direct corruption of the railway officials led to an illegitimate traffic and speculation, by which only the unscrupulous on both sides benefited. The establishment of a proper Customs Control between occupied and unoccupied Germany was impossible to improvise, and it is difficult to estimate the loss to the German Customs and indirectly to the Allies during the year 1919. It is estimated that in six months goods to the value of 16 milliards were imported, of which 13 milliards alone were paid for articles of luxury. The 'Hole in the West' was a serious obstacle to the reconstruction of German finance, and affected the rate of exchange to an unfortunate degree.

Reliable statistics as to imports from abroad do not exist. The value of imports from the United States of America is calculated at 10 millions sterling for the ten months ending 31st October 1919. Presumably this amount represents the value of foodstuffs and cotton. Sufficient cotton has been landed in Bremen to supply the immediate needs of German industry, but the price is considerably in excess of the normal figure, owing to the rate of exchange, so that the mills have not

yet purchased these stocks. The imports from Great Britain, valued at 11 millions sterling, presumably went to the occupied territory, as the German Government would not have issued the import licences for most of the items mentioned, thus 314,000 pounds of British cigarettes were imported between July and September. Goods of British origin have also been imported through Holland, Switzerland, and France, and consisted mainly of stocks accumulated during the War.

The policy of the German Government has been consistent as regards imports, and aims at preventing the introduction into the country of all goods which are not indispensable. The rate of exchange ensures the maintenance of this policy in the future. The figures published in the Press show exports from Germany to the United Kingdom until the end of October amounting to £217,435, and exports to the United States amounting to £983,000. The export policy has been repeatedly changed during the year. After the Revolution the principle was adopted that all goods, with the exception of foodstuffs and raw material essential to German industry, might be exported. Owing to the fall in the rate of exchange, foreign buyers commenced to purchase goods at ridiculous prices, and small towns in the neighbourhood of the frontiers of Holland, Switzerland, and Denmark, were stripped of everything, even food and fodder. A lively discussion ensued between the Government, the manufacturer, and the consumer as to the best method of controlling exports and regulating prices in such a manner that these might remain sufficiently high to compete with prices abroad, and to avoid loss of profit by fixing them too low. German industry was unanimously against the introduction of export duties, and after a long discussion before a Parliamentary Committee it was decided that the various industries should form their own foreign trade organizations, in which employers, employees, and consumers will be represented, and will decide the price at which exports in any particular industry may be sent abroad. On this basis, lists of articles and the regulations applicable to them are being prepared and issued at intervals. This system amounts to a very severe control and centralization of export, and is in accordance with the general policy of the Government to superintend all activities, political, industrial, and economic throughout the country.

The German Foreign Office, which has been reformed in accordance with Brockdorff-Rantzau's scheme, has organized a foreign trade department, and members of the diplomatic service abroad will be encouraged to send in independent reports, and these, in conjunction with information from private individuals, will be collated and distributed to the industries interested as rapidly as possible.

Statistics of unemployed show a remarkable improvement during the year. By the end of September the percentage of unemployed was practically the same as in the year 1913. This does not mean that the German labouring class has returned to its pre-war industrious habits, or that the average output compares favourably with the peace-time standard. Physical unfitness, resulting from the blockade, and lack of discipline due to the periodic strike waves, has reduced the output in big factories by 40 per cent. Shortage of coal recurring at intervals compels the factories to close down for short periods. A general tendency to return to piecework is manifested in industrial works. In spite of the import of food, the food situation commenced to deteriorate after summer, and during the winter of 1919 it was impossible to distribute the prescribed rations, which are normally barely sufficient to maintain life. The potato crop, which is the staple food of the country since 1915, was adversely affected by the weather, while the beet crop was practically lost, with a consequent sugar famine in the coming year.

The coal production of the Ruhr area has fallen from 111,000,000 tons in 1913 to some 50,000,000 tons in 1919. The monthly production shows steady improvement since last November. The Upper Silesian area, which produced 43,500,000 tons in 1913, only produced 24,000,000 tons, while the average price per ton has increased from 14 marks to over 90 marks. The falling off in production is not due to lack of labour, but to lack of transport. Rolling stock was left behind in considerable quantities in Russia and the Balkans during the disorganized withdrawal of the troops under the Soldiers' Councils. The contribution to France, and the wear and tear of the remaining stocks, which were overworked during the War, had since the War diminished transport so seriously that the Government suspended all passenger traffic throughout the country for a fortnight in the autumn in order to relieve the situation.

With the exception of the stocks of raw material reserved for the army, German industry was stripped bare of copper, of rubber, of leather, and of cotton supplies at the end of the war. The release and sale of the military supplies has furnished factories with some occupation during the year, but most of these are forced to lead a hand-to-mouth existence.

The depreciation of the mark and the general increase in expenses, coupled with the uncertainty of the future, is manifested in the tendency to amalgamate industries and to increase the capital of industrial undertakings by 100 per cent. The capital issues are accompanied by the issue of preference shares, with multiple voting power, which are allotted to the existing directors, with the avowed object of preventing foreign interests from acquiring control owing to the fall in the rate of exchange. During and since the War the Government has sought in vain for a solution of the problem of augmenting the internal food production. Maximum prices must be maintained at such a level that they correspond with the general level of wages. The agricultural community has little interest in furthering intensive production when profits are already insufficient. The attainment of a compromise is now rendered still more difficult as complicated political issues between the Agrarian Conservative Party and the Democratic Government are involved. The sandy subsoil, which would normally yield sufficient potatoes and cereals for a fraction of the population, has, by scientific treatment with chemical fertilizers, been artificially enriched year by year until war conditions interfered with the supply and transport of nitrates. The Food Ministry is averse from returning to the normal system of supply and demand, which would entail a fresh readjustment of the scale of wages throughout the industrial areas, with incalculable economic consequences.

22. *General Conclusions.* A survey of the present position in Germany must emphasize the outstanding features of the moment—the corruption and lawlessness produced by the demoralization of defeat, the sudden relaxation of the strict discipline which prevailed not only in the army but in the civil service under the old régime, the political unrest, the collapse of currency, the enormous rise in prices, the lack of food and the readjustment of values (*Umwertung aller Werte*). This is manifested at the bottom of the social scale by crime, and at the top by elaborate schemes

for export of capital, concealment of income, illegitimate gambling in food and indispensable wares, and generally by the universal venality of officials and persons of trust in every sphere of activity. When it became necessary during the War to eke out existence by evading the food regulations, the Government was compelled to tolerate tacitly illegal barter in indispensable commodities in order that the middle and propertied classes might not also fall a prey to the general discontent. The sale of State property and war equipment by officials and soldiers, in the revolutionary period, when authority was at a discount, undermined public morality and produced a feeling of great insecurity, especially in business transactions and in the operations of commerce generally. Freedom from restraint, licence to requisition and pillage and to ignore the laws obtaining in the vast areas which the German forces occupied during the War, has had a marked influence since the army has been disbanded. This may be only a passing phase, and is, perhaps, one incompatible with the character and traditions of the German people. For the moment, however, credit has practically disappeared from commercial life. Few manufacturers will forward consignments without payment in advance, and the purchaser must choose between insurance at an exorbitant rate or supervision of every transaction prior to actual delivery of his goods. The disappearance of trucks, or the diverting of trainloads of goods to stations to which they were not consigned, indicates that the corruption of groups of officials of the railway system is merely a matter of organization.

The first year since the cessation of hostilities has come to a close ; the food situation is critical, labour is dissatisfied, and the universal increase in wages furnishes no solution of the economic problem, as wages, however high, which cannot purchase what does not exist, must be considered inadequate. Political agitation continues from two extremes, each of which covets power and would not hesitate to give the signal for a fresh revolution at an opportune moment. Currency has depreciated, and imports from abroad are impossible at the present rate of exchange. An overwhelming programme of taxation has been passed into law. The mercantile fleet has been confiscated, and raw materials are prohibitive in price even if sea transport were available. This seems to destroy Germany's only asset, her highly-trained technical workers

and well-equipped factories, who could produce the wealth with which to indemnify her enemies, pay her own war costs, and enable her to resume her position in the markets of the world. The stoic resignation of the masses, in circumstances which would produce anarchy or revolution elsewhere, must be recognized.

23. *The Future of Germany.* The future of Germany depends on so many uncertain factors, political and economic, that the foregoing survey of the course of events since the Armistice does not suffice as a basis for a forecast of the future development. Apart from the future form of the League of Nations, the stability of the new States on her frontiers, especially the political and economic development of Russia, and the relations of these countries to each other and to Germany are matters for conjecture. In so far as Germany can, by industrial efforts, determine her future, some small measure of hope is justified. The decisions of the Reparation Commission, especially the amount of indemnity, and the form of payment, are of course of paramount importance, for they will determine whether the outside world will grant credits and to what extent, and how far the purchase of raw material by industry will be possible. Equally vital is the goodwill of the civilized world, which Germany shared least of all civilized countries before the War, and which her conduct of the War, military and political, seems to have alienated indefinitely.

The Peace Treaty closes, at all events temporarily, the outlet for German energy towards the West. In many departments of human endeavour she will continue to occupy a leading place. Her system of education and the character of the people guarantee that she will always be well represented in every domain of human effort. Her material welfare will depend on the scientific development of the resources within her boundaries and, unless checked by unforeseen political causes, on the development of the resources of Russia.

The Baltic littoral, colonized for centuries by Germany, furnishes a link, of which the old Tsarist Russian Government neutralized the effect, but the political future of the Baltic States is obscure, and, in obedience to the natural law, allegiance of the German-speaking race reverted to Germany when the Imperial régime came to an end. The authority of the revolutionary Government was strained to the

utmost by the situation which arose as a result of the Armistice Terms of November, when the Entente sought to make German occupying troops remain in the Baltic Provinces to maintain order and prevent Bolshevist invasion. The Baltic adventure seriously embarrassed the Government, when further troops were recruited in Germany by reactionary officers, and the country became a military protectorate, under the conjoint rule of the Baltic barons and the Monarchist officers of the old army who flocked thither. When the Government finally ordered the recall of the German forces in autumn, in accordance with the Entente ultimatum, the threatened stoppage of supplies of stores and money obtained reluctant obedience.¹

German sympathies exist among supporters of the Soviet and Reactionary Parties in Russia. The almost simultaneous overthrow of the two autocracies, and the close association between the Independent Leaders and the Soviet Commissioners since the Russian revolution cement the bond on the Left. The hospitality, which Germany has shown to Russian Monarchist refugees who have found asylum in enormous numbers within her frontiers, cannot fail to awake a feeling of gratitude which will be important later, if these recover influence.

The needs of the hour are so great and so urgent that little attention is given to foreign relations. The parliamentary régime has been improvised, and new men with the necessary mental equipment for leading offices of State are scarce. The post of Foreign Minister has never been coveted. Its holder was exposed to the caprice of the Head of the State to a greater degree than any of his colleagues, and the relations between the diplomatic representatives abroad and the Home Authorities were always clouded by the same disturbing influence. Public opinion is seldom unanimous, but all Germany agrees in condemning the mediocrity and deploring the dearth of diplomatic representatives and permanent Foreign Office officials. In spite of the odium attaching in Germany to the diplomatic service owing to the unsatisfactory nature of its activities in enemy countries and in neutral countries during the War, the existing personnel must continue to be employed as it cannot be replaced at a moment's notice. The Government is forced, as in other departments of the Public Service, to postpone reform and leave things as they are.

¹ v. Vol. I, Chap. VIII, pt. iii, §§ 8-10.

Relations with Russia are geographically favourable, and depend, since the establishment of an independent Poland, on the future stability of the Polish Government. Nobody in Germany believes in the future of Poland. Apart from the question of a German Irredenta, it is claimed that the Russian Government, when it assumes definite form, whether reactionary or Soviet, or a modification of either, will not tolerate the existence of the new State. Germans hold that the inclusion of German territory, especially if Upper Silesia elects to join Poland by plebiscite, will inevitably react unfavourably on the unity of the country, as the contrast between the administration which these provinces previously enjoyed and the present Warsaw Government will intensify the sympathy, which time will reawaken, among a population brought up in German traditions and educated in German schools, as soon as the enthusiasm of the moment has abated.

The same argument is adduced relatively to other territory ceded by Germany. She is willing to abide by the immediate decisions of the various plebiscites if unfavourable, but has complete confidence that the momentary alienation will give way later to a revival of sympathy when the administration of roads, railways, posts and telegraphs, electrical supply, collection of taxes, or other activities of the old executive is compared with that of the new Fatherland.

The centrifugal tendency of Posen and Silesia within the new Polish State may not manifest itself immediately, but Poland is always at the mercy of Russia, as soon as order is restored there. The supply of manufactured goods and agricultural machinery for Russia cannot be purchased until her credit is restored, but concessions for the exploitation of Russian resources will be readily accepted. Germany is over-supplied with technical engineers, whose sphere of activity is limited in the future, and whose capacity was obtaining increasing recognition in Russia before the War. In addition to the bilingual Baltic-German population, a knowledge of Russian is more general in Germany than in any other European country.

The absence of any hostility to the new Czecho-Slovak Republic is very marked, and the débris of Austria-Hungary may be disregarded as a political factor in Europe for some time to come. If the veto of the Allies is withdrawn, every

effort will be made to realize Naumann's dream of a fusion of the two main German races. The disloyalty of Imperial Austria to the alliance towards the close of the War is not visited on the German-speaking population. A contribution from the scanty food magazines was readily forthcoming when Vienna raised a cry for help, and money was powerless to purchase relief. Political motives alone did not prompt the spontaneous expression of sympathy which was universal in the country.

The retirement of the last Foreign Secretary, Brockdorff-Rantzau, who was capable of constructing a foreign policy, and his replacement by a Social-Democrat, Müller, for the purpose of signing the Peace Treaty, left the country without any foreign policy. General elections take place, as expected, in the spring or summer of this year. It is hard to predict the results, as unforeseen political complications may arise during the fulfilment of the clauses in the Peace Treaty, especially the extradition of the war culprits. The trial of German subjects by courts constituted in enemy countries is condemned universally and without distinction of party. Active or passive resistance by the population will render it very difficult for the Executive to compel obedience to an order of the Government for the arrest of the offenders. It is doubtful if the Reichswehr, as at present constituted, will remain loyal, when called upon to execute this invidious task, which every personal interest, apart from the dictates of honour or patriotism, opposes.

The great question of the future, immediate and remote, is entirely dependent on the decisions of the Reparation Commission. If these are such that foreign countries will have sufficient confidence in the stability and economic development of Germany, if the necessary credit and the indispensable supplies of raw material are forthcoming from without, then despite the cumulative effect of the five years' blockade, the turmoil of the Revolution, the labour unrest, the introduction of shorter hours, and the provisions of the Factory Councils Bill, the country will recover with surprising speed, and resume the struggle for a place among the industrial nations. The fundamental qualities and characteristics of a race are determined by soil, climate, and environment, as well as a variety of intangible factors. The hardships and disappointments of war have only a passing effect, more enduring amongst industrial communities

than among the agricultural population. Artificial factors, the system of education, universal military service, industrial organization, have influenced the character of the German people. The factory equipment of the country was mainly supplied after 1900, and its efficiency, in conjunction with the cheapness of labour, provide the necessary conditions for favourable competition. The abolition of conscription is a further advantage. The same qualities of discipline, spartan simplicity, quiet endurance, subordination of the individual to the general need of the community, which contributed to Germany's successful defence for four years along a colossal battle front, will be manifest if an opportunity is given to enter the lists as a competitor in industrialism.

The Peace Treaty gives her enemies the first mortgage on the property of the Realm and on German taxation. Her liabilities are unknown, and it is certain that many generations of German workers must contribute to them. It remains to be seen whether the surplus which remains will suffice to meet the internal expenses of administration and furnish the small share of the amenities of life sufficient to encourage and reward the toilers of the next generation.

INDEX TO VOL. II

- Aaland Islands, 144.
Aarø, 201.
Adelaide, Grand-Duchess of Luxemburg,
Attitude to Germany, 186.
Aerial and Air Clauses, 136, 395-6.
Allenstein :
Economic importance of, to Germany,
213.
Strategical aspects of plebiscite, 210,
211.
Allied and Associated Powers :
Modification of Peace Terms, 8-10,
445, chap. vi *passim*.
Note of 24th May, *re* Saar Basin,
178, 279-80.
Reply to German counter-proposals,
16th June, 1919, 7, chap. vi *passim*.
Wilson's Note of 5th Nov. 1918, 44-7.
Views on Reparation, 43, 44, chap. i,
§§ 3, 4, pp. 397.
Alsace-Lorraine :
Bismarck's views on, 160, 164, 167.
Character of German administration,
163.
Effect of incorporation with France,
170.
Effects of recovery by France, 167.
French administration to 1871, 159.
German and Allied views on, 280-2,
345, 365-70, 389-90.
Ludendorff on, during the war, 166.
Protest at Bordeaux, 162.
Statistics of Emigration, 174-5.
Statistics, Language, Population,
175-6.
Strategic and economic importance to
France, 167-70.
Alsen, 201.
Antwerp, 144.
Apenrade, Harbour of, 201.
Apia, 143.
Arbitration, 23-4.
Armaments :
Reduction or limitation of, 129,
143-4, 151, 274, 302-3, 355-6, 395-6.
in German Colonies, 303.
Armistice (Texts in Vol. I, App. V) :
Conventions, 246-54.
Effects of, 114.
Execution of Naval Terms, 141-2.
Military Terms of, 114, 124.
Negotiations preceding, 246-54.
Reparation, 42-4, 308-13.
Augsburg, 438.
Austrian Treaty :
Articles quoted, 45 n., 102-3, 107,
109-10.
Ports, Waterways and Railways Com-
mission, 101, 102.
Signed 10th Sept. 1919, 7.
Austria, German :
German and Allied views *re*, 13-14,
282-3, 387.
Autocracy as opposed to democracy,
255-6, 357-9, 395.
Bakunin, 33.
Balfour, Rt. Hon. A. J., Preliminary
Peace proposals, 124.
Barnes, Rt. Hon. G. N., League of
Nations, 27.
Barth, Herr, 423.
Bauer, Herr, made Prime Minister, 17,
446.
Bebel, Herr, 425.
Belfort, 161.
Belgium :
Allied and German views *re*, 275-6,
387.
Claims at Peace Conference, 189.
Coal, German deliveries to, 85.
International position of, 190.
Luxemburg, relations to, 188, 190.
Malmedy and Moresnet, 191.
Mandate, German E. Africa, 242, 243.
Netherlands, relation to, 192.
Reparation and German view of, 309,
352.
Scheldt, 195.
Treaties of 1839, abrogation of by
Germany, 189.
War Debt, 75.
Bell, Dr., German plenipotentiary for
signing Peace Treaty, 18.
Berlin, 428, 461.
Wireless station, 152.
Bismarck :
Colonial policy, 217.
Views on Alsace-Lorraine, 160, 164, 167.
Bornu, unification of, 242.
Botha, General, invasion of German
S.W. Africa, 224.

- Bourgeois, Léon, League of Nations, 27 ;
Art. 13, 24.
- Breitscheid, Herr, 429.
- Brest-Litovsk Treaties, German renun-
ciation, 5. Text in Vol. III, App. I.
- Briey, 173, 177.
- Britten, 183.
- Brockdorff-Rantzau, Count :
Attitude at Peace Conference, 1.
Becomes Foreign Minister, 433.
Replaced by von Haimhausen, 17.
- Brunswick, 439.
- Bucharest, Treaty of, not ratified by
Germany, 5. Text in Vol. III,
App. I.
- Bulgarian Treaty, signed 27th Nov.
1919: *v.* references under Ports,
Waterways, &c.
- Burian, Count, 208.
- Cameroons :
Conquest of, 223.
Franco-British Agreement 1916, &c.,
241.
Native sentiment during war, 222.
Refusal of natives to speak German,
218.
- Cassel, 461.
- Cecil, Lord Robert :
League of Nations discussions, 26.
Proposals for League of Nations, 30.
Speech, 11th Nov. 1918, 24.
- Charles, Emperor, cession of Alsace-
Lorraine, 167.
- China (*v.* also Kiaochaow), 299.
- Clausen line in Schleswig, 204, and *v.*
map.
- Clemenceau, Georges : Peace Conference,
presents Draft Treaty, 1 ; signs
reply, 7 ; signature of peace, 19,
129 ; forbids oral discussion with
Germans, 347.
- Coblenz bridge-head, 123.
Rhineland Republic at, 6.
- Cohn, Oscar, 446.
- Cologne bridge-head, 118, 123.
- Colonies : *v.* Germany, Colonies.
- Commissions :
for Belgian affairs, 192.
of Control, Inter-Allied, 136-40.
for International Labour Legislation,
32.
Inter-Allied Rhineland, 119-21.
League of Nations, 25.
Naval Armistice, 142.
Reparation, 10, 52, 67, 81.
Saar Valley, 179.
Schleswig, 203-4.
- Committee, to draft Naval, Military, and
Air terms, 125.
- Compensation, 43, 398, 400.
- Constantinople, Mr. Lloyd George on,
7 n.
- Corbett, Sir J., 31 n.
- Covenant : *v.* The League of Nations.
- Criminals, War, 304-8, 396-7, 417-18.
- Crowe, Sir Eyre, 31 n.
- Cuxhaven, 144.
- Czecho-Slovakia, 13, 100, 117, 268.
- Czernin, Count, *re* Cession of Alsace-
Lorraine, 167.
- Dallwitz, von, 164.
- Damage, Indirect, doctrine of, 47, 76-7.
- Danneverke, 202.
- Danube, 10, 107-8.
- Danzig, 9, 13 :
German and Allied views, 284, 291-3,
366, 383-5, 391, 410.
Pre-war policy of Germany and Russia,
214.
- Danzig-Mlava Railway, 211.
- Dardanelles, 144.
- Dar-es-Salaam, 143, 219, 224.
- Democracy, as viewed in Treaty, 255-6,
359-60, 407.
- Denmark :
Frontier of, 201.
Proposals *re* Schleswig, 203.
- Dernburg, Herr, becomes Finance
Minister, 433.
- Dittmann, Herr, 423, 427, 429.
- Duala, 143.
- Dulles, J. F., of U.S.A. Delegation.
Letter in *The Times*, 16th Feb.
1920, 14 n., 45, 73.
- Eberhardt, General, 117.
- Ebert, Friedrich, on Colonies, 301.
Elected President German Republic,
432.
Signs programme of new Cabinet, 428.
Succeeds Max of Baden, 423.
- Economic Clauses of Treaty, 318-33,
343-4, 405, 416.
- Economic Council, Supreme, 120.
- Economic Problem of Reparation, 47.
- Egypt : Germans object to British
protectorate, 5, 299, 363.
- Eider Marshes, 202.
- Eider, River, 202.
- Eisner, Kurt :
Leader of Bavarian Cabinet, 427.
Murder of, 438.
- Elbe, 107.
- Engels, Herr, 425.

- Equality of Nations, 269-70, 367-9, 408-9, 415.
- Erzberger, Herr :
 Becomes Vice-Chancellor, 447.
 Favours signature of Treaty, 115-16, 446.
 Financial policy, 464-9.
 Forced to resign, 464 n.
 On Colonies, 301.
- Etain, 173.
- Eupen, 190-1, 267, 275-6, 358, 365, 388-9.
- Finance and Reparation, chap. i, pt. 3 and 4, *passim*.
- Financial Clauses, 66, 313-18, 343-4, 404.
 Cost of Armies of Occupation, 71.
 Cost of food and raw materials, 69.
 Order of priority, 68.
 Restitution, 68.
- Financial Delegations :
 Nature of their work, 60.
 Personnel, 63.
 Position of, 60.
- Financial Problems, 61.
- Financial Responsibility, methods of limiting, 74.
- Fiume, 116.
- Flensburg :
 Harbour of, 201.
 Result of plebiscite, 206.
 Town of, 202.
- Fourteen Points, chap. vi *passim*.
 Reparation, 42, 58.
- France :
 Alsace and Lorraine, effect of incorporation, 170.
 Effects of recovery, 167.
 Claims *re* Saar Basin, 178.
 Great Britain and U.S.A., Treaty, assistance to France, 122.
 Interests in Luxemburg, 188.
 Powers over Saar Territory, 180.
 Propaganda in Luxemburg since Armistice, 187.
 View with regard to guarantees, 125.
- Frankfurt, 90 n.
- Freedom of the Seas, 145.
- League of Nations, 355.
- Freedom, principle in Treaty, German and Allied views, 377-9, 398, 405, 409.
- Fñnen, island of, 201.
- George, Rt. Hon. D. Lloyd :
 General Election, Dec. 1918, 57.
 Insists on voluntary service, 129.
 on Ottoman Empire, 7.
- Speeches of, 29th June 1917, 20th Dec. 1917, 5th Jan. 1918, German Colonies, 227.
- German Austria (*v.* Austria).
 German Chancellor, 208.
- German East Africa :
 Belgian mandate over area in North-West, 243.
 Conquest of, 225.
 1914 campaign, 224.
 1916 campaign, 225.
 1917 campaign, 225.
 Treatment of natives during war, 223.
- German Finance Committee, 63.
- German Navy Law, 1900, 150, 158.
- German South-West Africa :
 Final defeat of German forces, 224.
 Invasion of, 224.
- Germany :
 Administration of Occupied Territories, 119, 120.
 after Armistice, 423-7.
 Allied reply to German observations on Draft Treaty, 7, chap. vi *passim*.
 Alsace-Lorraine, administration of, 163.
 Armament, Munitions, Material, 134.
 Armistice, 114, 124, 141, 142, 246-54.
 Army :
 Compulsory *v.* Voluntary Service, 127.
 Personnel, recruiting, training, 131.
 Strength allowed, 129.
 Baltic Provinces, operations in, 139.
 Belgium, pre-Armistice agreements, 275-6.
 Campaign of 1918, 113.
 Colonies :
 Attitude of delegations to mandatory principle, 223.
 Bases of settlement, 226.
 Colonial movement, factors in, 217.
 Decision of Supreme Council regarding allocation of, 241.
 Exports and imports of, 219.
 German and Allied views on settlement, 228, 295-302, 371-2, 375-6, 392-4. ~
 Mandates : classes, 235 ; origin of system, 231 ; terms, 237 ; principles, 236 ; basis of allocation, 240 ; League and, 236, 392-3.
 Native sentiment during war, 222.
 German policy to, 220.
 Special provision of Treaty regarding, 231.
 Treatment of natives, 221.
 Treaty Clauses, 229-30.

Germany (*continued*):—

- Communist and Spartacist movements in small States, 438.
- Consideration of new Constitution, 454.
- Danzig, pre-war policy to, 214.
- during Peace Negotiations, 115.
- Economic importance of ceded territories, 212.
- Economic situation after Revolution, 435.
- Election Campaign, 430.
- Elections, 431.
- End of old régime, 422.
- Financial position and policy of Government, 463.
- Fleet, disposal of, 147, 156.
- Scuttling of, 152.
- Surrender at Rosyth, 142.
- Foreign trade, 469.
- Future of, 475.
- General attitude to Peace Terms, 443.
- Government legislative policy, 1919, 437.
- Hopes of evading the terms of the Treaty, 116.
- Luxemburg, invasion of, 185.
- Military occupation of, 113.
- Ministerial crisis, June 1919, 446.
- New Defence Force, 132-4, 461.
- Peace Treaty :
 - Attitude to the Peace Treaty, 116.
 - Counter-proposals, 2.
 - Economic difficulties of, 448.
 - League of Nations, 3, 270-3, 296, 415.
 - Polish frontier: *v.* Poland and Prussia, East and West.
 - Reparation (*q.v.*).
 - Signature, 17.
 - Territorial Clauses, 3, 274-333.
- Poland :
 - Effect of re-establishing, 208-10.
 - Proposals *re* frontier and Allied reply, 4-10, 283-93.
- Problems of Government, 1919, 460.
- Reparation Commission (*q.v.*).
- Revolution, attitude towards Entente, 433.
- Rhineland Republic proclaimed, 6.
- Saar Basin, 180, 277-80.
- Struggle with Spartacists, 427-30.
- Terms of New Constitution, 450.
- Text in Vol. III, App. IV.
- Workers' Councils, 455.
- Goltz, General von der, 117.
- Great Britain, Treaty, assistance to France, 122.

Guarantees, 11.

- Allies views, 126, 336-8, 354, 356-9, 380-1, 395-6, 410.
- French views, 125.
- Haase, Hugo, leader Independent Socialists, 421, 423, 426.
- Hadersleben, *Kreis* of, 201.
- Haimhausen, Hamel von, replaces Brockdorff-Rantzau, 17.
- Haller, General, 440.
- Hanover, wireless station, 152.
- Hanssen, Mr., Schleswig delegate, 197.
- Helfferich, 464 n.
- Heligoland, 12, 144, 151, 152.
- Allied and German views *re*, 294.
- Hindenburg, Field Marshal, 461.
- Holland :
 - Dutch Limburg, 193.
 - Relations with Belgium, 192.
 - Scheldt, 194, 195.
- Hoskyns, General, 225.
- Hoyer, 202.
- Hudson, Mr., reply of Allies to German proposals, 7.
- Hungarian Treaty, signed 4th June 1920.
- Ports, Waterways, and Railways Commission, 101, 103.
- Hungarian observations on, 103.
- Hurst, Mr. C. J. B., 31.
- Husum, 202.
- Hyman, M., Belgian case presented to Peace Conference by, 192.
- Inter-Allied Commissions of Control, 136.
- Inter-Allied Military Committee replaces Supreme War Council, 140 n.
- Inter-Allied Rhineland Commission, 119, 120.
- International Association for Labour Legislation, 34 : *v. also* Labour.
- International Conferences for Labour legislation, 35.
- Internationale*, 33.
- International Federation of Trade Unions, 34.
- International Labour Conventions, 33 : *v. also under* Labour.
- International Law and Relations, 348-57.
- Italy :
 - German coal deliveries to, 85
 - Effect of Caporetto, 113.
- Japan, Labour legislation, 37.
- Jassin, British failure at, 225.

- Justice, as a term in the Treaty, 260-4, 344.
 Allies on, 373-7, 396, 398, 400-2, 405.
 Germans on, 371-3.
- Kaiser, arraignment of, 17, 304, 307, 358, 375.
 Abdication of, 422.
- Karnebeek, M. van, Belgian Foreign Minister, 192.
- Kautsky, Herr, 427, 429.
- Kehl bridge-head, 123.
 Port of, 171, 172.
- Kennedy, Mr. A., 31.
- Kerr, Philip, reply of Allies to German proposals, 7.
- Keynes, J. M., *Economic Aspects of the Peace*, 14, 45, 73.
- Kiaochow, German proposals *re*, 5, 297, 301-2, 358; and Allied reply, 302.
- Kiel Canal, 12, 100, 144, 199-201.
 Allies' concessions, 10.
 Bismarck's policy *re*, 200.
 Mutiny of *Markgraf* and *Kaiser* crews, 422.
 Peace Treaty, 244..
- Kionga returned to Portugal, 244.
- Kolberg, 461.
- Krupps, 438.
- Labour, generally at Conference, 32-9, 334-6, 352, 409.
 Charter of, 34, 35.
 International Association for Legislation, 34.
 International Conventions, 33.
 Internationale, 33.
 International Federation of Trade Unions, 34.
- Labour Conferences :
 International, 39.
 for Legislation, 35.
- Labour legislation :
 Commission, 36.
 Japan, 37.
- Labour Parliament :
 Constitution of, 36.
 Relation to League of Nations, 38.
- Landsberg, Herr, refrains from voting for signature of Treaty, 447.
 Signs programme of new Cabinet, 428.
- Lansing, Robert :
 U.S.A. Secretary of State, 308, 314.
- Law, Maritime, 339-40 350, 352, 410.
- Law, Reign of, 353, 370-1.
- League of Nations, chap. i, pt. 1, *passim*.
 Arbitration in relation to, 23.
- Causes of desire for a League, 22.
- Cecil, Lord Robert, preliminary discussions, 26.
- Commission, 25, 27.
- Covenant :
 Difficulties of, 29.
 Draft, 14th Feb., 27: *v.* Vol. III, App. II, pt. 4.
 Revised 28th April, 28. Text, Vol. III, App. III.
- Economic Agreements and, 318-22.
- Freedom of Seas, 145.
- General Smuts's view, 16.
- German proposals, 3, 270-3, 296, 415, and Allied Reply, 273-5.
- International relations and, 356-7.
- International rivers and, 110-11.
- Intervention in Mandatory system, 236.
- Relation of Labour Parliament to, 38.
- Saar Territory, 181, 182.
- Schemes previous to Peace Conference, 24, 31.
- Wilson, Pres., preliminary discussions, 26. Text of speeches on, Vol. III, App. II.
- Lenin, 425.
- Liberia, 299.
- Liebknecht, Karl :
 Arrested and murdered, 429.
 Raises red flag on Royal Palace, 423.
 Spartacist Party, 424, 425.
 Votes against first and second War Loans, 421.
- Liebknecht, Wilhelm, Conference at Eisenbach, 421.
- Limburg, Dutch, Belgian case *re*, 193.
- Lithuania and Lithuanians: *v.* Memel.
- Little Belt :
 Strategic aspect of, 201.
- Lloyd George: *v.* George, D. Lloyd.
- Longwy, 173.
- Losheim, 183.
- Löwe, appointment to Cabinet, 428.
- Ludendorff, General, 139, 166, 209, 211.
- Luxemburg :
 Adelaide, Grand Duchess of, attitude to Germany, 186.
 Deposed, 186.
 Belgian desires *re* frustrated, 190.
 Charlotte, Grand Duchess, 186.
 French propaganda since Armistice, 187.
 German and Allied views *re*, 276-7, 342, 366.
 History of 1839-1914, 184, 185.
 Invasion by Germany, 185.
 Strategic importance of, 188.

- Luxemburg, Rosa :
 Arrested and murdered, 429.
 Spartacist Party, 424, 425.
- Mahan, Admiral, 145.
 Mainz bridge-head, 118, 123.
 Malmedy, 190, 267, 275-6, 365, 388-9.
 Marienwerder :
 Economic importance to Germany of plebiscite areas, 213.
 Strategic aspects of plebiscite, 210, 211.
- Maritime Law : *v.* Law, Maritime.
 Maritz, Colonel, treachery of, 224.
 Max of Baden, Prince, 228.
 Proposal to set up Federal State, Alsace-Lorraine, 166.
 Resignation of, 422.
- Memel, German and Allied views *re*, 290-1, 364, 382-3, 391.
- Metz, 160 *n.*, 161, 163.
- Military Terms, 124.
 Alterations in, 9.
 Detail, 129.
 German counter-proposals, 130.
 Principles of, 127.
- Miller, Mr. David Hunter, view on Reparation, 79.
- Millerand, M., Alsace-Lorraine, 172.
- Moresnet, Neutral and Prussian, 190, 267, 275-6, 365, 388-9, 392.
- Morocco, 299.
- Moyeuivre, 161.
- Mulhouse, 159, 170, 174.
- Müller, Hermann :
 Plenipotentiary for signing Peace Treaty, 18.
 Foreign Secretary, 447.
- Munich, 438, 439, 461.
 Mob seizes newspaper offices, 427.
- Nancy, 173.
- Nationality as a term in the Treaty, German and Allies' views on, 264-6, 364-7.
- Nationals, Private Rights of, 327, 407, 416-18.
- Nations in Treaty, 264, 269, 369, 411.
- Nauen, wireless station, 152.
- Naval Armistice Commission, 142.
- Naval Clauses, 141.
- Naval conditions of peace, 143, 149.
- Neutral Financiers' Committee, 63.
- Niemen, 107.
- Noske, Herr :
 Appointment to Cabinet, 428.
 Favours signature of Treaty, 446.
 Minister of Defence, 433.
- On Colonies, 301.
- Nuremberg, 438.
- Oder, 10, 107, 208.
- Ottoman Empire, 7, 104.
- Peace Conference :
 Assembly in Paris, 124.
 General considerations on, 12.
 Preliminary Peace proposals, 124-5.
- Peace Negotiations :
 Allied reply to German proposals, 7, and chap. vi *passim*.
 Survey of principles applied to Germany by Allied and Associated Powers, 340-410.
- Peace, prospects of future, 137, 418-19.
- Peace Treaty :
 Allied reply to German proposals, 9, and chap. vi *passim*.
 Financial Policy, 64.
 Financial Terms, methods of interpretation, 64.
 German counter-proposals, 2, and chap. vi *passim*.
 Kiel Canal, 200.
 Military Terms, 124.
 Naval Terms, 130.
 Terms, general considerations, 12.
- Penalties, Allied and German views, 304-6, 396-7.
- Phillimore, Lord Justice, 31.
- Pichon, M., French Secretary for Foreign Affairs, on Alsace-Lorraine, 167.
- Plebiscites :
 General, 13.
 in East Prussia, 9, 210-15, 289-90, 390-3.
 in Moresnet and Malmedy, 3; form of expression of will, 191, 275-6.
 in Schleswig, 8, 13, 204-6, 293-4, 360-4, 392.
 in Upper Silesia, 8, 211, 214-15, 283-8, 390-3.
 Refused in Alsace-Lorraine, 167, 281-2, 369-70.
- Poland :
 Boundaries, Population, and under Treaty, 4-8, 207-15, 283-93.
 German views on, 4-6, 283-92.
 Posen seized, 365, 435.
 Posnania, 13, 212, 214, 365, 391, 440-1.
 Pre-war German debt, exemption from, 72.
 Reparation *re*, 309.
 Rumania, relations with, 209.
 Ultimatum to Germany, 15th Jan. 1919, 435.

- Pollard, Professor A. F., 31.
 Ports, Waterways, and Railways, chap. i,
 pt. 5, *passim*.
 Austrian and Hungarian Treaties, 101,
 102, 103, 333, 408-9.
 Bulgarian observations *re*, 103.
 Bulgarian Treaty, 102.
 Composition, 95.
 Formation, 94.
 General conventions, 97, 104.
 Hydraulic régimes, telegraphs, tele-
 phones, electricity, 109.
 International rivers, 107, 380, 409.
 Procedure, 96.
 Portugal, Kionga returned to, 244.
 Posnania (*v. also under* Poland), exports,
 products, 212, 365.
 Prague, Peace of, 160, 198-9, 293.
 Pre-Armistice agreements:
 as basis of Treaty, 246-56.
 Certain basic principles of, 255-70.
 Classification of principles applied by,
 410-18.
 General comments on, 402-3.
 Interpretation of, 246-54.
 Principles as applied by parties to:
 Boundaries of Germany, 274-333,
 388-93.
 Democracy, 255-6.
 Economic clauses, 318-33, 405.
 Equality of States, 269.
 Financial clauses, 313-18, 404.
 Fulfilment of principles, 418-19.
 German rights and interests outside
 Germany, 295-302.
 Guarantees, 336-8, 410.
 Labour, 334-6, 409.
 League of Nations, 270-4.
 Military, Naval, and Air clauses,
 302-3.
 Miscellaneous provisions, 339-40.
 Nationality, 264-6.
 Penalties, 304-8, 396.
 Ports, Waterways, &c., 333, 408-9.
 Reparation, 308-13, 397-403.
 Right, 256-60.
 Self-determination, 266-9.
 Prussia, becomes Minister of Interior,
 433.
 Prussia, East:
 Isolation from main German terri-
 tory, 210.
 Plebiscites for, 210-11, 283, 289-90,
 382-5, 391.
 Population in, 214-15.
 Railway communication, 207.
 Prussia, West (*v. also* Posen and Poland):
 General considerations, 208-14.
 Germans and Allies on, 257, 267, 283-
 8, 365-6, 391.
 Ludendorff on, 209.
 Population, 214-15.
 Rabaul, 143.
 Radek, Karl:
 Arrest of, 439.
 Spartacist party, 424.
 Railways: *v.* Ports and Waterways.
 Reinhardt, Colonel, 429.
 Reparation (*v.* in general chap. i, pts. 3
 and 4):
 Allied claims in Treaty, 45; chap. i,
 pts. 3 and 4, 311-13, 398-404.
 as affected by the Armistice Nego-
 tiations and Fourteen Points, 42.
 Categories of damage, 75.
 Clauses, 73.
 Commission, 52, 67, 81, 87-90, 231,
 351, 370, 387, 404.
 Concessions to Germany, 55.
 Determination of claims, 77.
 Difficulties of the proposals, 53.
 Economic problems, 471.
 Fixed sum offer, 10, 87-8.
 Fourteen Points, 58.
 Germany's capacity to pay, 49.
 German views on, 308-11, 343, 351,
 395, 397, 407-8.
 Indirect damage, 47, 76-7.
 Limits on the discretion of, 88.
 Method of discharging the Debt, 79.
 Political aspects, 56.
 Powers of, 87.
 Scheme of, 52.
 Restitution, meaning of the Treaty, 44,
 68, 392.
 Reuter, Admiral von, 153.
 Reuter, Colonel, 165.
 Rhine, 107, 108.
 French view regarding, 122.
 Rhine Commission, 172.
 Rhine-Danube Canal, 10.
 Rhineland Inter-Allied Commission, 119-
 20.
 Rhine-Meuse canal, 108.
 Right, Germans and Allies on, as a term
 in Treaty, 256-60, 350, 375-7, 395-
 6, 405, 407, 409, 417-18.
 Rights, Private, in Treaty (*v. also*
 Nationals), 327-33, 375-6, 407,
 416-18.
 Rivers, International: *v.* Ports, &c.
 Rose, Professor, 31.
 Rosyth, German fleet surrender at,
 142.

- Rumania, German views on, 259, 309.
 German Treaties with abrogated, 343.
 Probability of close relations with Poland, 209.
- Rühle, 426.
- Ruhr Valley, 438, 439.
- Russia :
 Danzig, pre-war policy to, 214.
 Treaties with Germany, 5, 258, 293-5.
 Abrogated, 299, 343, 387.
- Saar Basin :
 Administrative régime, 177.
 Coal-field, 170.
 Commission to be set up, 179.
 German and Allied discussion of, 177, 277-80, 345, 362, 389-90, 392, 403-4.
 League of Nations, 181.
 New Constitution, 181.
- Saarbrücken, 176.
- Saarlouis, 177.
- Saburi, M. :
 Reply of Allies to German proposals, 7.
- Saverne (Zabern), 165.
- Scapa Flow incident, 152.
- Scheidemann, Philip :
 Prime Minister, 432.
 Proclaims German Republic, 422.
 Treaty of Peace, 447.
 Signs programme of new Cabinet, 428.
- Scheldt, 144.
 Alternative solutions, 195.
 Belgian complaints against Holland, 195.
 Dutch action during war, 194.
 International aspect of question in war, 194.
- Schlei, Gulf of, 202.
- Schleswig (*v. also* Map) :
 Draft Treaty amended, 204.
 German and Allied views on, 8-10, 204-5, 363, 365-6, 392.
 Plebiscite, 205, 293-4, 360-4, 392.
 Population, 202.
- Sea, Free and Secure Access to, in Treaty, 383, 409-10.
- Seas : *v.* Freedom of the.
- Self-Determination, 227-8, 257, 266-8, 314, 360-4, 375, 391-3, 404, 441.
- Ships, German, surrender of, 84, 158 n.
- Silesia : *v.* Upper Silesia.
- Smuts, General :
 German Reparation, 14, 45.
 Invasion of German S.W. Africa, 224, 225.
 League of Nations, proposals, 25, 31.
 Peace Treaty, 15, 16.
- Socialist Convention Programme, 33.
- Solf, Dr., 197, 220.
- Sonderburg, *Kreis*, 201.
- South Africa : German S.W. Africa Mandate, 223.
- Spandau, 459.
- Strasbourg, port of, 171, 172.
 University, 165.
- Stuart, Sir Harold, 120.
- Sudbahn, 102.
- Supreme Council :
 Allocation of German colonies, 241.
- Tanga, British failure at, 225.
- Tardieu, M., Plenipotentiary, 7.
 on Saar Commission, 177.
 Reply of Allies to German proposals, 7.
- Thionville, 173, 177.
- Thwaites, General Sir W., 129.
- Togoland :
 Conquest, 223.
 Franco-British Agreement, 241.
 Native sentiment before war, 218.
 and in war, 222.
- Trade Unions, International Federation of, 34.
- Treaties, of 1839, abrogated by Germany, 189.
 General position of, as result of Peace Treaty, 322-6, 343, 351-2, 372, 414-15, 418-19.
- Trotsky, 425.
- Turkey (*v. also* Constantinople, Ottoman Empire), 7, 104, 299.
- Tyrrell, Sir W., 31.
- United States of America, Treaty, assistance to France, 122.
- Upper Silesia :
 Economic importance of plebiscite areas to Germany, 213.
 German and Allied views on, 3-5, 8-9, 211, 214-15, 265, 267, 283-8, 361, 390-3, 440-1.
 Population, 214-15.
 River Oder, 208.
 Strategic aspects of plebiscite, 211.
- Van Deventer, General, 225.
- Vannutelli-Rey, Count, reply of Allies to German proposals, 7.
- Vietor, Herr J. K., 218.
- Vienna, wireless station, 152.
- Von Lettow Vorbeck, General, surrender of, 226.

- Wadern, 183.
 Walfisch Bay, 143.
 Wangeroog, 144.
 Waterways : *v.* Ports and Railways.
 Weiskirchen, 183.
 Wetterlé, Abbé, 173.
 Wilhelmshaven, 144.
 William, German ex-Emperor : *v.* Kaiser.
 Wilson, Field Marshal Sir Henry, 129.
 Wilson, President :
 Five Particulars, 27th Sept. 1918, 24.
 Four Ends, 4th July 1918, 226.
- Four Principles, 11th Feb. 1918, 226.
 Fourteen Points, 8th Jan. 1918, 226.
 League of Nations discussion, 26.
 Reparation and Fourteen Points, 58,
 403-4.
 (for Text of Speeches *v.* Vol. I,
 App. III.)
 Windhoek, capture of, 224.
 Wissell, appointment to Cabinet, 428.
 Workers' Councils, 455.
 Zealand, island of, 201.



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