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13

[Despatch Abstract.]

Reparation Commission.

Procedure to be adopted in submitting claims
against Germany - Notified.

BACK PAPERS.

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No. 3023.

GOVERNMENT OF INDIA.

DEPARTMENT OF COMMERCE.

Simla, the 14th June 1920.

R. B. EWBANK, Esq., I.C.S.,

Deputy Secretary to the Government of India.

To

The Secretary to the Government of Madras,

Revenue (Special) Department.

SIR,

In continuation of my letter No. 2476, dated the 26th May 1920, I am directed to forward for information and guidance a copy of a further despatch from His Majesty's Secretary of State for India, No. 37-Financial, dated the 13th May 1920, with enclosures, on the subject of the Reparation Commission. *infra*

I have the honour to be,

SIR,

Your most obedient servant,

R. B. Ewbank

Deputy Secretary to the Government of India.

No. 3024.

Copy with a copy of the despatch from His Majesty's Secretary of State, No. 37-Financial, dated the 13th May 1920, and enclosures is forwarded to all the Departments of the Government of India and the Board of Industries and Munitions and the P. T. Branch of Legislative Department for information and guidance.

INDIA OFFICE, LONDON,

13th May 1920.

No. 37-Financial.**To His Excellency the Right Honourable the Governor General of India in Council.**

MY LORD,

In continuation of my Financial Despatch No. 25, dated 1st April 1920, I forward for your consideration, copies of the proceedings of the London Reparation Commission.

tion Committee on 24th March, with copies of the memoranda then dealt with, Nos. 18, 19 and 20. The only matter in these proceedings to which it seems necessary to invite your attention is the discussion as to the particular French scale to be applied in calculating the amount due to India under the head of pensions and compensations in the nature of pensions to naval and military victims of war. This was referred to in paragraph 5 of my despatch of the 1st April. For coloured troops France has two systems—the main scale applicable to all conscripts and definitely fixed and the subsidiary scales applicable to volunteer coloured troops which are modifiable at the discretion of local administrations. I note with satisfaction that the former will be adopted in making out India's claim under this head, and I await the draft schedules which the Government Actuary is preparing. The French scale, however, allows for dependants of soldiers to whom such pensions are payable, and the Committee considered whether it would be possible to take such circumstances into consideration in the case of Indian troops where the payments are to men only. This, however, was found impracticable, and I accept the Committee's conclusion that in such cases the payments can only be calculated as for childless unmarried men. Against this reduction must be set the fact that the pensions of Indian soldiers are being allowed for on the scale of the troops of a European Power.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble Servant,

(Signed) EDWIN S. MONTAGU.

ENCLOSURES.

ENCLOSURE No. 1 :—*Minutes of the Fourth Meeting of the London Reparation Committee, held at the Treasury on 24th March 1920.*

Present :

THE RIGHT HON. LORD SUMNER, P.C. (Chairman).	H. J. HUTCHINSON, ESQ., Board of Trade.
SIR W. FISHER, K.C.B. (Vice Chair- man).	SIR H. N. BUNBURY, K.C.B., Ministry of Shipping.
THE HON. SIR T. MACKENZIE, K.C.M.G., New Zealand.	A. H. JENKINS, ESQ., Ministry of Shipping.
H. E. FASS, ESQ., Treasury.	E. G. S. MACHTIG, ESQ., M.B.E., Colonial Office.
G. H. MITCHELL, ESQ., Canada.	WILLIAM RICHARDS, ESQ., Ministry of Shipping.
A. L. SAUNDERS, ESQ., India Office.	L. BULLWINKLE, ESQ., Ministry of Shipping.
W. NEILL, ESQ., Reparation Claims Department.	

S. F. STEWART, ESQ., India Office. J. H. HEATH, ESQ., Air Ministry.
 W. R. SCOTLAND, ESQ., Australian Commonwealth Government (C.S.R.) A. D. DONALD, ESQ., Air Ministry.
 W. J. SABINE, ESQ., Australian Commonwealth Government. F. PORTER, ESQ., Admiralty.
 W. H. COOK, ESQ., Australian Commonwealth Government (Pensions). W. G. SPEAR, ESQ., Admiralty.
 R. J. COLES, ESQ., Ministry of Pensions. SIR A. W. WATSON, Government Actuary.
 S. H. WISDOM, ESQ., Ministry of Pensions. R. W. STURGEON, ESQ., Government Actuary's Department.
 G. W. LAMBERT, ESQ., War Office. S. D. WALEY, ESQ., M.C. (*Secretary to the Committee*).

(The representatives of the Ministry of Shipping withdrew after the discussion of the questions affecting the Ministry of Shipping.)

1. *Ministry of Shipping Memorandum L.R.C. 20.*—Sir H. N. Bunbury explained that a special investigation had been made into the manifests, &c., of five miscellaneous general cargoes lost on inward or outward bound voyages, in order to gauge the extent of the work necessary for the preparation of the claim for miscellaneous cargoes on the lines suggested by Lord Sumner. The result was that it was considered that, in order to complete the work, an expenditure of 40,000*l.* upon staff and 340,000*l.* upon remuneration to underwriters and others for providing information would be required. It was pointed out that the enquiries made would continually provoke the question as to the destination of sums received from Germany in respect of the claims. Sir Warren Fisher said that he expected that the Government would shortly announce their decision that the claim against Germany was a British Government claim, and that any payments made to individuals would be of an *ex gratia* character.

It was considered that, in spite of the fact that underwriters, &c., would have no direct interest in establishing the claim, they would as a general rule readily co-operate, provided that a moderate payment was made to them in view of their expenses in ascertaining the information required.

Mr. Richards suggested that it would be desirable to agree with the other Allies the principles which would be followed in estimating claims in doubtful cases, *e.g.*, to what extent the country of destination should be regarded as the country of ownership.

Lord Sumner explained that the Committee considered that this procedure would involve too much delay and that the proper policy was for His Majesty's Government to put forward a claim on reasonable lines to serve as a precedent for the other Allies.

Sir H. N. Bunbury then referred to paragraph 34 of the memorandum asking for decisions as to the method to be pursued in obtaining the information required for the formulation of the claim. The Committee felt that the detailed procedure must be settled by the Ministry of Shipping in consultation with the Treasury, and that all the Committee could do was to lay down the general principle that the British case should be supported by proof, so far as possible, in the same manner as a case before a British Court of law, and that where actual proof is impossible reasonable inference and presumption based on ascertained facts should be employed. The claim should be prepared and sent in in instalments, and the Ministry should aim at sending in as large an instalment as possible by, say, the 1st July.

As regards neutral or allied losses which have been met by the British War Risks Insurance Office or British underwriters, the Committee considered that the British Government had a subrogated claim and that this should be put in separately from the claim arising from British ownership.

It was agreed that the question of the expenditure to be incurred must be settled by the Treasury. The cargo claim represented about 200,000,000*l.*, and

if the debt of Germany proves a good debt, an expenditure of 40,000*l.* on presenting the claim would clearly not be excessive. Whether the debt will be a good one no one can at present say.

2. *L.R.C. 18. Letter from Sir John Bradbury.*—The Committee considered that a discussion between British and French experts would be desirable as regards clauses 5 and 7, but not as regards other clauses in the Annex.

3. *L.R.C. 19. Government Actuary's Memorandum.*—The Committee adhered to the view that, where the French have granted no pension or compensation and therefore have no scale applicable, the amount due should be calculated as the capitalised cost on the British scale, and Sir A. Watson undertook to send out supplementary forms in order to carry out this decision.

As regards native troops (Indian or otherwise), it was decided that a claim should be preferred at the full French scale, *e.g.*, the scale for conscripts.

It was agreed that the allowances paid in respect of wives, children and dependants should be regarded as paid to wives, children and dependants for the purpose of comparison with the French scales, and that in respect of Indian native troops (who receive no special allowances in respect of wives, &c.), the French scale for an unmarried conscript native should be adopted.

Consideration of paragraphs 3, 4 and 5 of the Memorandum were postponed, as also consideration of the concluding paragraphs of Memorandum L. R. C. 17.

ENCLOSURE No. 2 :—*Treasury to Sir John Bradbury.*

No. 7399.

Treasury Chambers,

21st February 1920.

SIR,

I am directed by the Lords Commissioners of His Majesty's Treasury to transmit herewith a Memorandum by the War Office and Admiralty, which was considered by a Committee presided over by Lord Sumner on the 12th instant, together with an extract from the draft minutes of the meeting of the Committee, and I am to request that you will favour Their Lordships with your observations upon the proposal that an agreement should be reached with the French Delegate to the Reparation Commission, as to the calculation of the amount due to the British Empire in respect of separation allowances calculated on the French scale, in accordance with paragraph 7 of Annex 1 to the Reparation Clauses of the Treaty.

I am, &c.,

R. S. MEIKLEJOHN.

Sir John Bradbury, G.C.B.

ANNEX :—*British Delegation Reparation Commission, to Treasury.*

A. McF./W.G.S. No. 12. B. R. 745.

Astoria, Paris.

10th March 1920.

May it please Your Lordships,

I have the honour to acknowledge the receipt of Mr. Meiklejohn's letter of the 21st ultimo (No. 7399), and of the enclosed documents, relating to the calculation of the amount due to the British Empire in respect of separation allowances calculated on the French scale, in accordance with paragraph 7 of Annex I to the Reparation Clauses of the Treaty. In reply, I beg to state that,

in my opinion, it would be advantageous to take any action which might be possible with a view to concerting common plans of procedure by the Allies in the formulation of their claims, not only under paragraph 7, but under the rest of the Annex. There appears, for instance, to be room for considerable divergence of principle, in the absence of concerted procedure, in the formulation of claims under paragraph 5, also referred to in the enclosures. It is clearly desirable to avoid as far as possible any waste of time and labour resulting from disagreements in principle, which might have been avoided by joint consideration before claims are actually compiled by the Powers concerned.

The questions at issue, being of a somewhat technical and complicated nature, would, in my opinion, advantageously be discussed in the first instance between experts chosen by Your Lordships and experts nominated by the French Government. It would then be desirable, in view of the fact that doubtful questions affecting the compilation of claims must be decided by the Reparation Commission as a whole, to submit the result of such a discussion to the Commission. I understand that an expert from the War Office has already visited Paris for the purpose of discussing with the French authorities questions relating to the French Pension Law.

If the course suggested meets with the approval of Your Lordships, I will communicate with the French Delegate with a view to making the necessary arrangements.

I have, &c.,

JOHN BRADBURY.

The Lords Commissioners of His
Majesty's Treasury.

ENCLOSURE NO. 3:—*Government Actuary's Department to London
Reparation Commission.*

Wellington House, Buckingham Gate, S.W. 1,
12th March 1920.

SIR,

With reference to the preparation of the claim on Germany under paragraph 5 of Annex I of Article 232 of the Treaty of Peace with Germany, I am directed by Sir Alfred Watson to state that in estimating the capitalised cost on the basis of the scales in force in France, questions of a non-actuarial character have arisen as to the interpretation of the Reparation Clauses of the Treaty, and rulings thereon are desired from the London Reparation Committee. A memorandum is enclosed herewith specifying the points in question.

I am at the same time to suggest for the consideration of the Reparation Committee that in future when any matter affecting the valuation of the claim under paragraph 5 of the Annex is due for discussion at a meeting of the Committee, a representative of this Department should be invited to attend.

I am, &c.,

S. J. H. W. ALLIN.

The Secretary, London Reparation
Commission.

ANNEX I:—*Memorandum as to certain rulings required for the preparation of
the Claim under Annex I, para 5 of the Peace Treaty with Germany.*

I. Under Annex I, paragraph 5, Germany undertakes to make compensation for "damage caused to the peoples of the Allied and Associated States, all

pensions and compensations in the nature of pensions to naval and military victims of war (including members of the air forces), whether mutilated, wounded, sick or invalided, and to the dependants of such victims, the amount due to the Allied and Associated Governments being calculated for each of them as being the capitalised cost of such pensions and compensations at the date of the coming into force of the present Treaty, on the basis of the scales in force in France at such date."

The Ministry of Pensions in October last obtained the opinion of Sir John Bradbury (*see* correspondence herewith) that the word "scales" in the foregoing "cannot be narrowly interpreted, and that the intention was to permit of the claim from Germany of pension payments calculated in accordance generally with French pension regulations. On this hypothesis we cannot claim any awards given under British regulations and not under French, while, conversely, we are perfectly justified in making a constructive claim for awards given under the French pension regulations and not given under the British." Preparation of the British claim and the claims of the Colonies are being proceeded with therefore on the basis generally of the French Pension Law.

It is to be observed, however, that the foregoing is not in agreement with the ruling given at the third meeting of the London Reparation Committee on 12th February last (at which no representative of the Ministry of Pensions or of this Department appears to have been present) in discussing the Joint Memorandum of the War Office and Admiralty (L.R.C.-17) as regards paragraph 5 claims, *viz* :—

"That where the French had granted no pension or compensation, and therefore had no scale applicable, the amount due should be calculated as the capitalised cost on the British scales."

A ruling is required as to which alternative is to be taken regarding cases in which payment or benefit has been given on the British Pension Scheme, but where there is no corresponding payment or benefit under the French Scheme.

As instances of benefits provided by the British Scheme, but where nothing is given under the French Scheme, the following may be quoted :—

- (1) Gratuity (not exceeding 150*l.*) or final weekly allowance to a soldier discharged as medically unfit where the unfitness is neither attributable to nor aggravated by service. [Section 7 (1) of British Warrant.]
- (2) Allowance to wife of a disabled soldier (section 1A).
- (3) Flat rate of pension of 5*s.* per week to parents irrespective of age, infirmity, pre-war dependence or need. [Article 21 (1) (c).]

II. *Native Troops.—Indian and others.*—Article 73 of the French Pension Law provides that the French scales and conditions of pension apply to native troops of French colonies and protectorates where recruiting took place by conscription, but in the case of such Mohammedan colonies where polygamy is the custom a modification is provided by Article 74. This section also states that in respect of other colonies (*i.e.*, where recruiting was otherwise than by conscription), an administrative rule will be issued fixing the rights to pension, temporary or permanent. It is understood from the French Pensions Ministry that this rule will apply the French *system* of pensions but at a lower *rate* according to the cost of living relative to that in France. The number of French troops non-conscribed is relatively very small.

In considering the application of these paragraphs to British native troops it may be pointed out :—

- (a) The number of non-conscribed British troops (white and native) form a very considerable proportion of the whole of the British forces (which is not the case in France), and there is no question that the white non-conscripts are entitled to claim the full French scale.

- (b) It is contrary to the British attitude to recruiting to give conscripts better treatment than non-conscripts, even though the distinction is based on cost of living.

A ruling is required as to whether, in respect of native troops, Indian or otherwise, a claim is to be preferred at the full French scale or at the special (and probably lower) scale yet to be issued for non-conscripted native troops.

III. *Cost of Treatment and Training of Disabled Men.*—No scales for the cost of treatment or training of disabled men are given in the French Law, although the service is provided.

A ruling is required as to whether the cost of the service under the British regulations is to be claimed on the basis of actual expenditure or on the basis of cost per head of the French service.

IV. *Gratuities.*—Unlike the British Pension Warrant, the French Pension Law nowhere indicates any type of claim which may be met by the payment of a gratuity.

Since the French Pension Law became effective the French authorities are issuing administrative rules defining cases in which, although no claim for pension lies under the law, *ex gratia* payments according to a scale may be made. Such gratuities may be single payments or renewable allowances.

The cases in respect of which these *ex gratia* payments are made may be divided into two classes:—

- (a) Cases in which the French make *ex gratia* payments by administrative rule but where the corresponding class in England are entitled under the warrant, e.g., unmarried wives, parents and grandparents prior to the French law of 17th March 1918.
- (b) Cases in which the French make *ex gratia* payment by administrative rule, but where there is no corresponding class taking benefit under the English Warrant.

So far as is known, all gratuities in France up to the present are of the former type, but it may be taken as very probable that as the issue of administrative rules proceeds cases of the latter class will arise. The English Warrant provides pensions for disabilities down to 20 per cent.; and in the case of a disability of below 20 per cent. a gratuity up to 200*l.* may be granted. In France pensions are provided for disabilities down to 10 per cent., but for a disability of less than this degree nothing is provided.

Rulings are required as to—

(i) Whether we may claim in respect of the class corresponding to (a) above, and on what basis, having regard to the fact that in France an administrative rule governs the liability.

(ii) Whether we may claim refund of the gratuities for minor disabilities referred to above on the ground that, although the French do not pay gratuities to meet the particular case of minor disablements, they may decide administratively to pay (and, if so, will claim refund from Germany) gratuities to meet other special circumstances excluded by the strict reading of the French Pension Law, e.g., classes (a) and (b) above described. If claim is to be made, what is to be the basis?

(iii) Whether, if the answers to the main points raised in (i) and (ii) above are in the affirmative, we may claim in respect of the class corresponding to that referred to in (b) above. It is necessary to point out that since by hypothesis no pensions are paid to such a class in this country, there are no data by which the extent of the liability could be measured.

If a claim is to be made under this head, is it essential that the scale must be officially issued by the French in an administrative rule before 10th January 1920? In at least one case, an administrative rule authorising an *ex gratia* allowance was issued before that date, but the actual scale of such allowances is not yet issued.

V. *Miscellaneous Classes.*—The following classes are specifically included in the French Pension Law:—

- (1) Men of fire brigade stationed in fortresses under military discipline.
- (2) Certain civilian officials of the Ministries of War and Marine.
- (3) Mobilized men attached to workshops, factories, mines, and other works; mobilised men seconded for agricultural work.
- (4) Certain railway workers on railways in war zone.

Such of the men employed in similar work in this country as were in Army or Navy organisation (e.g., Transport Workers' Battalion; Dockers' Battalion) have already been adjudicated upon by the Committee at its meeting on 12th February last.

It might be argued that the remainder are *de jure* in the same position as the corresponding class in France, the difference being due to the different method of recruiting in France and in England in the early days of the war.

A ruling is required as to whether other workers in such industries are to be included in the claim on Germany. So far as is known no statistical data exists in respect of them as would enable the capitalised cost to be arrived at by any actual calculation.

ANNEX 2:—Ministry of Pensions to Treasury.

P.-Genl.-11.

Westminster House, S.W. 1.

Dear Mr. McFadyen,

7th August 1919.

Before proceeding with the preparation of the claim for cost of pensions to be presented to the German Government, I shall be glad if you can give me some definite information on one or two points.

1. Under Article 232 of the Peace Treaty, it is stated that the calculation of the capitalised cost of pensions, etc., is to be made on the basis of the scales in force in France on the date of the coming into force of the Treaty. Is it to be understood that included in the claim are to be all liabilities which arose under the British Warrants, even though a payment would not be made under the French law, or are only payments to be included which are eligible under the French law? As examples of very important points which would have considerable effect in the amount of the British claim, I mention the following:—

- (a) It is not quite clear under Articles 3 to 6 of the French Pension Law whether any claim to pension would be admitted if made at a date more than six months after demobilisation or 31st March 1919, whereas under Article 9 of the British Royal Warrant of 17th April 1918 a claim can be made at any time subsequent to discharge or demobilisation.
- (b) Again, no pension or gratuity is granted under the French law if the disablement is less than 10 per cent., whilst under the terms of the British Royal Warrants gratuities are granted in such cases. Are these gratuities to be included in the claim, and, if so, at the British rates in default of a French scale?
- (c) No scales for the cost of treatment are given in Article 64 of the French Pension Law. Is the actual cost incurred under the British regulations to be claimed, or will a French scale be provided for the purpose?

2. Certain classes of case which are not eligible for pensions or allowances under the British Royal Warrants, or only eligible to a limited extent, are admissible for compensation under the French Pension Law, and it is a matter for decision whether these cases should, for the purpose of the estimate, receive the pension rates prescribed by the French law. The following are types of the cases in question:—

- (a) No allowances under the provisions of the British Royal Warrant are payable to the children of disabled men born more than nine months

after discharge, whilst Article 13 of the French Pension Law contemplates the payment of allowances to these children. Are such allowances to be provided for in the claim?

(b) Under the French Pension Law mobilised men attached to workshops, manufactories, mines and other works, or engaged in agriculture, etc., are entitled to the benefits of that law, but in the United Kingdom these men were not actually mobilised and are not entitled to the benefits of the Royal Warrant. Is the claim to include awards to such men at the French rates?

(c) Certain classes of men who served in France and elsewhere and were not enlisted as soldiers but were engaged with the Army and formed separate corps, such as the Cape Labour Corps, received compensation for disablement in the form of gratuities amounting to a number of months' pay. Are these men to be included in the claim at the French rates of compensation?

3. Disability attributable to or aggravated by service only appear to be covered by the French law, whereas non-attributable disabilities are compensated for under the British Warrant. Is a claim to be made in respect of these non-attributable disabilities?

4. Article 232 of the Peace Treaty provides that the calculation of the capital cost of pensions, etc., is to be made as at the date of the ratification of the Treaty. As the ratification has not yet taken place, we propose, in order to start at once upon the compilation of the necessary statistics, to make the calculation as at 31st July last.

5. The claim may be divided into two portions, *viz.*:—

(a) Payments which have been made up to 31st July 1919; and

(b) An estimate of the cost of future payments.

As regards (a), it seems clear that in presenting the bill to Germany, the actual payments which have been made translated into the corresponding French scale of benefits should be given, but it should be pointed out that as this will involve investigation of each individual case, the work will be very heavy and cannot be completed for some months. Attention should, however, be drawn to the fact that whereas under the French law all increases of pension were made retrospective and arrears of additional pension were paid, such has not been the case with regard to the British Amending Warrants which granted the higher rates of pension in this country. It may therefore be found that, when based on the French scale, the pensions assumed to be paid up to 31st July 1919 are greater than the actual amount which has been expended. It is therefore a case for consideration as to whether the claim in respect of all these past payments should be the total of the actual payments made or must be re-assessed, as previously explained, on the French scale of pensions, more specially in view of the delay which must necessarily arise.

We shall be glad to be instructed in these matters.

Yours sincerely,

H. A. VENABLES.

A. McFadyean, Esq.

ANNEX 3:—*Treasury to Ministry of Pensions.*

A. McF. E.I.V.

Dear Mr. Venables,

26, Rue de Bassano, Paris,

15th October 1919.

I fear that I have been an unconscionable time in answering your letter of the 7th August last. The delay has been due solely to the fact that I left London in the middle of September and have been unable the last few days to pay any attention to questions relating to the formulation of British reparation claims. I

will now endeavour to advise you on the points which you raise, though it must be clearly understood that anything which I say is in the nature of advice. I have discussed your letter with Sir John Bradbury, and you may assume that the policy which I indicate is one with which he concurs and which he will be prepared to defend before the Reparation Commission. He has, however, no power either to bind the British Government to a certain method of formulation or the Reparation Commission to acceptance of it.

It seems clear that the word "scales" in Annex. 1 of the Reparation chapter cannot be narrowly interpreted, and that the intention was to permit of the claim from Germany of pension payments calculated in accordance generally with French pension regulations. On this hypothesis we cannot claim any awards given under British regulations and not under French, while, conversely, we are perfectly justified in making a constructive claim for awards given under the French pension regulations and not given under the British.

Turning to the particular instances cited in your letter, this would mean that in accordance with the principles enunciated, we cannot claim under 1 (b) and 3 of your letter, nor can we claim under 1 (a) if I correctly understand that it is not merely a case of ensuring, under French regulations, that claims shall be made promptly, but rather of ruling out claims which men are not in a position to make earlier than six months after demobilisation owing to the fact that the disability was not apparent sooner. Conversely, we should frame a claim on 2 (a), (b) and (c). As regards 1 (c) it is not easy to express an opinion without a copy, which I do not possess, of the French Pension Law. There are two possible views which you might consider. One is that if no French scale exists, although the service or benefit is provided, the actual cost should be claimed. This is, perhaps, the simpler course in view of the difficulty of estimating the value of the services rendered in either country to the ex-soldier. The other way is to take the average cost per man to the French of providing the benefit, and use this as a basis for our claim.

The last paragraph of your letter raises a different question. There can be no doubt that you should, in spite of the work involved, translate the actual payments made in the past into the corresponding French scale of benefits. The motives for adopting this course are, firstly, that, as pointed out by yourself, we shall probably get more money on this basis, and, secondly, that it provides the British Commissioner with a case which cannot be challenged on examination in the Commission.

There is one further point to which I should draw your attention. It is difficult to know what rate of exchange should be adopted in converting the French scale into sterling. Provisionally, you would do well to take the par of exchange. It is difficult to think that the French will accept this, but it is equally difficult to see what other rate of exchange can be adopted which will not be purely arbitrary. We may have to strike a bargain with the French for some arbitrary rate of exchange at a later period. Alternatively, we may have to be content to put forward a franc claim. In any case, so long as a uniform rate of exchange is adopted in formulating the claim, it will be a simple matter to reconvert at any other rate of exchange.

Yours sincerely,

H. A. Venables, Esq.

ANDREW MCFADYEAN.

163DC

ENCLOSURE No. 4.

L. R. C. 20.

MINISTRY OF SHIPPING CARGO CLAIM.

Further Memorandum in regard to the extent of the Investigations, Staff and accommodation required for the preparation of the reparation claim for loss and damage of cargoes.

1. Considerable progress has now been made with the preliminary examination of this problem. The total number of vessels lost or damaged by enemy action is approximately as follows:—

			Lost.	Damaged.
		(including detained vessels.)		
British—				
Steamers	...	...	2,300	400
Sailing Vessels	...	...	250	say 50
Allied—	}	Total ...	{ 1,300 1,200 }	say 600
Neutral—				

Practically the whole of the British vessels were engaged in carrying goods to or from parts of the British Empire, and fully one-third of the Allied and Neutral vessels were similarly engaged.

2. For the purposes of the cargoes claim it will be necessary to obtain particulars and value of cargo on practically the whole of the 3,000 British vessels lost, detained or damaged, and in addition it will be necessary to ascertain similar particulars for approximately 1,000 Allied or Neutral vessels engaged in carrying cargo to or from parts of the British Empire.

3. The above vessels may be classified as follows:—

Vessels lost or detained—Cargo Category.

	Bulk.	"Limited General"	Miscellaneous.	Ballast.	Total.
BRITISH.					
Steamers ...	900	300	650	450	2,300
Sailing Vessels ...	200	50	...	...	250
Foreign Steamers and Sailing Vessels.	500	150	150	200	1,000
Total ...	1,600	500	800	650	3,550

Vessels damaged—Number to be investigated.

British Steamers	...	...	...	400
British Sailing Vessels	...	...	...	50
Foreign Steamers and Sailing Vessels	...	...	...	200
Total	...	...	...	650

The above classification of cargoes in lost or detained British steamers is based on the result of actual investigation. The remaining figures are approximate, and not yet investigated.

4. The cargoes carried on the 1,000 Allied and Neutral vessels to or from parts of the British Empire can be considered as of secondary importance to the cargoes carried on British vessels only from the point of view of the fact that such cargoes were on the whole of lesser value. Particulars and values of such cargoes must be ascertained in a similar manner to those relating to cargoes on British ships, and the process of dealing with them separately in the preparation of the claim should only be followed for convenience of organisation. If this course is not adopted it is obvious that the same degree of accuracy will not prevail throughout the whole of the cargo claim and as this part of the claim is likely to be the part in regard to which the Allies are most likely to be in a position to criticise the figures the existence of faults in it may seriously affect the whole claim.

5. A comparatively small proportion of the 2,900 (excluding damaged) cargoes to be investigated may be eliminated on the ground that they were for direct supply to the Forces and may thus be regarded as naval and military material.

6. The work of the preparation of the cargoes claim in the four main sections may be summarised as follows:—

- Collection and co-ordination of data relating to 2,000 Bulk and "Limited General" Cargoes involving consideration of description, quantity, ownership, elimination of naval and Military material, insertion of market values and preparation of claim.
- Collection and co-ordination of data relating to 800 Miscellaneous General Cargoes comprising about 650,000 consignments. The matters to be dealt with correspond to those for bulk and limited general cargoes.
- Collection of data, etc., and preparation of claim in respect of damaged cargoes in the cases of, say, 650 vessels damaged by enemy action.
- Investigation of Market Values and application of market values to individual consignments.

(a) Bulk and "Limited General" Cargoes.

7. The work of investigating, say, 2,000 (eliminating whole cargoes directly consigned to the Forces) bulk and limited general cargoes lost will be considerable, but can be carried out by a comparatively small staff (say 12 persons).

This section will work mainly on returns supplied by Government Departments including Government War Risks records relating to this type of cargo and will collect and co-ordinate data obtained from miscellaneous sources, viz., the Ministry of Shipping, Shipowners (replies to letter issued by the Board of Trade, etc.) In addition manifests and insurance information must be collected where data from other sources is insufficient and nationality of ownership must be investigated.

(b) *Miscellaneous General Cargoes.*

8. The 800 miscellaneous general cargoes need special treatment. Each ship carried several hundred consignments, and the problem is extremely complex and difficult.

9. Then the Ministry of Shipping first considered the problem of valuing cargoes the idea was that as regards bulk cargoes and general cargoes containing a small number of consignments the ownership and values could be carefully investigated and ascertained, but that as regards the ownership of miscellaneous general cargoes it would be necessary that some general broad rule should be adopted: for example, to presume in the absence of evidence to the contrary that the ownership was vested in the country of destination. Similarly it was thought necessary that some means should be found of valuing the cargo of each ship in total from general evidence as to the nature of the cargo without detailed investigation and valuation of each particular consignment.

10. When, however, the matter came before Lord Sumner, he took exception to this method as not supplying a basis of claim which could stand allied and/or enemy criticism. He considered that the ownership and value of each consignment should be investigated and ascertained. It was pointed out that this would mean a very large staff, and that it was very doubtful whether the work could be done in the time. Lord Sumner was, nevertheless, strongly of opinion that in the first instance it should be attempted and that we should only fall back on more general methods if it proved impracticable to carry out the detailed investigations.

Special investigation into manifest, etc., of five vessels.

11. In order to gauge the extent of the work necessary for the preparation of the claim for miscellaneous cargoes on the lines suggested by Lord Sumner, a special investigation of five miscellaneous general cargoes lost on inward or outward bound voyages was made.

12. Dealing with the five cases together it was found that 900 shippers or consignees were interested in a total number of 2,300 consignments.

Of these, 1,400 consignments belonging to 360 shippers or consignees were insured at the Government War Risk Office, as shown by the copies of the manifests obtained from that office.

It was found on examination that in two out of the five cases the manifest supplied by the shipowners, was incomplete, the manifest from the Government War Risk Insurance Office showing fuller details.

13. Addresses were obtained for 160 of the remaining shippers or consignees, and a circular letter was despatched asking for the following particulars:

- (a) shipper's Invoice or Furnisher's Invoice;
- (b) statement of amount for which each consignment of goods was insured against War Risk;
- (c) where the invoice was not available, name and address of insurers, to assist in tracing Invoices which might have been lodged with the Bill of Lading in support of a claim;
- (d) name and address of the owners of the cargo at the time when lost, if known

A schedule was attached to the circular letter indicating the items (with suitable references for identification) with which such shippers were concerned.

14. Within 18 days from the despatch of the 160 letters 88 replies were received. The result of these replies may be tabulated as follows:—

Furnishers' or Shippers' Invoices supplied ...	...	53
Invoices promised ...	...	11
Owners' or insurers' name and address from whom invoices may presumably be obtained.	...	4
Ditto address abroad ...	...	5
Consignments not traced (changed address, etc.)	...	15
Total	...	88

32 of the 88 replies definitely stated who were the owners.

The remaining 380 shippers and consignees whose consignments were not insured through the Government War Risk Scheme and to whom no letters were issued are accounted for as follows:—In fully 100 of those cases the inward bound cargo was destined for Marseilles whilst in the remaining 280 cases the greater proportion relate to consignments of inward bound cargo "to order," and in the balance of the cases the addresses of shippers or consignees could not be traced. The difficulty of tracing addresses may to a large extent be got over by information obtainable from shipowners.

15. In view of these results and from general considerations it seems reasonable to assume that dealing with vessels separately we may expect to find that shippers or consignees were on the average interested in 4 consignments.

Further it is considered that in the cases investigated a much larger proportion of the consignments were insured with the Government War Risks Office than would be found to be so insured in the average of the miscellaneous cargoes to be investigated.

16. A detailed investigation of the value and ownership of cargoes lost involves in the first place the collection of manifests. So far as the 650 miscellaneous cargoes on British vessels are concerned, complete manifests for about 250 of these are available in the Government War Risks Department or the Ministry of Shipping. The remaining 400 manifests can be obtained either from shipowners or from the customs, but it is evident that some time must elapse before manifests can be obtained for cargoes carried to or from parts of the British Empire excluding Great Britain. Moreover, considerable care must be exercised to ensure that each manifest ultimately obtained is in fact a complete record of the particular cargo lost.

17. The collection of manifests of cargoes lost in Allied or Neutral vessels which were carrying goods to or from parts of the British Empire will probably be a more difficult matter. Fortunately the number of miscellaneous general cargoes concerned is probably in the neighbourhood of 150. London agents of shipping companies may be of use for inward cargoes and manifests of outward cargoes can be collected from the Customs.

18. Following the collection of manifests a card system should be set up in order to record and co-ordinate information relating to each consignment. One card will be necessary for each consignment. A card system will have the advantage that similar consignments may be grouped together for purposes of valuation. This card system will comprise approximately:

- 200,000 relating to consignments insured with the Government War Risks Office.
- 350,000 for consignments insured with underwriters.
- 100,000 relating to consignments uninsured or insured abroad.

19. For the 200,000 cases which relate to those parts of 250 miscellaneous cargoes which were insured with the Government War Risks Office the records of that office are available. Arrangements could probably be made for these cards to be written up in the Government War Risks Department, and in these circumstances the labour involved in this section of the work would occupy a staff of, say, 25 for about three months.

The remaining 450,000 cards could be written up in the Ministry of Shipping by a staff of 50 in about three months. These cards, however, would not contain the same information as to value as in the case of the cards prepared from the Government War Risk Records which include for each consignment the invoice and bills of lading.

20. The only evidence of value available without special enquiry is the insured value contained in the claims submitted by Underwriters and others to the Enemy Claims Department.

21. An attempt has been made to relate returns supplied by Underwriters to the Enemy Claims Department to the items in the manifest in order to utilise insured values. The returns, however, do not give sufficient particulars to connect the items in a large proportion of the cases. It is estimated that insured values would be obtained from this source for about 150,000 of the 450,000 consignments for which cards will be written in this office.

22. It is clear that so far values would only be obtained for about 55 per cent of the consignments. Information would be relatively incomplete for cargoes to or from parts of the British Empire excluding Great Britain, whilst information would only be available for a comparatively small proportion of the cargoes in all Allied and Neutral vessels lost on voyages to or from parts of the British Empire.

23. The first source of additional information is that in the possession of the Underwriters over and above that already supplied. It would be possible to arrange that Underwriters should supply invoices and Bills of Lading for all consignments of miscellaneous cargoes lost which were insured with them. This course would have the further advantage that F. O. B. and C. I. F. values would be obtained corresponding to the information in the Government War Risk Records. It is understood, however, that the Underwriters do not always require full documentary evidence in cases where they are dealing with old customers, and also in many cases after the claim was paid they did not preserve the documents.

24. This additional information from Underwriters would not only serve to complete the value information in cases of the consignments in the manifests already connected with the returns furnished to the Enemy Claims Department, but should give complete value information for a further 150,000 consignments insured with Underwriters.

25. Up to this stage the work involved in writing the 450,000 cards in this office, making use of the whole of the Underwriters' information, would take very little more time than the preparation of these cards without such additional information. The staff of 50 suggested, with the assistance of five persons to sort documents, etc., would carry out the work in a little over three months.

The result would be that, coupled with the records to be obtained from the Government War Risks Department, a complete card index of consignments lost would be obtained, and 75 per cent of these cards would contain the full information available as to insured value.

26. The remaining 25 per cent of the consignments include those insured with Underwriters in respect of which documents are not now available, together with consignments not insured or insured abroad.

These cases, numbering about 150,000 consignments, need separate treatment. They include a large part of the cargo carried in British vessels other than to or from Great Britain, together with a considerable proportion of the consignments in Foreign vessels. In these cases it would be necessary to write to shippers or consignees in order to obtain particulars of value. The difficulty of tracing addresses and the time which must necessarily elapse if correspondence is to take place with persons outside Great Britain must be reckoned with.

27. Assuming that each shipper or consignee is interested in 4 consignments the 150,000 consignments to be dealt with would involve correspondence with approximately 40,000 firms or persons. The letters must each be accompanied by extracts from the manifests relating to the consignments in question, and a certain amount of correspondence will probably be necessary following the issue of the initial letters.

In the circumstances it is considered that this section of the work would occupy 15 typists for three months, whilst the work of the original staff of 50 suggested would be extended to a total of 4 months to cover the tabulation of the replies to these letters.

28. The above method would, however, supply only incidental evidence as to the actual ownership of consignments. It would show who insured them in

addition to the names and addresses of Furnishers and Shippers and the name of the Consignee.

To establish the legal ownership of any consignment at the date of loss requires further investigation.

29. Enquiry as to ownership of consignments not insured or insured abroad could be coupled with the enquiries to be made as to value. (See Paragraph 26-7). This would cover 150,000 consignments, but similar enquiry would be necessary in respect of the bulk of the 500,000 consignments.

30. On the basis of one letter for 4 consignments 125,000 Form letters must be issued. The labour involved would occupy a further 45 typists for 3 months, and some increase would be required in the general staff for sorting and tabulating replies. It seems reasonable to suppose that this additional work would occupy the staff of 50 for one month so that up to this point the staff would be engaged for a total period of 5 months.

31. But when this has been done the evidence available in the five special cases investigated points strongly to the conclusion that satisfactory replies as to ownership will not be received for more than 50 per cent. of the consignments, and in the remaining cases we shall be able to presume the nationality of the owner from that of the shipper, consignee, and person who insured the goods.

32. Further, so far as ownership is concerned, it would scarcely be practicable to obtain affidavits or similar legal evidence. We shall have to take the statement of the correspondent as being the truth in the absence of evidence to the contrary. To attempt to obtain affidavits would introduce so much complexity into the enquiry as to make it quite impossible to get it accomplished within anything like reasonable time.

33. It will be necessary to face the question of the remuneration of the persons who provide information. So long as they had a reasonable chance of getting something out of it, firms were prepared to supply us with information in regard to their losses, but as it is now clear that in the majority of cases, at any rate, they cannot expect the Government to share the German indemnity with them, it is necessary to face this question. An early meeting with representative Underwriter organisations should be held, and (probably) a similar meeting representing shipping interests. These interests should be asked to lend the Government their assistance and it will be necessary to indicate that where the preparation of the information for the Government involves any substantial amount of work, the Government will be prepared to make a payment to cover the cost of such work.

Summary.

34. The questions which have to be decided are:—

- (a) Shall the Government War Risks Office proceed to set up an emergency staff to extract particulars of the 200,000 consignments insured with that office?
- (b) Shall we proceed to collect invoices from Underwriters in order to complete the value and information for, say, a further 300,000 consignments?
- (c) Shall we write to Shippers or Consignees for particulars of value and information as to ownership in the cases of the remaining 150,000 consignments?
- (d) Shall we in addition write to Shippers or Consignees of cargo covered by the insurance records (500,000 consignments) in order to establish ownership?

35. The staff of 120 or more required for the full investigation can only be materially reduced by the decision to dispense with (c) and/or (d). If the work is not undertaken under either of these sections it will be possible to dispense with the 25 typists, whilst if (d) alone is eliminated the reduction must be limited to 15 typists. In either case the work of the clerical staff would be shortened by about one month.

36. In connection with (d) it must be pointed out that under Clause 9 of Annexure I, reparation may only be claimed for property belonging to the Allied and Associated Governments or to their nationals, and therefore the Germans can not unfairly require that there should be at the lowest reasonably good grounds for assuming that all property included in the claim really did belong to Allied States or to their nationals. In view of the undoubted difficulty of pushing the enquiries as regards ownership to their final conclusion, it is suggested that the following proposals might be agreed upon between the Allies as fair and equitable and not giving reasons for the Germans fairly to object:—

- (a) In inwards cargoes from the country of an Ally we assume;—
 - (i) that the cargo is owned either by the country of origin or country of destination;
 - (ii) that it belongs to the country of consignee unless the country of origin is in a position to prove that it does not do so.
- (b) For inwards cargoes from neutral countries, the country of the consignee has to supply reasonable grounds for concluding the ownership to be that of a co-national, before being allowed to enter their claim.
- (c) For outwards cargoes to neutrals, similarly the country of origin has to supply reasonable grounds for concluding the ownership to be that of a co-national.

37. By proceeding upon the lines suggested in the preceding paragraph it might be possible to shorten the work a little.

Damaged Cargoes.

38. It is anticipated that the work of the preparation of the claim in respect of damaged cargoes could be kept within narrow limits by utilizing the average adjusters statements. To a considerable extent, however, it would be necessary to make independent investigations in cases not covered in this manner. In the circumstances it is considered that a staff of 8 persons would suffice.

Market values of cargoes and preparation of claim?

39. the work of this section will involve:—

- (a) the collection of records of market values;
- (b) adjustment of these values to allow for differences between the freight charges entering into such market values and a true market rate of freight;
- (c) investigation of the relation between assured values and adjusted values;
- (d) development of a system for the application of market values to particular consignments.

The final stages of the preparation of the claim will largely centre on this section, which will require an expert staff of at least 5.

40. Summary of staff and accommodation for full investigation into the cargoes claim:—

	Staff Number.	60'	Rooms 40	Required, 20'
General supervision, development and application of principles.	1	...	...	1
(a) Bulk and " Limited General ...	12	1	...	...
(b) Miscellaneous general cargoes	81	5	...	6
(c) Damaged Cargoes ...	8	...	1	...
(d) Values section and housing of card system.	5	1	...	...
Miscellaneous work and records ...	15	1	2	...
Total ...	122	8	3	7

It would be possible to dispense with some of the above staff together with the corresponding amount of accommodation if the work was limited as suggested in paragraph 35.

It must be pointed out that the Government War Risks emergency staff of 25 is in addition to the above.

41. The question arises whether this work could not be organized better by farming out more of it to the Government War Risks Office. This has been considered, but on the whole it is thought that the advantage of having the work done in a uniform section all housed in the same building is greater than that of having any larger part than the writing of some of the cards done from the War Risks Office and it is suggested that it will probably be more efficient if arrangements can be made with the War Risks Office to transfer one or two members of their staff to assist and advise.

18th March 1920.

Date.

Despatched

READ AGAIN G.O. No

dated notified 19.

191

READ ALSO:—

C. No. 1986, From the Govt of India, No. 3023, dated 14-6 1920

191

191

ORDER.

No. 224, dated 7-7-1920

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Communicated to the
Custodian of Enemy Property
of Madras for information
and guidance in continua-
tion of Govt No 205 Rev (Spl) wa
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When given for copying—
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192

READ AGAIN G.O. No.
 192

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH SITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL

N.B.—

- A = Copy in full.
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