

Revenue (1920) Department.
(Spl-War)

or duty any SERIES.

G.O. No. 257

DATED 13-8-20.

INDEXED

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[Despatch Abstract.]

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Wor Cr 2255
26/7/20

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.
(Peace Treaty Branch).

No. 64 P.T.

Dated Simla the 17th July 1920.

(19 spare copies)

A copy of the undermentioned paper is forwarded for information and guidance to the Secretary to the Government of Madras, Revenue (Special) Department.

By order, etc.,

C. Menon

for Deputy Secretary to the Government of India.

Paper forwarded.

The India Treaty of Peace Order in Council, 1920.
(Gazette of India, Extraordinary, dated the 6th July 1920).

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 6th July, 1920.

No. 68.—The following Order in Council was published in the London Gazette on the 2nd July, 1920, and is hereby republished for information.

THE INDIA TREATY OF PEACE ORDER IN COUNCIL, 1920.

Present :

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

"WHEREAS at Versailles on the 28th day of June nineteen hundred and nineteen, a Treaty of Peace (hereinafter referred to as "the Treaty") was signed on behalf of His Majesty :

And whereas by the Treaty of Peace Act, 1919, it was provided that His Majesty might make such appointments, establish such offices, make such Orders in Council and do such things as appeared to him to be necessary for carrying out the Treaty, and for giving effect to any of the provisions of the Treaty, and that any Order in Council made under that Act might provide for the imposition by summary process or otherwise of penalties in respect of breaches of the provisions thereof :

And whereas the Treaty contained the sections set out in the Schedule to this Order, and it is expedient that for giving effect to those sections the provisions hereinafter contained should have effect :

And whereas by Treaty grant, usage, sufferance or other lawful means His Majesty has power and jurisdiction in territories and in regard to persons in India outside British India and is pleased by virtue and in exercise of the powers vested in Him by the Foreign Jurisdiction Act, 1890, and all other powers enabling him in this behalf to extend the provisions of this Order to such territories or persons :

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows :—

1. The sections of the Treaty set out in the Schedule to this Order shall have full force and effect as law, and for the purpose of carrying out the said sections the following provisions shall have effect :—

- (i) There shall be established in India at such place as the Governor General in Council may determine a Local Clearing Office under the control and management of such person (hereinafter referred to as the Controller) as the Governor General in Council may appoint for the purpose, and there shall be attached thereto such officers and servants on such salaries or other remuneration as the Governor General in Council may determine.
- (ii) It shall not be lawful for any person, to pay or accept payment of any enemy debt except in cases where recovery thereof in a court of law is allowed as hereinafter provided, otherwise than through the Local Clearing Office established under this Order or the Clearing Office established for the purposes of the Treaty in the United Kingdom and no person interested in any such debt as debtor or creditor shall have any communications with any other person interested therein as creditor or debtor except through or by leave of either of such Offices. Any person contravening this provision shall on conviction be punished with imprisonment for a term which may extend to two years, or with fine or with both :

Provided that—

- (a) in the case of any Company contravening this provision, every director, manager, secretary or other officer of the Company who is knowingly a party to the transaction shall be deemed guilty of the offence.
- (b) A prosecution for such offence shall not be instituted except with the sanction of the Governor General in Council.
- (iii) It shall not be lawful for any person to take proceedings in any court for the recovery of any enemy debt except in the circumstances provided under paragraphs 16, 23 and 25 of the Annex to section III of the Treaty.

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- (iv) The Local Clearing Office shall have power to enforce the payment of any enemy debt against the person by whom the debt is due, together with such interest as is payable under paragraph 22 of the Annex to the said section III, and for that purpose shall have all such rights and powers as if it were the creditor; and if the debt has been admitted by the debtor or the debt or amount thereof has been found by arbitration or by the Mixed Arbitral Tribunal or by a court of law in manner provided by paragraph 16 of the Annex to the said section III, the Local Clearing Office may certify the amount so admitted or found due, and on application by it, in the principal civil court of original jurisdiction of the place in which the debtor resides, the certificate shall be filed in such court and thereafter all proceedings may be taken thereon, as if the certificate were a decree obtained in that court for the recovery of a debt of the amount specified in the certificate and signed on the date of such filing, and all reasonable costs and charges attendant upon the filing, of such certificate shall be recoverable in like manner as if they were part of such decree.
- (v) It shall be lawful for the Local Clearing Office to recover from any person by whom a fine is payable under paragraph 10 of the Annex to the said section III, the amount of such fine, and for this purpose the Controller may certify the amount of such fine and the person by whom it is due to the nearest Magistrate who shall have all power to recover the same as if it were a fine realisable under the Code of Criminal Procedure (Act V 1898).
- (vi) It shall be lawful for the Local Clearing Office to deduct from any sum payable by such Clearing Office to a creditor such commission, not exceeding two-and-a-half per cent. of the amount payable, as may be fixed by the Clearing Office in the United Kingdom.
- (vii) If any creditor refuses or fails to give such notice or to furnish such documents or information as are mentioned in paragraph 5 of the Annex to the said section III, he shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.
- (viii) If any person collusively gives notice of or admits any debt which is not due, or furnishes any false information with respect to any debt, he shall, on conviction before a Magistrate, be punishable with imprisonment which may extend to three months, or with fine or with both.
- (ix) If His Majesty so agrees with any of the other Allied or Associated Powers the provisions of this Order, so far as they relate to enemy debts, shall apply to debts due to or from the nationals of that Power resident in any part of India as they apply to or debts due to from British nationals so resident.
- (x) Proceedings by and on behalf of the Local Clearing Office may be taken by and in the name of the Controller of the Local Clearing Office, who may by that name sue and be sued, and costs may be awarded to or against the Controller.
- (xi) Every document purporting to be an order or other instrument issued by the Local Clearing Office and to be signed by the Controller or other person authorised by him shall be received in evidence, and shall be deemed to be such order or instrument without further proof unless the contrary is shown.
- (xii) A certificate signed by the Controller that an order or other instrument purporting to be made or issued by the Local Clearing Office is so made or issued shall be conclusive evidence of the facts so certified.
- (xiii) The Controller shall be deemed to be a public officer and any documents forming part of the Acts or records of the Acts of the Controller shall be deemed to be "public" documents for the purpose of Chapter V of the Indian Evidence Act.
- (xiv) All decisions of the Mixed Arbitral Tribunal constituted under section VI of Part X of the Treaty, if within the jurisdiction of that Tribunal, shall be final and conclusive and binding on all courts.
- (xv) For the purpose of enforcing the attendance of witnesses before the Mixed Arbitral Tribunal, whether sitting in India or not, and compelling the production before the Tribunal of documents, a Secretary to the Government of India shall have power to issue orders which shall have the like effect as if the proceedings before the Tribunal were a suit in a court and the order were a formal process issued by that court in the due exercise of its jurisdiction, and disobedience to any such order shall be punishable under the Indian Penal Code.
- (xvi) All property, rights and interests within India belonging to German nationals at the date when the Treaty comes into force (not being property, rights or

interests acquired under any general licence issued by or on behalf of His Majesty), and the net proceeds of their sale, liquidation or other dealings therewith, are hereby charged—

- (a) in the first place, with payment of the amounts due in respect of claims by British nationals in India with regard to their property, rights and interests, including companies and associations in which they are interested in German territory, and debts owing to them by German nationals, and with payment of any compensation awarded by the Mixed Arbitral Tribunal, or by an arbitrator appointed by that Tribunal in pursuance of paragraph (e) of Article 297, and with payment of claims growing out of acts committed by the German Government or by German authorities since the thirty-first day of July, and before the fourth day of August, nineteen hundred and fourteen;
- (b) secondly, with payment of the amounts due in respect of claims by British nationals in India with regard to their property, rights and interests in the territories of Austria-Hungary, Bulgaria and Turkey, in so far as those claims are not otherwise satisfied; and
- (c) thirdly, with payment of amounts due in respect of claims and debts by any British nationals of the nature referred to in clauses (a) and (b):

Provided that any particular property rights or interests so charged may, at any time, be released from the charge so created by order of the Governor General in Council.

(xvii) With a view to making effective and enforcing such charge as aforesaid—

- (a) no person shall, without the consent of the Custodian appointed for the area in which such person resides or carries on business, transfer, part with or otherwise deal in any property, right or interest subject to the charge. Any person who contravenes this provision shall, on conviction before a Magistrate, be punished with imprisonment which may extend to three months, or with fine or with both;
- (b) every person owning or having the control or management of any property, right or interest in India subject to the charge (including where the property, right or interest consists of shares, stocks or other securities issued by a company, municipal authority or other body, or any right or interest therein such company, authority or body) shall, unless particulars thereof have already been furnished to the Custodian in accordance with the Indian Enemy Trading Acts, 1915, 1916, within one month from the date when this Order comes into operation by notice in writing communicate the fact to the Custodian appointed for the area in which such person resides or carries on business and shall furnish the Custodian with such particulars in relation thereto as the Custodian may require, and if any person fails to do so he shall on conviction before a Magistrate be liable to fine;
- (c) where the property charged consists of inscribed or registered stock, shares or other securities, any company, municipal authority or other body by whom the securities were issued or are managed shall, on application being made by the Custodian, appointed for the area in which such company, municipal authority or other body has its principal office, enter such Custodian in the books in which the securities are inscribed or registered as the proprietor of the securities subject to the charge, and such Custodian shall, subject to the consent of the Governor General in Council, have power to sell or otherwise deal with the securities as proprietor of which he is so inscribed or registered;
- (d) the Governor General in Council may by order vest in a Custodian any property, rights and interests subject to the charge, or the right to transfer the same, and for that purpose section seven of the Indian Enemy Trading Act, 1916, shall, in relation to German nationals continue in force and shall apply as if such property, rights and interests were property belonging to an enemy or enemy subject;
- (e) if any person called upon to pay any money or to transfer or otherwise to deal with any property, rights or interests has reason to suspect that the same are subject to such charge as aforesaid, he shall before paying, transferring or dealing with the same report the matter to the Custodian appointed for the area in which such person resides or carries on business, and shall comply with any directions that the Custodian may give with respect thereto.

p 33 infra
 (vii) The time at which the period of prescription or limitation of right of action referred to in Article 300 shall begin again to run shall be at the expiration of six months after the coming into force of the Treaty, and the period to be allowed within which presentation of negotiable instruments for acceptance or payment and notice of non-acceptance or non-payment or protest may be made under Article 301 shall be six months from the coming into force of the Treaty.

p 15 infra
 (viii) Rules made during the war by any recognised Exchange or Commercial Association providing for the closure of contracts entered into before the war by an enemy and any action taken thereunder are hereby confirmed subject to the provisos contained in paragraph 4 (a) of the Annex to section V of Part X of the Treaty.

p 18-19 infra
 (ix) There shall be imposed on rights of industrial, literary or artistic property (with the exception of trade marks) acquired before or during the war, or which may be acquired hereafter, by German nationals, such limitations, conditions or restrictions as the Governor General in Council may prescribe, for the purpose, in the manner, in the circumstances, and subject to the limitations, contained in Article 306 of the Treaty, and any transfer in whole or in part or other dealing with any rights so acquired as aforesaid effected since the first day of August, nineteen hundred and fourteen, shall if and so far as it is inconsistent with any limitations, conditions or restrictions so imposed be void and of no effect.

p 19 "
 (x) So far as may be necessary for the purpose of Article 307 the Indian Patents and Designs (Temporary Rules) Act, 1915 [except section two of such Act] shall in relation to German nationals continue in force as if references therein to subjects of a State at war with His Majesty included references to German nationals.

p 20 "
 (xi) The duly qualified Tribunal for the purposes of Article 310 of the Treaty shall be the Controller of Patents and Designs, appointed under the Indian Patents and Designs Act, 1911.

p 6 "
 (xii) The notices to be given by creditors resident in India under paragraph 5 of the Annex to section III of the Treaty shall be given, together with the particulars required by that clause to the Controller of the Local Clearing Office.

2. For the purposes of this Order—

The expression "enemy debt" has the meaning assigned to it by paragraph 2 of the Annex to section III of Part X of the Treaty, and includes any sum which under the Treaty is to be treated or dealt with in like manner as an enemy debt:

The expression "nationals" in relation to any State includes the subjects or citizens of that State and any company or corporation incorporated therein according to the law of that State, and in the case of a Protectorate the natives thereof:

The expression "British national in India" includes any person who being a British national resides or carries on business in India and any subject of a State in India.

The expression "Custodian" means a Custodian of enemy property appointed under the Indian Enemy Trading Act, 1915, the provisions of which Act in regard to Custodians are hereby continued for the purposes of this Order.

The Interpretation Act, 1889, applies for the interpretation of this Order in like manner as it applies for the interpretation of an Act of Parliament, and as if this Order were an Act of Parliament.

3. This Order shall apply to India and shall come into operation at once.

4. The Governor General in Council may, by notification in the *Gazette of India*, provide by regulations for all matters incidental to or consequential on the provision of this Order and in particular may make regulations for the purpose of enforcing the charge created by this Order and for making such arrangements as may be required for establishing and assessing the claims and debts for the payment of which the property charged is rendered liable and for payment in whole or in part of the sums due.

5. This Order may be cited as the India Treaty of Peace Order, 1920."

SCHEDULE.

SECTIONS III TO VII OF PART X OF THE TREATY.

SECTION III.—DEBTS.

ARTICLE 296.

"There shall be settled through the intervention of Clearing Offices to be established by each of the High Contracting Parties within three months of the notification referred to in paragraph (e) hereafter the following classes of pecuniary obligations:

1. Debts payable before the war and due by a national of one of the contracting Powers, residing within its territory, to a national of an Opposing Power, residing within its territory.

2. Debts which became payable during the war to nationals of one Contracting Power residing within its territory and arose out of transactions or contracts with the nationals of an Opposing Power, resident within its territory, of which the total or partial execution was suspended on account of the declaration of war.

3. Interest which has accrued due before and during the war to a national of one of the Contracting Powers in respect of securities issued by an Opposing Power, provided that the payment of interest on such securities to the nationals of that Power or to neutrals has not been suspended during the war.

4. Capital sums which have become payable before and during the war to nationals of one of the Contracting Powers in respect of securities issued by one of the Opposing Powers, provided that the payment of such capital sums to nationals of that Power or to neutrals has not been suspended during the war.

The proceeds of liquidation of enemy property, rights, and interests mentioned in Section IV and in the Annex thereto will be accounted for through the Clearing Offices, in the currency and at the rate of exchange hereinafter provided in paragraph (d) and disposed of by them under the conditions provided by the said Section and Annex.

The settlements provided for in this Article shall be effected according to the following principles and in accordance with the Annex to this Section:—

(a) Each of the High Contracting Parties shall prohibit, as from the coming into force of the present Treaty, both the payment and the acceptance of payment of such debts, and also all communications between the interested parties with regard to the settlement of the said debts otherwise than through the Clearing Offices.

(b) Each of the High Contracting Parties shall be respectively responsible for the payment of such debts due by its nationals, except in the cases where before the war the debtor was in a state of bankruptcy or failure, or had given formal indication of insolvency or where the debt was due by a company whose business has been liquidated under emergency legislation during the war. Nevertheless, debts due by the inhabitants of territory invaded or occupied by the enemy before the Armistice will not be guaranteed by the States of which those territories form part.

(c) The sums due to the nationals of one of the High Contracting Parties by the nationals of an Opposing State will be debited to the Clearing Office of the country of the debtor, and paid to the creditor by the Clearing Office of the country of the creditor.

(d) Debts shall be paid or credited in the currency of such one of the Allied and Associated Powers, their colonies or protectorates or the British Dominions or India, as may be concerned. If the debts are payable in some other currency they shall be paid or credited in the currency of the country concerned, whether an Allied or Associated Power, Colony, Protectorate, British Dominion or India, at the pre-war rate of exchange.

For the purpose of this provision the pre-war rate of exchange shall be defined as the average cable transfer rate prevailing in the Allied or Associated country concerned during the month immediately preceding the outbreak of war between the said country concerned and Germany.

If a contract provides for a fixed rate of exchange governing the conversion of the currency in which the debt is stated into the currency of the Allied or Associated country concerned, then the above provisions concerning the rate of exchange shall not apply.

In the case of new States the currency in which and the rate of exchange at which debts shall be paid or credited shall be determined by the Reparation Commission provided for in Part VIII. (Reparation).

(e) The provisions of this Article and of the Annex hereto shall not apply as between Germany on the one hand and any one of the Allied and Associated Powers, their colonies or protectorates, or any one of the British Dominions or India on the other hand, unless within a period of one month from the deposit of the ratification of the present Treaty by the Power in question, or of the ratification on behalf of such Dominion or of India notice to that effect is given to Germany by the Government of such Allied or Associated Power or of such Dominion or of India as the case may be.

(f) The Allied and Associated Powers who have adopted this Article and the Annex hereto may agree between themselves to apply them to their respective nationals established in their territory so far as regards matters between their nationals and German nationals. In this case the payments made by application of this provision will be subject to arrangements between the allied and associated Clearing Offices concerned.

ANNEX.

1. Each of the High Contracting Parties will within three months from the notification provided for in Article 296, paragraph (e), establish a Clearing Office for the collection and payment of enemy debts.

Local Clearing Offices may be established for any particular portion of the territories of the High Contracting Parties. Such local Clearing Offices may perform all the functions of a central Clearing Office in their respective districts, except that all transactions with the Clearing Office in the Opposing State must be effected through the central Clearing Office.

2. In this Annex the pecuniary obligations referred to in the first paragraph of Article 296 are described as "enemy debts," the persons from whom the same are due as "enemy debtors," the persons to whom they are due as "enemy creditors," the Clearing Office in the country of the creditor is called the "Creditor Clearing Office," and the Clearing Office in the country of the debtor is called the "Debtor Clearing Office."

3. The High Contracting Parties will subject contraventions of paragraph (a) of Article 296 to the same penalties as are at present provided by their legislation for trading with the enemy. They will similarly prohibit within their territory all legal process relating to payment of enemy debts, except in accordance with the provisions of this Annex.

4. The Government guarantee specified in paragraph (b) of Article 296 shall take effect whenever, for any reason, a debt shall not be recoverable, except in a case where at the date of the outbreak of war the debt was barred by the laws of prescription in force in the country of the debtor or where the debtor was at that time in a state of bankruptcy or failure or had given formal indication of insolvency, or where the debt was due by a company whose business has been liquidated under emergency legislation during the war. In such case the procedure specified by this Annex shall apply to payment of the dividends.

The terms "bankruptcy" and "failure" refer to the application of legislation providing for such juridical conditions. The expression "formal indication of insolvency" bears the same meaning as it has in English law.

5. Creditors shall give notice to the Creditor Clearing Office within six months of its establishment of debts due to them, and shall furnish the Clearing Office with any documents and information required of them.

The High Contracting Parties will take all suitable measures to trace and punish collusion between enemy creditors and debtors. The clearing offices will communicate to one another any evidence and information which might help the discovery and punishment of such collusion.

The High Contracting Parties will facilitate as much as possible postal and telegraphic communication at the expense of the parties concerned and through the intervention of the Clearing Offices between debtors and creditors desirous of coming to an agreement as to the amount of their debt.

The Creditor Clearing Office will notify the Debtor Clearing Office of all debts declared to it. The Debtor Clearing Office will, in due course, inform the Creditor Clearing Office which debts are admitted and which debts are contested. In the latter case, the Debtor Clearing Office will give the grounds for the non-admission of debt.

6. When a debt has been admitted, in whole or in part, the Debtor Clearing Office will at once credit the Creditor Clearing Office with the amount admitted, and at the same time notify it of such credit.

7. The debt shall be deemed to be admitted in full and shall be credited forthwith to the Creditor Clearing Office unless within three months from the receipt of the notification or such longer time as may be agreed to by the Creditor Clearing Office notice has been given by the Debtor Clearing Office that it is not admitted.

8. When the whole or part of a debt is not admitted the two Clearing Offices will examine into the matter jointly and will endeavour to bring the parties to an agreement.

9. The Creditor Clearing Office will pay to the individual creditor the sums credited to it out of the funds placed at its disposal by the Government of its country and in accordance with the conditions fixed by the said Government, retaining any sums considered necessary to cover risks, expenses or commissions.

10. Any person having claimed payment of an enemy debt which is not admitted in whole or in part shall pay to the Clearing Office, by way of fine, interest at 5 per cent. on the part not admitted. Any person having unduly refused to admit the whole or part of a debt claimed from him shall pay, by way of fine, interest at 5 per cent. on the amount with regard to which his refusal shall be disallowed.

Such interest shall run from the date of expiration of the period provided for in paragraph 7 until the date on which the claim shall have been disallowed or the debt paid.

Each Clearing Office shall in so far as it is concerned, take steps to collect the fines, above provided for and will be responsible if such fines cannot be collected.

The fines will be credited to the other Clearing Office, which shall retain them as a contribution towards the cost of carrying out the present provisions.

11. The balance between the Clearing Offices shall be struck monthly and the credit balance paid in cash by the debtor State within a week.

Nevertheless, any credit balances which may be due by one or more of the Allied and Associated Powers shall be retained until complete payment shall have been effected of the sums due to the Allied or Associated Powers or their nationals on account of the war.

12. To facilitate discussion between the Clearing Offices each of them shall have a representative at the place where the other is established.

13. Except for special reasons all discussions in regard to claims will, so far as possible, take place at the Debtor Clearing Office.

14. In conformity with Article 296, paragraph (b), the High Contracting Parties are responsible for the payment of the enemy debts owing by their nationals.

The debtor Clearing Office will therefore credit the Creditor Clearing Office with all debts admitted even in case of inability to collect them from the individual debtor. The Governments concerned will, nevertheless, invest their respective Clearing Offices with all necessary powers for the recovery of debts which have been admitted.

As an exception, the admitted debts owing by persons having suffered injury from acts of war shall only be credited to the Creditor Clearing Office when the compensation due to the person concerned in respect of such injury shall have been paid.

15. Each Government will defray the expenses of the Clearing Office set up in its territory including the salaries of the staff.

16. Where the two Clearing Offices are unable to agree whether a debt claimed is due or in case of a difference between an enemy debtor and an enemy creditor or between the Clearing Offices, the dispute shall either be referred to arbitration, if the parties so agree under conditions fixed by agreement between them, or referred to the Mixed Arbitral Tribunal provided for in Section VI, hereafter.

At the request of the Creditor Clearing Office the dispute may, however, be submitted to the jurisdiction of the Courts of the place of domicile of the debtor.

17. Recovery of sums found by the Mixed Arbitral Tribunal, the Court, or the Arbitration Tribunal to be due shall be effected through the Clearing Offices as if these sums were debts admitted by the Debtor Clearing Office.

18. Each of the Governments concerned shall appoint an agent who will be responsible for the presentation to the Mixed Arbitral Tribunal of the cases conducted on behalf of its Clearing Office. This agent will exercise a general control over the representatives or counsel employed by its nationals.

Decisions will be arrived at on documentary evidence but it will be open to the Tribunal to hear the parties in person, or according to their preference by their representatives approved by the two Governments, or by the agent referred to above, who shall be competent to intervene along with the party or to re-open and maintain a claim abandoned by the same.

19. The Clearing Offices concerned will lay before the Mixed Arbitral Tribunal all the information and documents in their possession, so as to enable the Tribunal to decide rapidly on the cases which are brought before it.

20. Where one of the parties concerned appeals against the joint decision of the two Clearing Offices he shall make a deposit against the costs, which deposit shall only be refunded when the first judgment is modified in favour of the appellant and in proportion to the success.

he may attain, his opponent in case of such a refund being required to pay an equivalent proportion of the costs and expenses. Security accepted by the Tribunal may be substituted for a deposit.

A fee of 5 per cent. of the amount in dispute shall be charged in respect of all cases brought before the Tribunal. This fee shall, unless the Tribunal directs otherwise, be borne by the unsuccessful party. Such fee shall be added to the deposit referred to. It is also independent of the security.

The Tribunal may award to one of the parties a sum in respect of the expenses of the proceedings.

Any sum payable under this paragraph shall be credited to the Clearing Office of the successful party as a separate item.

21. With a view to the rapid settlement of claims, due regard shall be paid in the appointment of all persons connected with the Clearing Offices or with the Mixed Arbitral Tribunal to their knowledge of the language of the other country concerned. Each of the clearing offices will be at liberty to correspond with the other, and to forward documents in its own language.

22. Subject to any special agreement to the contrary between the Governments concerned debts shall carry interest in accordance with the following provisions:—

Interest shall not be payable on sums of money due by way of dividend, interest, or other periodical payments which themselves represent interest on capital.

The rate of interest shall be 5 per cent. per annum except in cases where, by contract, law or custom, the creditor is entitled to payment of interest at a different rate. In such cases the rate to which he is entitled shall prevail.

Interest shall run from the date of commencement of hostilities (or, if the sum of money to be recovered fell due during the war, from the date at which it fell due) until the sum is credited to the Clearing Office of the creditor.

Sums due by way of interest shall be treated as debts admitted by the Clearing Offices and shall be credited to the Creditor Clearing Offices in the same way as such debts.

23. Where by decision of the Clearing Offices or the Mixed Arbitral Tribunal a claim is held not to fall within Article 296, the creditor shall be at liberty to prosecute the claim before the Courts or to take such other proceedings as may be open to him.

The presentation of a claim to the Clearing Office suspends the operation of any period of prescription.

24. The High Contracting Parties agree to regard the decisions of the Mixed Arbitral Tribunal as final and conclusive, and to render them binding upon their nationals.

25. In any case where a Creditor Clearing Office declines to notify a claim to the Debtor Clearing Office, or to take any step provided for in this Annex, intended to make effective in whole or in part a request of which it has received due notice, the enemy creditor shall be entitled to receive from the Clearing Office a certificate setting out the amount of the claim, and shall then be entitled to prosecute the claim before the Courts or to take such other proceedings as may be open to him.

SECTION IV.—PROPERTY, RIGHTS AND INTERESTS.

ARTICLE 297.

The question of private property rights and interests in an enemy country shall be settled according to the principles laid down in this Section and to the provision of the Annex hereto:—

- (a) The exceptional war measures and measures of transfer (defined in paragraph 3 of the Annex hereto) taken by Germany, with respect to the property, rights and interests of nationals of Allied or Associated Powers including companies and associations in which they are interested, when liquidation has not been completed, shall be immediately discontinued or stayed and the property, rights and interests concerned restored to their owners, who shall enjoy full rights therein in accordance with the provisions of Article 298.
- (b) Subject to any contrary stipulations which may be provided for in the present Treaty, the Allied and Associated Powers reserve the right to retain and liquidate all property, rights and interests belonging at the date of the coming into force of the present Treaty to German nationals or companies controlled by them, within their territories, colonies, possessions and protectorates including territories ceded to them by the present Treaty.

The liquidation shall be carried out in accordance with the laws of the Allied or Associated State concerned, and the German owner shall not be able to dispose of such property, rights, or interests nor to subject them to any charge without the consent of the State.

German nationals who acquire *ipso facto* the nationality of an Allied or Associated Power in accordance with the provisions of the present Treaty will not be considered as German nationals within the meaning of this paragraph.

- (c) The price of the amount of compensation in respect of the exercise of the right referred to in the preceding paragraph (b) will be fixed in accordance with the methods of sale or valuation adopted by the laws of the country in which the property has been retained or liquidated.
- (d) As between the Allied and Associated powers or their nationals on the one hand and Germany or her nationals on the other hand, all the exceptional war measures, or measures of transfer, for acts done or to be done in execution of such measures as defined in paragraphs 1 and 3 of the Annex hereto shall be considered as final and binding upon all persons except as regards the reservations laid down in the present treaty.
- (e) The nationals of Allied and Associated Powers shall be entitled to compensation in respect of damage or injury inflicted upon their property, rights, or interests, including any company or association in which they are interested, in German territory as it existed on August 1st, 1914, by the application either of the exceptional war measures, or measures of transfer, mentioned in paragraphs 1 and 3 of the Annex hereto. The claims made in this respect by such nationals shall be investigated, and the total of the compensation shall be determined by the Mixed Arbitral Tribunal provided for in Section VI or by an arbitrator appointed by that Tribunal. This compensation shall be borne by Germany, and may be charged upon the property of German nationals within the territory or under the control of the claimant's State. This property may be constituted as a pledge for enemy liabilities under the conditions fixed by paragraph 4 of the Annex hereto. The payment of this compensation may be made by the Allied or Associated State, and the amount will be debited to Germany.
- (f) Whenever a national of an Allied or Associated Power is entitled to property which has been subjected to a measure of transfer in German territory and expresses a desire for its restitution, his claim for compensation in accordance with paragraph (e) shall be satisfied by the restitution of the said property if it still exists in specie.

In such cases Germany shall take all necessary steps to restore the evicted owner to the possession of his property, free from all encumbrances or burdens with which it may have been charged after the liquidation, and to indemnify all third parties injured by the restitution.

If the restitution provided for in this paragraph cannot be effected, private agreements arranged by the intermediation of the Powers concerned or the Clearing Offices provided for in the Annex to Section III may be made, in order to secure that the national of the Allied or Associated Power may secure compensation for the injury referred to in paragraph (e) by the grant of advantages or equivalents which he agrees to accept in place of the property, rights, or interests of which he was deprived.

Through restitution in accordance with this article, the price or the amount of compensation fixed by the application of paragraph (e) will be reduced by the actual value of the property restored, account being taken of compensation in respect of loss of use or deterioration.

- (g) The rights conferred by paragraph (f) are reserved to owners who are nationals of Allied or Associated Powers within whose territory legislative measures prescribing the general liquidation of enemy property, rights, or interests were not applied before the signature of the armistice.
- (h) Except in cases where, by application of paragraph (f), restitutions in specie have been made, the net proceeds of sales of enemy property, rights or interests, wherever situated, carried out, either by virtue of war legislation, or by application of this article, and in general all cash assets of enemies, shall be dealt with as follows:—
 - (1) As regards Powers adopting Section III and the Annex thereto, the said proceeds and cash assets shall be credited to the Power of which the owner is a national, through the Clearing Office established thereunder; any credit balance in favour of Germany resulting therefrom shall be dealt with as provided in Article 243.

- (2) As regards Powers not adopting Section III and the Annex thereto, the proceeds of the property, rights and interests, and the cash assets, of the nationals of Allied or Associated Powers held by Germany shall be paid immediately to the person entitled thereto or to his Government; the proceeds of the property, rights and interests, and the cash assets, of German nationals received by an Allied or Associated Power shall be subject to disposal by such Power in accordance with its laws and regulations and may be applied in payment of the claims and debts defined by this article or paragraph 4 of the Annex hereto. Any property, rights and interests or proceeds thereof or cash assets not used as above provided may be retained by the said Allied or Associated Power and if retained the cash value thereof shall be dealt with as provided in Article 248.

In the case of liquidations effected in new States, which are signatories of the present Treaty as Allied and Associated Powers, or in States which are not entitled to share in the reparation payments to be made by Germany the proceeds of liquidations effected by such State shall be subject to the rights of the Reparation Commission under the present Treaty particularly under Articles 235 and 260, be paid direct to the owner. If on the application of that owner, the Mixed Arbitral Tribunal, provided for by Section VI of this part or an arbitrator appointed by that Tribunal, is satisfied that the conditions of the sale or measures taken by the Government of the State in question outside its general legislation were unfairly prejudicial to the price obtained, they shall have discretion to award to the owner equitable compensation to be paid by that State.

- (i) Germany undertakes to compensate her nationals in respect of the sale or retention of their property, rights or interests in Allied or Associated States.
- (j) The amount of all taxes and imposts upon capital levied or to be levied by Germany on the property, rights and interests of the nationals of the Allied or Associated Powers from November 11th, 1918 until three months from the coming into force of the present Treaty, or, in the case of property, rights or interests which have been subjected to exceptional measures of war until restitution in accordance with the present Treaty, shall be restored to the owners.

ARTICLE 298.

Germany undertakes, with regard to the property, rights, and interests, including companies and associations in which they were interested, restored to nationals of Allied and Associated Powers in accordance with the provisions of Article 297, paragraph (a) or (f) :—

- (a) to restore and maintain, except as expressly provided in the present Treaty, the property, rights and interests of the nationals of Allied or Associated Powers in the legal position obtaining in respect of the property, rights and interests of German nationals under the laws in force before the war ;
- (b) not to subject the property, rights or interests of the nationals of the Allied or Associated Powers to any measures in derogation of property rights, which are not applied equally to the property, rights and interests of German nationals, and to pay adequate compensation in the event of the application of those measures.

ANNEX.

1. In accordance with the provisions of Article 297, paragraph (d), the validity of vesting orders and of orders for the winding up of businesses or companies, and of any other orders, directions, decisions, or instructions of any Court or any Department of the Government of any of the High Contracting Parties made or given or purporting to be made or given, in pursuance of war legislation with regard to enemy property, rights, and interests is confirmed. The interests of all persons shall be regarded as having been effectively dealt with by any order, direction, decision or instruction, dealing with property in which they may be interested, whether or not such interests are specifically mentioned in the orders, direction, decision or instruction. No question shall be raised as to the regularity of a transfer of any property, rights or interests dealt with in pursuance of any such order, direction, decision, or instruction. Every action taken with regard to any property, business, or company, whether as regards its investigation, sequestration, compulsory administration, use, requisition, supervision, or winding up, the sale or management of property, rights, or interests, the collection or discharge of debts, the payment of cost, charges or expenses, or any other matter whatsoever, in pursuance of orders, directions, decisions, or instructions of any Court or of any department of the Government of any of the High Contracting Parties, made or given, or purporting to be made or given in pursuance of war legislation with regard to enemy property, rights, or interests, is confirmed. Provided that the provisions of this paragraph shall not be held to prejudice the titles to property heretofore acquired in good faith and for value and in accordance with the

laws of the country in which the property is situated by nationals of the Allied and Associated Powers.

The provisions of this paragraph do not apply to such of the above-mentioned measures as have been taken by the German authorities in invaded or occupied territory, nor to such of the above-mentioned measures as have been taken by Germany or the German authorities since November 11th, 1918, all of which shall be void.

2. No claim or action shall be made or brought against any Allied or Associated Power or against any person acting on behalf of or under the direction of any legal authority or Department of the Government of such a power by Germany or by any German national wherever resident in respect of any act or omission with regard to his property, rights, or interests during the war or in preparation for the war. Similarly, no claim or action shall be made or brought against any person in respect of any act or omission under or in accordance with the exceptional war measures, laws or regulations of any Allied or Associated Power.

3. In Article 297 and this Annex the expression "exceptional war measures" includes measures of all kinds, legislative, administrative, judicial, or others, that have been taken or will be taken hereafter with regard to enemy property, and which have had or will have the effect of removing from the proprietors the power of disposition over their property, though without affecting the ownership such as measures of supervision, of compulsory administration, and of sequestration : or measures which have had or will have as an object the seizure of, the use of, or the interference with enemy assets for whatsoever motive, under whatsoever form, or in whatsoever place. Acts in the execution of these measures include all detentions, instructions, orders, or decrees of Government departments or Courts applying these measures to enemy property, as well as acts performed by any person connected with the administration or the supervision of enemy property, such as the payment of debts the collecting of credits, the payment of any costs, charges, or expenses or the collecting of fees.

Measures of transfer are those which have affected or will affect the ownership of enemy property by transferring it in whole or in part to a person other than the enemy owner, and without his consent, such as measures directing sale, liquidation, or devolution of ownership in enemy property, or the cancelling of titles or securities.

4. All property, rights, and interests of German nationals within the territory of any Allied or Associated Power and the net proceeds of their sale, liquidation or other dealing therewith may be charged by that Allied or associated Power in the first place with payment of amounts due in respect of claims by the nationals of that Allied or Associated Power with regard to their property, rights, and interests, including companies and associations in which they are interested, in German territory, or debts owing to them by German nationals and with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that Allied or Associated Power entered into the war. The amount of such claims may be assessed by an arbitrator appointed by Mr. Gustave Ador, if he is willing, or if no such appointment is made by him, by an arbitrator appointed by the Mixed Arbitral Tribunal provided for in section VI. They may be charged in the second place with payment of the amounts due in respect of claims by the nationals of such Allied or Associated Power with regard to their property, rights, and interests in the territory of other enemy Powers, in so far as those claims are otherwise unsatisfied.

5. Notwithstanding the provisions of article 297, where immediately before the outbreak of war a company incorporated in an Allied or Associated State had rights in common with a company controlled by it and incorporated in Germany to the use of trade-marks in third countries, or enjoyed the use in common with such company of unique means of reproduction of goods or articles for sale in third countries, the former company shall alone have the right to use these trade-marks in third countries to the exclusion of the German company, and these unique means of reproduction shall be handed over to the former company, notwithstanding any action under German war legislation with regard to the latter company or its business, industrial property or shares. Nevertheless, the former company if requested, shall deliver to the latter company derivative copies permitting the continuation of reproduction of articles for use within German territory.

6. Up to the time when restitution is carried out in accordance with article 297, Germany is responsible for the conservation of property, rights, and interests of the nationals of Allied or Associated Powers, including companies and associations in which they are interested, that have been subjected by her to exceptional war measures.

7. Within one year from the coming into force of the present Treaty, the Allied or Associated Powers will specify the property, rights, and interests over which they intend to exercise the right provided in Article 297, paragraph (f).

8. The restitution provided in Article 297 will be carried out by order of the German Government or of the authorities which have been substituted for it. Detailed accounts of the action of administrator shall be furnished to the interested persons by the German authorities upon request, which may be made at any time after the coming into force of the present Treaty.

9. Until completion of the liquidation provided for by Article 297, paragraph (b), the property, rights, and interests of German nationals will continue to be subject to exceptional war measures that have been or will be taken with regard to them.

10. Germany will, within six months from the coming into force of the present Treaty, deliver to each Allied or Associated Power all securities, certificates, deeds, or other documents of title held by its nationals and relating to property, rights, or interests situated in the territory of that Allied or Associated Power, including any shares, stock, debentures, debenture stock, or other obligations of any company incorporated in accordance with the laws of that Power.

Germany will at any time on demand of any Allied or Associated Power furnish such information as may be required with regard to the property, rights, and interests of German nationals within the territory of such Allied or Associated Power or with regard to any transaction concerning such property, rights, or interests effected since July 1st, 1914.

11. The expression "cash assets" includes all deposits or funds established before or after the declaration of war, as well as all assets coming from deposits, revenues, or profits collected by administrators, sequestrators, or others from funds placed on deposit or otherwise, but does not include sums belonging to the Allied or Associated Powers or to their component States, Provinces, or Municipalities.

12. All investments wheresoever effected with the cash assets of nationals of the High Contracting Parties, including companies and associations in which such nationals were interested, by persons responsible for the administration of enemy properties or having control over such administration, or by order of such persons or of any authority whatsoever, shall be annulled. These cash assets shall be accounted for irrespective of any such investment.

13. Within one month from the coming into force of the present Treaty, or on demand at any time, Germany will deliver to the Allied and Associated Powers all accounts, vouchers, records, documents, and information of any kind which may be within German territory, and which concern the property, rights, and interests of the nationals of those Powers, including companies and associations in which they are interested, that have been subjected to an exceptional war measure, or to a measure of transfer either in German territory or in territory occupied by Germany or her allies.

The controllers, supervisors, managers, administrators, sequestrators, liquidators, and receivers shall be personally responsible under guarantee of the German Government for the immediate delivery in full of these accounts and documents and for their accuracy.

14. The provisions of Article 297 and this Annex relating to property, rights and interests in an enemy country, and the proceeds of the liquidation thereof, apply to debts, credits, and accounts, Section III, regulating only the method of payment.

In the settlement of matters provided for in Article 297 between Germany and the Allied or Associated States, their colonies or protectorates, or any one of the British Dominions or India, in respect of any of which a declaration shall not have been made that they adopt Section III, and between their respective nationals, the provisions of Section III, respecting the currency in which payment is to be made and the rate of exchange and of interest shall apply unless the Government of the Allied or Associated Power concerned shall within six months of the coming into force of the present Treaty notify Germany that the said provisions are not to be applied.

15. The provisions of Article 297 and this Annex apply to industrial, literary and artistic property which has been or will be dealt with in the liquidation of property, rights, interests, companies or businesses under war legislation by the Allied or Associated Powers, or in accordance with the stipulations of Article 297, paragraph (b).

SECTION V.—CONTRACTS, PRESCRIPTIONS, JUDGMENTS.

ARTICLE 299.

(a) Any contract concluded between enemies shall be regarded as having been dissolved as from the time when any two of the parties became enemies, except in respect of any debt or other pecuniary obligation arising out of any act done or money paid thereunder, and subject to the exceptions and special rules with regard to particular contracts or classes of contracts contained herein or in the Annex hereto.

(b) Any contract of which the execution shall be required in the general interest, within six months from the date of the coming into force of the present Treaty, by the Allied or Associated Governments of which one of the parties is a national, shall be excepted from dissolution under this Article.

When the execution of the contract thus kept alive would, owing to the alteration of trade conditions cause one of the parties substantial prejudice the Mixed Arbitral Tribunal

provided for by Section VI, shall be empowered to grant to the prejudiced party equitable compensation.

(c) Having regard to the provisions of the Constitution and law of the United States of America, of Brazil and of Japan, neither the present Article nor Article 300, nor the Annex hereto shall apply to contracts made between nationals of these States and German nationals; nor shall Article 305 apply to the United States of America or its nationals.

(d) The present Article and the Annex hereto shall not apply to contracts the parties to which became enemies by reason of one of them being an inhabitant of territory of which the sovereignty has been transferred, if such party shall acquire under the present Treaty the nationality of an Allied or Associated Power, nor shall they apply to contracts between nationals of the Allied and Associated Powers between whom trading has been prohibited by reason of one of the parties being in Allied or Associated territory in the occupation of the enemy.

(e) Nothing in the present Article or the Annex hereto shall be deemed to invalidate a transaction lawfully carried out in accordance with a contract between enemies if it has been carried out with the authority of one of the belligerent Powers.

ARTICLE 300.

(a) All periods of prescription or limitation of right of action, whether they began to run before or after the outbreak of war, shall be treated in the territory of the High Contracting Parties, so far as regards relations between enemies as having been suspended for the duration of the war. They shall begin to run again at earliest three months after the coming into force of the present Treaty. This provision shall apply to the period prescribed for the presentation of interest or dividend coupons or for the presentation for repayment of securities drawn for repayment or repayable on any other ground.

(b) Where, on account of failure to perform any act or comply with any formality during the war, measures of execution have been taken in German territory to the prejudice of a national of an Allied or Associated Power, the claim of such national shall, if the matter does not fall within the competence of the courts of an Allied or Associated Power, be heard by the Mixed Arbitral Tribunal provided for by Section VI.

(c) Upon the application of any interested person who is a national of an Allied or Associated Power the Mixed Arbitral Tribunal shall order the restoration of the rights which have been prejudiced by the measures of execution referred to in paragraph (b), wherever, having regard to the particular circumstances of the case, such restoration is equitable and possible.

If such restoration is inequitable or impossible the Mixed Arbitral Tribunal may grant compensation to the prejudiced party to be paid by the German Government.

(d) Where a contract between enemies has been dissolved by reason either of failure on the part of either party to carry out its provisions or of the exercise of a right stipulated in the contract itself the party prejudiced may apply to the Mixed Arbitral Tribunal for relief. The Tribunal will have the powers, provided for in paragraph (c).

(e) The provisions of the preceding paragraphs of this Article shall apply to the nationals of Allied and Associated Powers who have been prejudiced by reason of measures referred to above taken by Germany in invaded or occupied territory, if they have not been otherwise compensated.

(f) Germany shall compensate any third party who may be prejudiced by any restitution or restoration ordered by the Mixed Arbitral Tribunal under the provisions of the preceding paragraphs of this Article.

(g) As regards negotiable instruments, the period of three months provided under paragraph (a) shall commence as from the date on which any exceptional regulations applied in the territories of the interested Power with regard to negotiable instruments shall have definitely ceased to have force.

ARTICLE 301.

As between enemies no negotiable instrument made before the war shall be deemed to have become invalid by reason only of failure within the required time to present the instrument for acceptance or payment or to give notice of non-acceptance or non-payment to drawers or indorsers or to protest the instrument, nor by reason of failure to complete any formality during the war.

Where the period within which a negotiable instrument should have been presented for acceptance or for payment, or within which notice of non-acceptance or non-payment should have been given to the drawer or indorser, or within which the instrument should have been

protested, has elapsed during the war, and the party who should have presented or protested the instrument or have given notice of non-acceptance or non-payment has failed to do so during the war, a period of not less than three months from the coming into force of the present Treaty shall be allowed within which presentation, notice of non-acceptance or non-payment or protest may be made.

ARTICLE 302.

Judgments given by the Courts of an Allied or Associated Power in all cases which under the present Treaty, they are competent to decide, shall be recognised in Germany as final, and shall be enforced without it being necessary to have them declared executory.

If a judgment in respect of any dispute which may have arisen has been given during the war by a German Court against a national of an Allied or Associated State in a case in which he was not able to make his defence, the Allied and Associated national who has suffered prejudice thereby shall be entitled to recover compensation, to be fixed by the Mixed Arbitral Tribunal provided for in Section VI.

At the instance of the national of the Allied or Associated Power the compensation above mentioned may, upon order to that effect of the Mixed Arbitral Tribunal, be effected where it is possible by replacing the parties in the situation which they occupied before the judgment was given by the German Court.

The above compensation may likewise be obtained before the Mixed Arbitral Tribunal by the nationals of Allied or Associated Powers who have suffered prejudice by judicial measures taken in invaded or occupied territories, if they have not been otherwise compensated.

ARTICLE 303.

For the purpose of Sections III, IV, V and VII, the expression "during the war" means for each Allied or Associated Power the period between the commencement of the state of war between that Power and Germany and the coming into force of the present Treaty.

ANNEX.

I. GENERAL PROVISIONS.

1. Within the meaning of Articles 299, 300, and 301, the parties to a contract shall be regarded as enemies when trading between them shall have been prohibited by or otherwise become unlawful under laws, orders, or regulations to which one of those parties was subject. They shall be deemed to have become enemies from the date when such trading was prohibited or otherwise became unlawful.

2. The following classes of contracts are excepted from dissolution by Article 299 and, without prejudice to the rights contained in Article 297 (b) of Section IV, remain in force subject to the application of domestic laws, orders, or regulations made during the war by the Allied and Associated Powers and subject to the terms of the contracts :—

- (a) Contracts having for their object the transfer of estates or of real or personal property where the property therein had passed or the object had been delivered before the parties became enemies ;
- (b) Leases and agreements for leases of land and houses ;
- (c) Contracts of mortgage, pledge, or lien ;
- (d) Concessions concerning mines, quarries, or deposits ;
- (e) Contracts between individuals or companies and States, provinces, municipalities or other similar juridical persons charged with administrative functions and concessions granted by States, provinces, municipalities, or other similar juridical persons charged with administrative functions.

3. If the provisions of a contract are in part dissolved under Article 299, the remaining provisions of that contract shall, subject to the same application of domestic laws as is provided for in paragraph 2, continue in force if they are severable, but where they are not severable the contract shall be deemed to have been dissolved in its entirety.

II. PROVISIONS RELATING TO CERTAIN CLASSES OF CONTRACTS.

Stock Exchange and Commercial Exchange Contracts.

4. (a) Rules made during the war by any recognised Exchange or Commercial Association providing for the closure of contracts entered into before the war by an enemy are confirmed by the High Contracting Parties, as also any action taken thereunder, provided—

(i) That the contract was expressed to be made subject to the rules of the Exchange or Association in question.

(ii) That the rules applied to all persons concerned.

(iii) That the conditions attaching to the closure were fair and reasonable.

(b) The preceding paragraph shall not apply to rules made during the occupation by Exchanges or Commercial Associations in the districts occupied by the enemy.

(c) The closure of contracts relating to cotton "futures," which were closed as on July 31, 1914, under the decision of the Liverpool Cotton Association, is also confirmed.

Security.

5. The sale of a security held for an unpaid debt owing by an enemy shall be deemed to have been valid irrespective of notice to the owner if the creditor acted in good faith and with reasonable care and prudence, and no claim by the debtor on the ground of such sale shall be admitted.

This stipulation shall not apply to any sale of securities effected by an enemy during the occupation in regions invaded or occupied by the enemy.

Negotiable Instruments.

6. As regards Powers which adopt Section III, and the Annex thereto the pecuniary obligations existing between enemies and resulting from the issue of negotiable instruments shall be adjusted in conformity with the said Annex by the instrumentality of the Clearing Offices, which shall assume the rights of the holder as regards the various remedies open to him.

7. If a person has either before or during the war become liable upon a negotiable instrument in accordance with an undertaking given to him by a person who has subsequently become an enemy, the latter shall remain liable to indemnify the former in respect of his liability notwithstanding the outbreak of war.

III. CONTRACTS OF INSURANCE.

8. Contracts of insurance entered into by any person with another person who subsequently became an enemy will be dealt with in accordance with the following paragraphs :—

Fire Insurance.

9. Contracts for the insurance of property against fire entered into by a person interested in such property with another person who subsequently became an enemy shall not be deemed to have been dissolved by the outbreak of war, or by the fact of the person becoming an enemy, or on account of the failure during the war and for a period of three months thereafter to perform his obligations under the contract, but they shall be dissolved at the date when the annual premium becomes payable for the first time after the expiration of a period of three months after the coming into force of the present Treaty.

A settlement shall be effected of unpaid premiums which became due during the war, or of claims for losses which occurred during the war.

10. Where by administrative or legislative action an insurance against fire effected before the war has been transferred during the war from the original to another insurer, the transfer will be recognised and the liability of the original insurer will be deemed to have ceased as from the date of the transfer. The original insurer will, however, be entitled to receive on demand full information as to the terms of the transfer, and if it should appear that these terms were not equitable they shall be amended so far as may be necessary to render them equitable.

Furthermore, the insured shall, subject to the concurrence of the original insurer, be entitled to re-transfer the contract to the original insurer as from the date of the demand.

Life Insurance.

11. Contracts of life insurance entered into between an insurer and a person who subsequently became an enemy shall not be deemed to have been dissolved by the outbreak of war, or by the fact of the person becoming an enemy.

Any sum which during the war became due upon a contract deemed not to have been dissolved under the preceding provision shall be recoverable after the war with the addition of interest at five per cent. per annum from the date of its becoming due up to the day of payment.

Where the contract has lapsed during the war owing to non-payment of premiums, or has become void from breach of the conditions of the contracts the assured or his representatives or the persons entitled shall have the right at any time within 12 months of the coming into force of the present Treaty to claim from the insurer the surrender value of the policy at the date of its lapse or avoidance.

Where the contract has lapsed during the war owing to non-payment of premiums, the payment of which has been prevented by the enforcement of measures of war, the assured or his representatives or the persons entitled shall have the right to restore the contract on payment of the premiums with interest at five per cent. per annum within three months from the coming into force of the present Treaty.

12. Any Allied or Associated Power may, within three months of the coming into force of the present Treaty, cancel all the contracts of insurance running between a German insurance company and its nationals under conditions which shall protect its nationals from any prejudice.

To this end the German insurance company will hand over to the Allied or Associated Government concerned, the proportion of its assets attributable to the policies so cancelled and will be relieved from all liability in respect of such policies. The assets to be handed over shall be determined by an actuary appointed by the Mixed Arbitral Tribunal.

13. Where contracts of life insurance have been entered into by a local branch of an insurance company established in a country which subsequently became an enemy country, the contract shall, in the absence of any stipulation to the contrary in the contract itself, be governed by the local law, but the insurer shall be entitled to demand from the insured or his representatives the refund of sums paid on claims made or enforced under measures taken during the war, if the making or enforcement of such claims was not in accordance with the terms of the contract itself or was not consistent with the laws or treaties existing at the time when it was entered into.

14. In any case where, by the law applicable to the contract, the insurer remains bound by the contract, notwithstanding the non-payment of premiums, until notice is given to the insured of the termination of the contract, he shall be entitled, where the giving of such notice was prevented by the war, to recover the unpaid premiums with interest at 5 per cent. per annum from the insured.

15. Insurance contracts shall be considered as contracts of life assurance for the purpose of paragraphs 11 to 14 when they depend on the probabilities of human life combined with the rate of interest for the calculation of the reciprocal engagements between the two parties.

Marine Insurance.

16. Contracts of marine insurance including time policies and voyage policies entered into between an insurer and a person who subsequently became an enemy, shall be deemed to have been dissolved on his becoming an enemy, except in cases where the risk undertaken in the contract had attached before he became an enemy.

Where the risk had not attached, money paid by way of premium or otherwise shall be recoverable from the insurer.

Where the risk had attached effect shall be given to the contract notwithstanding the party becoming an enemy, and sums due under the contract either by way of premiums or in respect of losses shall be recoverable after the coming into force of the present Treaty.

In the event of any agreement being come to for the payment of interest on sums due before the war to or by the nationals of States which have been at war and recovered after the war, such interest shall in the case of losses recoverable under contracts of marine insurance run from the expiration of a period of one year from the date of the loss.

17. No contract of marine insurance with an insured person who subsequently became an enemy shall be deemed to cover losses due to belligerent action by the Power of which the insurer was a national or by the allies or associate of such Power.

18. Where it is shown that a person who had before the war entered into a contract of Marine insurance with an insurer who subsequently became an enemy entered after the

outbreak of war into a new contract covering the same risk with an insurer who was not an enemy, the new contract shall be deemed to be substituted for the original contract as from the date when it was entered into, and the premiums payable shall be adjusted on the basis of the original insurer having remained liable on the contract only up till the time when the new contract was entered into.

Other Insurances.

19. Contracts of insurance entered into before the war between an insurer and a person who subsequently became an enemy, other than contracts dealt with in paragraphs 9 to 18, shall be treated in all respects on the same footing as contracts of fire insurance between the same persons would be dealt with under the said paragraphs.

Re-insurance.

20. All treaties of re-insurance with a person who became an enemy shall be regarded as having been abrogated by the person becoming an enemy, but without prejudice in the case of life or marine risks which had attached before the war to the right to recover payment after the war for sums due in respect of such risks.

Nevertheless if, owing to invasion, it has been impossible for the re-insured to find another re-insurer, the treaty shall remain in force until three months after the coming into force of the present Treaty.

Where a re-insurance treaty becomes void under this paragraph, there shall be an adjustment of accounts between the parties in respect both of premiums paid and payable and of liabilities for losses in respect of life or marine risk which had attached before the war. In the case of risks other than those mentioned in paragraphs 11 to 18, the adjustment of accounts shall be made as at the date of the parties becoming enemies without regard to claims for losses which may have occurred since that date.

21. The provisions of the preceding paragraph will extend equally to re-insurances existing at the date of the parties becoming enemies of particular risks undertaken by the insurer in a contract of insurance against any risks other than life or marine risks.

22. Re-insurance of life risks effected by particular contracts and not under any general treaty remain in force.

The provisions of paragraph 12 apply to treaties of re-insurance of life insurance contracts in which enemy companies are the re-insurers.

23. In case of a re-insurance effected before the war of a contract of marine insurance, the cession of a risk which had been ceded to the re-insurer shall, if it had attached before the outbreak of war, remain valid and effect be given to the contract notwithstanding the outbreak of war; sums due under the contract of re-insurance in respect either of premiums or of losses shall be recoverable after the war.

24. The provisions of paragraphs 17 and 18 and the last part of paragraph 16 shall apply to contracts for the re-insurance of marine risks.

SECTION VI.—MIXED ARBITRAL TRIBUNAL.

ARTICLE 304.

(a) Within three months from the date of the coming into force of the present treaty, a Mixed Arbitral Tribunal shall be established between each of the Allied and Associated Powers on the one hand, and Germany on the other hand. Each such Tribunal shall consist of three members. Each of the Governments concerned shall appoint one of these members. The President shall be chosen by agreement between the two Governments concerned.

In case of failure to reach agreement, the President of the Tribunal and two other persons, either of whom may in case of need take his place, shall be chosen by the Council of the League of Nations, or, until this is set up, by M. Gustave Ador if he is willing. These persons shall be nationals of Powers that have remained neutral during the war.

If any Government does not proceed within a period of one month in case there is a vacancy to appoint a member of the Tribunal, such member shall be chosen by the other Government from the two persons mentioned above other than the President.

The decision of the majority of the members of the Tribunal shall be the decision of the Tribunal.

(b) The Mixed Arbitral Tribunals established pursuant to paragraph (a) shall decide all questions within their competence under Sections III, IV, V and VII.

In addition, all questions, whatsoever their nature, relating to contracts concluded before the coming into force of the present Treaty between nationals of the Allied and Associated

Powers and German nationals shall be decided by the Mixed Arbitral Tribunal, always excepting questions which under the laws of the Allied, Associated or Neutral Powers, are within the jurisdiction of the National Courts of those Powers. Such questions shall be decided by the National Courts in question, to the exclusion of the Mixed Arbitral Tribunal. The party who is a national of an Allied or Associated Power may, nevertheless, bring the case before the Mixed Arbitral Tribunal if this is not prohibited by the laws of his country.

(c) If the number of cases justifies it, additional members shall be appointed and each Mixed Arbitral Tribunal shall sit in divisions. Each of these divisions will be constituted as above.

(d) Each mixed Arbitral Tribunal will settle its own procedure except in so far as it is provided in the following Annex, and is empowered to award the sums to be paid by the loser in respect of the costs and expenses of the proceedings.

(e) Each Government will pay the remuneration of the member of the Mixed Arbitral Tribunal appointed by it and of any agent whom it may appoint to represent it before the Tribunal. The remuneration of the President will be determined by special agreement between the Governments concerned; and this remuneration and the joint expenses of each Tribunal will be paid by the two Governments in equal moieties.

(f) The High Contracting Parties agree that their courts and authorities shall render to the Mixed Arbitral Tribunal direct all the assistance in their power, particularly as regards transmitting notices and collecting evidence.

(g) The High Contracting Parties agree to regard the decisions of the Mixed Arbitral Tribunal as final and conclusive, and to render them binding upon their nationals.

ANNEX.

1. Should one of the members of the Tribunal either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure will be followed for filling the vacancy as was followed for appointing him.

2. The Tribunal may adopt such rules of procedure as shall be in accordance with justice and equity and decide the order and time at which each party must conclude its arguments, and may arrange all formalities required for dealing with the evidence.

3. The agent and counsel of the parties on each side are authorised to present orally and in writing to the Tribunal arguments in support or in defence of each case.

4. The Tribunal shall keep record of the questions and cases submitted and the proceedings thereon, with the dates of such proceedings.

5. Each of the Powers concerned may appoint a secretary. These secretaries shall act together as joint secretaries of the Tribunal and shall be subject to its direction. The Tribunal may appoint and employ any other necessary officer or officers to assist in the performance of its duties.

6. The Tribunal shall decide all questions and matters submitted upon such evidence and information as may be furnished by the parties concerned.

7. Germany agrees to give the Tribunal all facilities and information required by it for carrying out its investigations.

8. The language in which the proceedings shall be conducted shall, unless otherwise agreed, be English, French, Italian, or Japanese, as may be determined by the Allied or Associated Power concerned.

9. The place and time for the meetings of each Tribunal shall be determined by the President of the Tribunal.

ARTICLE 305.

Whenever a competent Court has given or gives a decision in a case covered by Sections III, IV, V or VII, and such decision is inconsistent with the provisions of such Sections, the party who is prejudiced by the decision shall be entitled to obtain redress which shall be fixed by the Mixed Arbitral Tribunal. At the request of the national of an Allied or Associated Power, the redress may, whenever possible, be effected by the Mixed Arbitral Tribunal directing the replacement of the parties in the position occupied by them before the judgment was given by the German Court.

SECTION VII—INDUSTRIAL PROPERTY.

ARTICLE 306.

Subject to the stipulations of the present Treaty, rights of industrial, literary, and artistic property, as such property is defined by the International Conventions of Paris and

of Berne, mentioned in Article 286, shall be re-established or restored, as from the coming into force of the present Treaty, in the territories of the High Contracting Parties, in favour of the persons entitled to the benefit of them at the moment when the state of war commenced or their legal representatives. Equally, rights which, except for the war, would have been acquired during the war in consequence of an application made for the protection of industrial property, or the publication of a literary or artistic work, shall be recognised and established in favour of those persons who would have been entitled thereto, from the coming into force of the present Treaty.

Nevertheless, all acts done by virtue of the special measures taken during the war under legislative, executive or administrative authority of any Allied or Associated Power in regard to the rights of German nationals in industrial, literary or artistic property shall remain in force and shall continue to maintain their full effect.

No claim shall be made or action brought by Germany or German nationals in respect of the use during the war by the Government of any Allied or Associated Power, or by any persons acting on behalf or with the assent of such Government, of any rights in industrial, literary or artistic property, nor in respect of the sale, offering for sale, or use of any products, articles or apparatus whatsoever to which such rights applied.

Unless the legislation of any one of the Allied or Associated Powers in force at the moment of the signature of the present Treaty otherwise directs, sums due or paid in virtue of any act or operation resulting from the execution of the special measures mentioned in paragraph 1 of this Article shall be dealt with in the same way as other sums due to German nationals are directed to be dealt with by the present Treaty; and sums produced by any special measures taken by the German Government in respect of rights in industrial, literary or artistic property belonging to the nationals of the Allied or Associated Powers shall be considered and treated in the same way as other debts due from German nationals.

Each of the Allied and Associated Powers reserves to itself the right to impose such limitations, conditions, or restrictions on rights of industrial, literary, or artistic property (with the exception of trade-marks) acquired before or during the war, or which may be subsequently acquired in accordance with its legislation, by German nationals, whether by granting licences, or by the working, or by preserving control over their exploitation, or in any other way, as may be considered necessary for national defence, or in the public interest, or for assuring the fair treatment by Germany of the rights of industrial, literary, and artistic property held in German territory by its nationals, or for securing the due fulfilment of all the obligations undertaken by Germany in the present Treaty. As regards rights of industrial, literary, and artistic property acquired after the coming into force of the present Treaty, the right so reserved by the Allied and Associated Powers shall only be exercised in cases where these limitations, conditions or restrictions may be considered necessary for national defence or in the public interest.

In the event of the application of the provisions of the preceding paragraph by any Allied or Associated Power, there shall be paid reasonable indemnities or royalties which shall be dealt with in the same way, as other sums due to German nationals are directed to be dealt with by the present Treaty.

Each of the Allied or Associated Powers reserves the right to treat as void and of no effect any transfer in whole or in part of or other dealing with rights of or in respect of industrial, literary, or artistic property effected after August 1st, 1914, or in the future, which would have the result of defeating the objects of the provisions of this article.

The provisions of this article shall not apply to rights in industrial, literary or artistic property which have been dealt with in the liquidation of businesses or companies under war legislation by the Allied or Associated Powers, or which may be so dealt with by virtue of Article 297, paragraph (b).

ARTICLE 307.

A minimum of one year after the coming into force of the present Treaty shall be accorded to the nationals of the High Contracting Parties, without extension fees or other penalty in order to enable such persons to accomplish any act, fulfil any formality, pay any fees, and generally satisfy any obligation prescribed by the laws or regulations of the respective States relating to the obtaining, preserving, or proposing rights to, or in respect of industrial property either acquired before August 1, 1914, or which, except for the war, might have been acquired since that date as a result of an application made before the war or during its continuance, but nothing in this article shall give any right to re-open interference proceedings in the United States of America where a final hearing has taken place.

All rights in, or in respect of, such property, which may have lapsed by reason of any failure to accomplish any act, fulfil any formality, or make any payment, shall revive, but subject in the case of patents and designs to the imposition of such conditions as each Allied or Associated Power may deem reasonably necessary for the protection of persons who have manufactured or made use of the subject matter of such property while the rights had lapsed. Further, where rights to patents or designs belonging to German nationals are revived under

this article, they shall be subject in respect of the grant of licences to the same provisions as would have been applicable to them during the war, as well as to all the provisions of the present Treaty.

The period from August 1, 1914, until the coming into force of the present Treaty shall be excluded in considering the time within which a patent should be worked or a trade mark or design used, and it is further agreed that no patent, registered trade mark, or design in force on August 1, 1914, shall be subject to revocation or cancellation by reason only of the failure to work such patent or use such trade mark or design for two years after the coming into force of the present Treaty.

ARTICLE 308.

The rights of priority provided by Article IV, of the International Convention for the Protection of Industrial Property of Paris, of March 20, 1883, revised at Washington in 1911 or by any other Convention or Statute, for the filing or registration of applications for patents or models of utility, and for the registration of trade marks, designs, and models which had not expired on August 1, 1914, and those which have arisen during the war, or would have arisen but for the war, shall be extended by each of the High Contracting Parties in favour of all nationals of the other High Contracting Parties for a period of six months after the coming into force of the present Treaty.

Nevertheless, such extension shall in no way affect the right of any of the High Contracting Parties or of any person who before the coming into force of the present Treaty was *bona fide* in possession of any rights of industrial property conflicting with rights applied for by another who claims rights of priority in respect of them, to exercise such rights by itself or himself personally, or by such agents or licensees as derived their rights from it or him before the coming into force of the present Treaty; and such persons shall not be amenable to any action or other process of law in respect of infringement.

ARTICLE 309.

No action shall be brought and no claim made by persons residing or carrying on business within the territories of Germany on the one part and of the Allied or Associated Powers on the other, or persons who are nationals of such powers respectively, or by any one deriving title during the war from such persons, by reason of any action which has taken place within the territory of the other party between the date of the declaration of war and that of the coming into force of the present Treaty, which might constitute an infringement of the rights of industrial property or rights of literary and artistic property, either existing at any time during the war or revived under the provisions of articles 307 and 308.

Equally, no action for infringement of industrial, literary, or artistic property rights by such persons shall at any time be permissible in respect of the sale or offering for sale for a period of one year after the signature of the present Treaty in the territories of the Allied or Associated Powers on the one hand or Germany on the other, of products or articles manufactured, or of literary or artistic works published during the period between the declaration of war and the signature of the present Treaty, or against those who have acquired and continue to use them. It is understood, nevertheless, that this provision shall not apply when the possessor of the rights was domiciled or had an industrial or commercial establishment in the districts occupied by Germany during the war.

This article shall not apply as between the United States of America on the one hand and Germany on the other.

ARTICLE 310.

Licences in respect of industrial, literary, or artistic property concluded before the war between nationals of the Allied or Associated Powers or persons residing in their territory or carrying on business therein, on the one part, and German nationals, on the other part, shall be considered as cancelled as from the date of the declaration of war between Germany and the Allied or Associated Power. But, in any case, the former beneficiary of a contract of this kind shall have the right, within a period of six months after the coming into force of the present Treaty, to demand from the proprietor of the rights the grant of a new licence, the conditions of which, in default of agreement, between the parties, shall be fixed by the duly qualified tribunal in the country under whose legislation the rights have been acquired, except in the case of licences held in respect of rights acquired under German law. In such cases the conditions shall be fixed by the Mixed Arbitral Tribunal referred to in Section VI of this Part. The tribunal may, if necessary, fix also the amount which it may deem just should be paid by reason of the use of the rights during the war.

No licence in respect of industrial, literary, or artistic property, granted under the special war legislation of any Allied or Associated Power, shall be affected by the continued existence of any licence entered into before the war, but shall remain valid and of full effect, and a licence so granted to the former beneficiary of a licence entered into before the war shall be considered as substituted for such licence.

Where sums have been paid during the war by virtue of a licence or agreement concluded before the war in respect of rights of industrial property or for the reproduction or the representation of literary, dramatic, or artistic works, these sums shall be dealt with in the same manner as other debts or credits of German nationals, as provided by the present Treaty.

This Article shall not apply as between the United States of America on the one hand and Germany on the other.

ARTICLE 311.

The inhabitants of territories separated from Germany by virtue of the present Treaty shall, notwithstanding this separation and the change of nationality consequent thereon, continue to enjoy in Germany all the rights in industrial, literary and artistic property to which they were entitled under German legislation at the time of the separation.

Rights of industrial, literary, and artistic property which are in force in the territories separated from Germany under the present Treaty at the moment of the separation of these territories from Germany or which will be re-established or restored in accordance with the provisions of Article 306 of the present Treaty, shall be recognized by the State to which the said territory is transferred and shall remain in force in that territory for the same period of time given them under the German law."

A. P. MUDDIMAN,

Secretary to the Government of India.

No. 4277.

GOVERNMENT OF INDIA.

DEPARTMENT OF COMMERCE.

SIMLA, the 17th JULY 1920.

From

RAI A. K. SANKAR BEHADUR, B. A.,

ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA,

To

The Chief Secretary to the Government of Madras.

Sir,

I am directed to forward for information a copy of the papers noted on the margin, relating to the establishment of a Local

1. Press Communiqué, dated the 8th July 1920.	Clearing Office in India, and
2. Notification No. 4270, dated the 17th July 1920.	the appointment of Mr. B.S. Kish, I.C.S., as Controller of the said

office. It is requested that local Custodians of Enemy Property may be instructed to correspond direct with the Controller on all matters arising out of the execution of the India Treaty of Peace Order in Council 1920. *pp 10 to 21 anti*

I have the honour to be,

Sir,

Your most obedient servant,

A. K. Sankar

ASSISTANT SECRETARY TO THE GOVERNMENT OF INDIA.

No. 4278.

A copy, with a copy of the enclosures, is forwarded to the Foreign and Political Department for information and necessary action.

A.R.

No. 4270.

GOVERNMENT OF INDIA.
DEPARTMENT OF COMMERCE.

SIMLA, the 17th JULY 1920.

NOTIFICATION.
Trading by Foreigners

Mr. B. S. Kisch, I. C. S., is appointed with effect from the 12th July 1920, to be Controller of the Local Clearing Office in India established under the India Treaty of Peace Order, 1920.

C. A. INNES,
SECRETARY TO THE GOVERNMENT OF INDIA.

TRUE COPY.

W. C. A. Innes

SUPERINTENDENT,
DEPARTMENT OF COMMERCE.

A. R.

GOVERNMENT OF INDIA.
DEPARTMENT OF COMMERCE.

Simla, the 8th July, 1920.

PRESS COMMUNIQUE.

In accordance with section 1 (1) of the India Treaty of Peace Order in Council, 1920, published in the *Gazette of India* Extraordinary dated July 6th, it has been decided to establish a local Clearing Office in India, working under the Central Clearing Office in Great Britain, for the settlement of outstanding debts and claims between subjects of Germany and of the British Empire in accordance with the terms of the Versailles Peace Treaty. The Governor General in Council has appointed Mr. B. S. Kisch, I.C.S., at present Judge in the United Provinces, to be Controller of the Clearing Office, which will start work at Calcutta early in August.

R. B. EWBank,

Deputy Secretary to the Government of India.

235DC-500-9-7-20-GCPS

GOVERNMENT OF INDIA
DEPARTMENT OF COMMERCE
REVENUE

REVENUE

In the Council of the Government of India
the following resolution was passed
on the 17th July 1920
The Secretary to Government
Revenue Department
Madras

R.B. BHABHA

Secretary to the Government of India

Rev (sp) waidept

(C. 2255) From the Govt of India Legislative Dept No 646-T
8 17-7-20

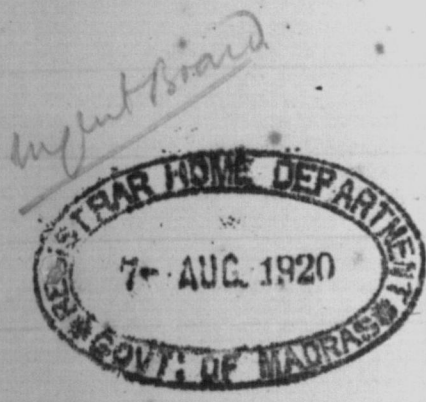
(C. 2271) .. Dept of Commerce No 42778
17-7-20

(Subject - Local Cleaning Office)

p/p 11(a), b
21 CF

From a perusal of the India
Treaty of Peace order in Council 1920
it seems that no action need be
taken by the Local Govt. A copy
of it may be communicated to the
custodian of enemy property for
information and guidance. A copy
of the letter from the Govt of India on
page 22 CF regarding the appointment
of the Controller of the Local Cleaning
Office may also be communicated
to the custodian of enemy property.

Draft order is submitted which
may issue after the Home (govt) dept
has seen this case.



As the Treaty of
Peace order deals
with courts etc.

Through the Enemy Trading Section
See 30-7-20
For the works

Ind. 218
referred for reference in
another file No 6.8.2.5
11/8

Exp No 2255 on 21

B.R.R. 19.
Have (govt)
Home (govt) 21/8

Submitted that the file may be
passed and returned to Revenue (Special)
Rev (sp) waidept

Rev (spl) Deptt

Wet
Wet

To us

Y

May wine

Amc
71.8.20

Y
12/8/20



191

C. No. 2255, From the 4th of Legislature No. 64 P.T., dated 17-7 1922
Sept

" " " Dept of Commerce " 4277 " 17.7 1910

[illegible]

No. 27, dated 13-8 1920

Miss

Communicated to the
Custodian of Enemy Property,
Madras for information
and guidance.

See
30.7.20

787
287

To

The Custodian of Enemy Property,
Madras
(Ato).

Issue Branch
O Case sent a
copy 7 pp 23-24 ct
to the S. G. P for publication
in the next ~~issue~~ issue of the
Fort St George Gazette.
Sent
13/8
See 13/8

When given for copying — }
 When copied — } 192
 When examined — }
 When signed — }

HEAD AGAIN G.O. No.
 162

DATED

CURRENT No.

ENCLOSURES TO O. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILLED UP, BEING MEANT FOR DESPATCH
 IN ORIGINAL.

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- Q = Copy heading only.