

States, and as such required by the law of nations to respect the flag of every nation with whom we are at peace. When passion runs high some outrages and disregard of law are inevitable, but our citizens are generally respectful of law. The fact is that they do not fully understand the serious nature of such violations and the injury which they thereby do to the reputation of their country. It is time that the principles of international law were taught to all of our citizens and especially to all officials, federal, state, and municipal, in order that the law which is supreme over all nations, and which has been held by our Supreme Court to be a part of our law, may be respected throughout the land.

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A BRITISH-FRENCH ARBITRATION OF 1918

RUNCIMAN-CLÉMENTEL AGREEMENT

Though several useful lists of international arbitrations have been published in the course of recent years,<sup>1</sup> none of them has included reference to a British-French arbitration of 1918 relating to the Runciman-Clémentel Agreement of December 3, 1916. The award in that case was not published at the time, and information concerning the arbitration was not available until recently when the whole record was placed in the Harvard Law Library. The case might well be included in future lists of arbitrations, both for the sake of their completeness and for its intrinsic interest.<sup>2</sup>

The Runciman-Clémentel Agreement was designed to effect a coordination of the use of vessels by Great Britain and France. Clause 5 of the agreement which gave rise to the dispute provided for the British Government's granting (paragraph A) the transfer to the French flag of steamers ordered by and constructed for French firms, these steamers being specified on an attached list; and (paragraph B) certificates of priority for the construction of cargo steamers ordered by French firms before the date of the agreement on condition that they were employed by the French Government, these steamers also being specified on an attached list. The actual list or lists seem to have been prepared at a later date. In the early months of 1918, application was made for an export license for two steamships, the *Ville de Reims* and the *Ville d'Arras*, to enable these ships to be transferred to the French flag. This application was denied by the Board of Trade on the ground that as these two vessels had not been completed on December 3, 1916, the only obligation assumed by the British Government under the Runciman-Clémentel Agreement was to give priority with reference to them, and this had in fact been given. The French Government insisted, on the other hand, that the British Government's obligation extended to permitting the export of the two steamships for transfer to the French flag. After considerable correspondence, the two governments agreed to refer the

<sup>1</sup> The latest is Stuyt's *Survey of International Arbitrations, 1794-1938* (1939).

<sup>2</sup> The award is published in this *JOURNAL*, *post*, p. 379.

matter to an arbitrator to be appointed by Mr. Raymond B. Stevens, a member of the American Shipping Mission then in London. It was the desire of the parties that the procedure should be conducted in the most simple manner and with the least expense, and no formal *compromis* was drawn up.

Mr. Jerome D. Greene, Secretary on the American Shipping Mission, was appointed arbitrator on June 6, 1918. He promptly outlined the procedure to be followed: the parties were to file written statements simultaneously, only a few days being allowed for this purpose; the statements were to be followed by answers; at the request of either party or of both parties an opportunity was to be given for an oral hearing and for the submission of evidence. On July 8, in addressing three questions to the parties, the arbitrator stated that he was not "impressed with the necessity of supporting the statements made on either side by oral testimony," as he assumed "that the facts and arguments submitted on both sides are all that are considered relevant by each of the parties respectively; and it does not appear with reference to any point that its cogency is dependent on the precise mode of its presentation as between written and oral statements." The replies to the arbitrator's questions called for the filing of further documents, and the written proceedings were not completed until July 29, 1918.

Mr. Greene's award was handed down on August 9, 1918, barely two months after his appointment as arbitrator. He defined the question to be, "whether certain steamers listed as in the process of construction and for which certificates of priority were granted, should or should not on their completion be transferred to the French flag." As the Runciman-Clémentel Agreement was devoted chiefly to stating what the British Government was prepared to do as a matter of coöperation with its Ally, the arbitrator thought that it was "perhaps not a bargain in the ordinary sense of that word," but that it did constitute "an engagement." He observed that in the drafting of the agreement and in the preparation of the list of steamers there had been a "lack of that precision and punctuality usually observed in matters of similar importance," and he sought the meaning of the agreement "in the light of all the attendant circumstances." Mr. Greene reached the conclusion that steamers listed as in process of construction should be regarded as a sub-category of the steamers referred to in paragraph A of Clause 5, all of which were to be transferred to the French flag; only with this interpretation could he reconcile the statement of the condition in paragraph B. He therefore found "that the steamers in question should have been transferred to the French flag."

On August 9, 1918, the competent official of the Board of Trade announced that "the necessary steps will, of course, be taken to give effect to the award," and some months later the Board of Trade informed the arbitrator that three steamers, including the *Ville de Reims* and the *Ville d'Arras*, had been transferred to the French flag in accordance with the award.

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