

status. This can be based only upon a prohibition of armament, and then aircraft, submarines or other vessels of war in dealing with merchant vessels can find no justification for failure to observe the laws of war. It may be wise to revert to the position of the United States of January 18, 1916, summarized from a long argument as follows:

It would, therefore, appear to be a reasonable and reciprocally just arrangement if it could be agreed by the opposing belligerents that submarines should be caused to adhere strictly to the rules of international law in the matter of stopping and searching merchant vessels, determining their belligerent nationality, and removing the crews and passengers to places of safety before sinking the vessels as prizes of war, and that merchant vessels of belligerent nationality should be prohibited and prevented from carrying any armament whatsoever.

GEORGE GRAFTON WILSON.

#### THE SETTLEMENT OF THE REPARATION PROBLEM

On March 13, 1930, President von Hindenburg placed the final approval of the German Government on what is known as the "New Plan" to take the place of the Dawes Plan for the payment of reparations due under the Treaty of Versailles of June 28, 1919. The New Plan is composed of a series of documents and agreements beginning with the report of the Committee of Experts of June 7, 1929, with annexes, known as the Young Plan, the political instruments drawn up at The Hague conference in August, 1929, and the series of agreements signed at The Hague on January 20, 1930. By an agreement of January 20th between Germany and the creditor Powers the New Plan is "definitely accepted as a complete and final settlement, so far as Germany is concerned, of the financial questions resulting from the war" and by their acceptance "the signatory Powers undertake the obligations and acquire the rights resulting for them respectively from the New Plan."

Agreements were also signed at The Hague on January 20, 1930, for the discharge or final settlement of the reparations obligations of Austria, Hungary, and Bulgaria, and of the claims and liabilities of the Succession States of the former Austro-Hungarian Monarchy. The creditor Powers also signed agreements regarding the distribution among them of the German and non-German reparations. Letters exchanged on August 30, 1929, had already provided for the evacuation of the Rhineland.

Thus, it has taken more than a decade after hostilities ended and the signature of the Peace Treaty, for the former enemies to come to an agreement that purports to be a final settlement of the financial questions between them growing out of the war. In the Armistice of November 11, 1918, Germany agreed to the cryptic condition "Reparation for damage done." The condition had been previously interpreted by the Allied Governments in a memorandum to President Wilson with which he agreed and communicated

to Germany on November 5, 1918, as follows: "By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air."<sup>1</sup> At the Peace Conference, the German delegation maintained that this obligation was limited to restoring the devastated areas in France and Belgium and to compensating injuries to civilians in person or property within those limits, and that compensation to other countries or for other categories of damage were outside the terms of Germany's surrender.<sup>2</sup>

In Article 231 of the Peace Treaty, the Allied Governments affirmed, and required Germany to accept, "the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies."<sup>3</sup> The German delegation to the Peace Conference sought to repudiate the acceptance of responsibility for the war and its consequences set forth in this article, and requested the data collected by the Allied Commission on the Responsibility of the Authors of the War and on the Enforcement of Penalties.<sup>4</sup> This attitude of the German delegation apparently laid the foundation for the subsequent Nationalist campaign in Germany which, by impugning the evidence upon which the findings of the Commission on Responsibility was based, and then assuming that Germany's alleged "war guilt" contained in Article 231 was based on the report of that commission, demands the revision of the article. The records show, however, that this assumption is fallacious; that the Commission on Responsibility of the Authors of the War had nothing to do with the drafting of Article 231 or its insertion in the treaty; but that this article, along with all the other provisions of Part VIII of the treaty dealing with reparations, was the work of members of the separate and distinct Allied Commission on Reparations acting specially under the direct supervision of the heads of Allied Governments at Paris.

In President Wilson's addresses preceding Germany's request for an armistice which she accepted as the basis for the peace negotiations, he affirmed the responsibility of Germany and her allies for the war, and Germany in the pre-Armistice correspondence with President Wilson did not

<sup>1</sup> See Conditions of an Armistice with Germany, Supplement to this JOURNAL, Vol. 13 (1919), p. 101, and Secretary Lansing's communication to the German Government, Nov. 5, 1918, *ibid.*, p. 95.

<sup>2</sup> Summary of Observations of the German Delegation on the Conditions of Peace, printed in David Hunter Miller's *My Diary at the Peace Conference of Paris*, Vol. XIX, p. 283.

<sup>3</sup> The treaty is printed in Supplement to this JOURNAL, Vol. 13 (1919), p. 151. See p. 251 *et seq.*, for the Reparation provisions.

<sup>4</sup> See communications of Count Brockdorff-Rantzau and M. Clemenceau's reply, printed in Miller, *op. cit.*, Vol. XVIII, pp. 242-250.

deny it but admitted it by clear implication.<sup>5</sup> The Commission on Reparations appointed by the Peace Conference on January 23, 1919, consisting of twenty-nine members, turned out to be too unwieldy. "Consequently, the three Heads of States, who were now meeting alone and privately, constituted a kind of 'Big Three' to consider these difficult economic questions: a special committee composed of Norman H. Davis for the United States, Louis Loucheur for France, and the Rt. Hon. E. S. Montagu for the British Empire."<sup>6</sup> Mr. Davis informed President Wilson on March 25, 1919, that the special committee had agreed upon the form for the peace treaty. The proposed wording was given in a document sent to Colonel House the day before. As this document appears to be the genesis of the reparation clauses of the Treaty of Versailles, the first paragraph of it, which evolved into Article 231 of the treaty, will be quoted:

(1) The loss and damage to which the Allies and Associated Governments and their nationals have been subjected as a direct and necessary consequence of the war imposed upon them by the Enemy States, is upwards of 800 thousand million marks.

The document was marked Schedule A and was attached to a memorandum headed "Reparation" submitted "as the joint views of Messrs. Davis, Strauss & Lamont." The memorandum stated "we attach Schedule A, being a form which we have drafted for embodiment in the Treaty."

A draft containing the following revision of the above-quoted paragraph (1) was presented to the Council of Four by Mr. Lloyd George on March 30, 1919, but was not accepted:

The loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a direct and necessary consequence of the war imposed upon them by the aggression of the enemy States by land, air and sea, is upwards of 30,000,000,000 pounds.<sup>8</sup>

A modified schedule "showing the basic text of the reparation clauses and

<sup>5</sup> In his address of Sept. 27, 1918, particularly mentioned by Germany in her note of Oct. 6, 1918, requesting the President to initiate peace negotiations, President Wilson specifically charged that the Central Empires "forced this war upon us." (Congressional Record, Sept. 28, 1918, Vol. 56, Pt. II, p. 10887.) In Secretary Lansing's note of Oct. 14, 1918, the President very solemnly called the attention of the Government of Germany "to the language and plain intent of one of the terms of peace which the German Government has now accepted." The note then quoted from the President's address of July 4, 1918, "The destruction of every arbitrary power anywhere that can separately, secretly, and of its single choice disturb the peace of the world," and added, "The power which has hitherto controlled the German nation is of the sort here described." (This JOURNAL, Supp. Vol. 13 (1919), p. 89.)

<sup>6</sup> Woodrow Wilson and World Settlement. Written from his unpublished and personal material by Ray Stannard Baker, 1922. Vol. II, p. 373.

<sup>7</sup> Letter of Norman H. Davis, March 25, 1919 (autographed original), to President Wilson, with memorandum of American experts on the reparation settlement, their estimates, and those of the French and British (typewritten original), printed as Document 56 by Ray Stannard Baker, *op. cit.*, Vol. III, pp. 383-396.

<sup>8</sup> Annotations of the Treaty of Versailles, reproduced in Miller, *op. cit.*, Vol. XIX, p. 288.

categories of damage," was sent to President Wilson by Messrs. Norman H. Davis and Vance McCormick on April 4, 1919.<sup>9</sup> The first paragraph had been changed to read as follows:

1. The Allied and Associated Governments affirm the responsibility of the enemy States for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of the enemy States.

This text was presented to the Council of Four by Mr. Lamont, Mr. Keynes, and M. Loucheur on April 7th, and was "accepted, subject to the reintroduction of the clause 'and the enemy States accept,' after 'affirm,' which had been previously agreed to but was omitted in the draft. No further change was made in the article except for the substitution of 'Germany and her Allies,' for 'enemy States.'" <sup>10</sup>

We thus have what ought to be considered as most authentic and reliable evidence of the origin of Article 231 of the Treaty of Versailles. Nowhere in the record of the article is the report of the Commission on Responsibility of the Authors of the War mentioned, nor do any of its members appear as having taken part in the discussions. The appointment of that commission appears to have been regarded as a formality. When it was first proposed in the Council of Ten on January 13, 1919, President Wilson objected that it was not necessary, since the question of the "responsibility of the authors of the war could be settled forthwith" by the Council.<sup>11</sup> The report of the Commission on Responsibility was signed on March 29th, after the Commission on Reparations had practically completed its draft of the reparation clauses of the treaty, including Article 231. The report of the Committee on Responsibility dealt with the subjects included in Part VII of the treaty entitled "Penalties." The report was not acted on until April 23rd, sixteen days after the final draft of Article 231 had been approved, and then the articles recommended in it were not accepted, but referred to a drafting committee, which on April 26th circulated revised articles widely different from the articles recommended in the report. They became Articles 227-230

<sup>9</sup> Letter of Norman H. Davis and Vance McCormick to President Wilson, April 4 (autographed original), with draft clauses, comments and reservations (typewritten copy), reproduced as Document 58 in Baker, *op. cit.*, Vol. III, pp. 403-408.

<sup>10</sup> Annotations of the Treaty of Versailles, Miller, *op. cit.*, Vol. XIX, pp. 288-289.

Concerning the first change mentioned in the above quotation, a paragraph entitled "Acknowledgment by Enemy" appears as number 9 of Schedule A attached to the Reparation memorandum of Messrs. Davis, Strauss and Lamont sent to Col. House on March 24th. Baker, *op. cit.*, Vol. III, p. 389. Concerning the second change, the following reservation was made to the basic text of April 4th: "Article 1 is agreed to subject to: (a) Italian reserve with respect to substituting for 'enemy States' where it first occurs, the word 'Germany,' thus proclaiming the liability of Germany for all consequences of the war of herself and her Allies." (Baker, *op. cit.*, Vol. III, p. 404.)

<sup>11</sup> Annotations of the Treaty of Versailles, reproduced in Miller, *op. cit.*, Vol. XIX, p. 253.

of the treaty, and did not receive their final form until May 30th, after the treaty had been submitted to the German delegation.<sup>12</sup>

Article 231 seems to have been inserted in the treaty for political effect. In submitting the reparation formula to Col. House on March 24, 1919, Mr. T. W. Lamont explained as to paragraph (1), "the thought was that for political reasons it might be wise to have the Germans admit the enormous financial loss to which the world had been subjected by the war which they had begun."<sup>13</sup> Germany's financial liability was not measured by it, but by Article 232, in which the Allies, recognizing that the resources of Germany were not adequate to make complete reparation for all the loss and damage referred to in Article 231, returned to their pre-Armistice interpretation of reparation and required Germany to undertake to make compensation for all damage done to the civilian population and to their property. The categories of compensation that might be claimed under this article were enumerated in an annex as follows:

(1) Damage to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct consequences thereof, and of all operations of war by the two groups of belligerents wherever arising.

(2) Damage caused by Germany or her allies to civilian victims of acts of cruelty, violence or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment or evacuation, of exposure at sea or of being forced to labor), wherever arising, and to the surviving dependents of such victims.

(3) Damage caused by Germany or her allies in their own territory or in occupied or invaded territory to civilian victims of all acts injurious to health or capacity to work, or to honor, as well as to the surviving dependents of such victims.

(4) Damage caused by any kind of maltreatment of prisoners of war.

(5) As damage caused to the peoples of the Allied and Associated Powers, all pensions and compensation in the nature of pensions to naval and military victims of war (including members of the air force), whether mutilated, wounded, sick or invalided, and to the dependents

<sup>12</sup> Annotations of the Treaty of Versailles, Miller, *op. cit.*, Vol. XIX, pp. 254-258.

<sup>13</sup> Miller, *op. cit.*, Vol. VII, p. 147. See the statement of Mr. Lloyd George in the Council of Four on April 29th, that "He had himself returned to London in order to explain to the British Parliament that Germany could not pay the whole costs of the war," and his previous statement in discussing the second paragraph of the draft presented by Mr. Lamont, Mr. Keynes, and M. Loucheur on April 7th, which in modified form, became Article 232 of the treaty, that "it was necessary to state somewhere the reason why the Allies agreed to accept less than the whole cost of the war. The phrase had been put in to justify the Treaty to the French and the British peoples." (Annotations of the Treaty of Versailles, Miller, *op. cit.*, Vol. XIX, pp. 291 and 294.) Among the reserves to this text appears the following: "(b) French reserve as to the political policy of incorporating Article 1 and the first half of Article 2, as this is in the nature of a preamble and might be omitted or placed in the general preambles of the Treaty." (Draft clauses, comments and reservations, accompanying letter of Norman H. Davis and Vance McCormick to President Wilson, April 4, 1919, Baker, *op. cit.*, Vol. III, p. 404.)

of such victims, the amount due to the Allied and Associated Governments being calculated for each of them as being the capitalized cost of such pensions and compensation at the date of the coming into force of the present treaty on the basis of the scales in force in France at such date.

(6) The cost of assistance by the Governments of the Allied and Associated Powers to prisoners of war and to their families and dependents.

(7) Allowances by the Governments of the Allied and Associated Powers to the families and dependents of mobilized persons or persons serving with the forces, the amount due to them for each calendar year in which hostilities occurred being calculated for each Government on the basis of the average scale for such payments in force in France during that year.

(8) Damage caused to civilians by being forced by Germany or her allies to labor without just remuneration.

(9) Damage in respect of all property wherever situated belonging to any of the Allied or Associated States or their nationals, with the exception of naval and military works or materials, which has been carried off, seized, injured or destroyed by the acts of Germany or her allies on land, on sea or from the air, or damage directly in consequence of hostilities or of any operations of war.

(10) Damage in the form of levies, fines and other similar exactions imposed by Germany or her allies upon the civilian population.

The inability of the Allies to agree on the amount of Germany's liability for these categories of damage, due to the exigencies of their national politics, prevented them from fixing the amount in the treaty. The French proposed a minimum of £16,400,000,000 sterling, and a maximum of £24,400,000,000. The British proposed £22,800,000,000. The Americans proposed a minimum of £8,700,000,000 and a maximum of £13,000,000,000. These estimates included interest and sinking fund. Their present worth was given as: French proposals, \$31,000,000,000 and \$47,000,000,000; English proposal, \$55,000,000,000; American proposals, \$25,000,000,000 and \$35,000,000,000.<sup>14</sup> The heads of the Allied Governments at Paris were unwilling to assume the risk of stating an amount which might prove to be inadequate to meet their claims or less than the limit of Germany's capacity to pay. They therefore informed the German delegation:

The vast extent and manifold character of the damage caused to the Allied and Associated Powers in consequence of the war has created a reparation problem of extraordinary magnitude and complexity, only to be solved by a continuing body, limited in personnel and invested with broad powers to deal with the problem in relation to the general economic situation.<sup>15</sup>

They consequently passed the solution of the problem along to the Reparation Commission established by the Treaty of Peace. The commission was required to find the amount of damage for which compensation was to be

<sup>14</sup> See tables submitted by the Special Committee on Reparation reproduced in Document 56, Baker, *op. cit.*, Vol. III, pp. 394-396

<sup>15</sup> Annotations of the Treaty of Versailles, Miller, *op. cit.*, Vol. XIX, p. 284.

made by Germany and notify the German Government of its obligations by May 1, 1921, accompanied by a schedule of payments prescribing the time and manner for securing and discharging the entire obligation within a period of thirty years. Germany was not represented on the Reparation Commission, but the treaty provided that the commission "shall consider the claims and give to the German Government a just opportunity to be heard."

After several unsuccessful attempts had been made to reach an understanding with Germany on the amount of the reparations bill, the Reparation Commission proceeded to effect a valuation of the claims submitted by the Allied and Associated Powers for specific categories of damage. The procedure adopted was as follows:

Each Government concerned collected and checked the individual claims of its nationals. It grouped them in categories and forwarded to the Reparation Commission the total arising under each category. The totals constituted the claims of the Governments who submitted them to the Commission.

The claims thus drawn up by the Allied Governments, before being examined by the Commission, were transmitted to the German Government for observations. With these observations before it, the Commission then examined the substance of the claims made by the Allied Governments, and finally, in a judicial capacity, pronounced upon the monetary loss represented by the damages in question.<sup>16</sup>

A table of the "Estimate of Claims submitted by the Allied and Associated Powers," showing the amounts claimed under each category of damage included in the treaty, was compiled by the Commission, but owing to the different currencies in which they were stated, and the difficulties of fixing dates and the rates of exchange for computing the amount of the claims in gold marks, no totals were arrived at. The General Secretary of the Reparation Commission explains that "the total represented the comprehensive damage, and cannot be split into component elements representing the approved claims of individual Powers. . . . It was not indeed contemplated by the Treaty that the Commission should find individual totals, and under the Treaty's scheme there was no particular interest in such a procedure being adopted."<sup>17</sup>

The hearings of the German Government before the Reparation Commission were completed on April 12, 1921, and ten days later it sent a letter commenting on these hearings as follows:

The German Government fully recognizes that in the short time that remained between the presentation of the claims by the Allied Governments, and the time limit fixed by the Peace Treaty, the Reparation Commission has done its utmost to enable the German Government to verify

<sup>16</sup> Report on the Work of the Reparation Commission from 1920 to 1922, by Andrew McFadyean, General Secretary. Reparation Commission. V. London, 1923, p. 25.

<sup>17</sup> The table of claims is printed in the Report on the Work of the Reparation Commission, *ibid.*, Appendix VII, opposite page 190.

the data of the Allies and to pronounce upon them. In view, however, of the insufficiency and the unreliability of the data to be verified, and the shortness of the time allowed for coming to a decision, the German Government cannot admit that it has been given in this supremely important question the just opportunity to be heard to which "it was entitled under the terms of paragraph 2 of Article 233 of the Treaty of Versailles."<sup>18</sup>

On April 27, 1921, the Reparation Commission established Germany's total indebtedness in the amount of 132,000,000,000 gold marks.<sup>19</sup> The schedule of payments had been agreed upon by the Allied Governments meeting in London to consider the problems raised by Germany's failure to make the payments required by Article 235 of the peace treaty pending the determination of the Allied claims. This schedule of payments was adopted in substance by the Reparation Commission and notified to Germany on May 5, 1921.<sup>20</sup>

The indebtedness of Germany fixed by the Reparation Commission in the sum of 132,000,000,000 gold marks has been severely criticized,<sup>21</sup> and it has been estimated that under the schedule of payments Germany would not have paid even the interest on the debt in 350 years.<sup>22</sup> Without attempting to defend the amount, attention is called to the following recommendations of the report of Messrs. Davis, Montagu, and Loucheur, as the Special Committee on Reparation Settlement, submitted to the three heads of State at Paris, March 20, 1919:

On a liberal basis, we estimate that Germany might possibly pay from 10 to 20 billion dollars over a period of 20 to 30 years.

As nearly as we can judge from the present estimates, the damage done by Germany for which she is liable under the strictest interpretation of the exchange of notes between President Wilson and the German Government, as modified by the Allies on November 4 and accepted by President Wilson, might amount to approximately 25 billion dollars. It is felt that Germany should, if possible, be forced to pay at least this amount, and that, if the demands are confined to this interpretation, which the Germans have accepted, the moral opinion of the world

<sup>18</sup> Quoted from the Report on the Work of the Reparation Commission, *ibid.*, p. 34.

<sup>19</sup> The General Secretary of the Reparation Commission, in the report heretofore quoted, in referring to the table of claims printed as Appendix VII of his report, says: "It would be idle to pretend that a consideration of it in isolation would greatly assist the reader to reconstruct for himself the process by which the total of 132 milliards was arrived at. As has been explained, the procedure followed by the Commission was such that it was not possible to say which of the items figuring in the claims were submitted to reduction and in what degree." (Page 36.)

<sup>20</sup> Report on Work of the Reparation Commission, *ibid.*, p. 23.

<sup>21</sup> See address by Mr. Owen D. Young, chairman of the committee of experts that drafted the Young Plan, delivered at San Francisco, March 24, 1930, and printed in the New York Times, March 25th.

<sup>22</sup> Bulletin of International News, Aug. 1, 1929. (Information Service on International Affairs, London.)

would force Germany to pay this amount if she can do so, no matter how many years it may take to do so. . . .

We therefore recommend that a demand be made upon Germany to pay a capital sum of 30 billion dollars, one-half of which shall be paid in dollars or sterling or gold marks at the standard of weight and fineness at the beginning of the war, and that the other half should be payable in German currency.<sup>23</sup>

The amount recommended in this report was the same as "The original estimate of \$30,000,000,000 which Messrs. Davis, Strauss and Lamont unanimously arrived at several weeks ago," which "is still, in their judgment, the most reasonable basis."<sup>24</sup> It will thus be seen that the sum of \$33,000,000,000 fixed by the Reparation Commission was only ten per cent. in excess of the sum recommended by the American economic experts at the Peace Conference. The failure of Germany to meet the requirements of this schedule, although temporarily modified in her favor by a number of intervening decisions of the Reparation Commission, and her eventual demand for a moratorium, led to the occupation of the Ruhr early in 1928. The inflation resorted to by Germany to finance the passive resistance of the Ruhr population resulted in the final collapse of her currency and brought about the appointment of the Dawes Committee to "consider the means of balancing the budget and the measures to be taken to stabilize the currency" of Germany.<sup>25</sup>

The report of the Dawes Committee was signed on April 9, 1924. Its recommendations were accepted at a conference at London in August, 1924, and it went into effect on September 1, 1924.<sup>26</sup> Germany was not represented on the Dawes Committee, but her representatives participated in the London conference which put the plan into effect. Mr. Ramsey MacDonald, then Premier of Great Britain and president of the London conference, referred to the London agreement "as the first Peace Treaty, because we sign it with a feeling that we have turned our backs on the terrible years of war and war mentality."<sup>27</sup> But the members of the Dawes Committee understood that their recommendations were of a temporary character to be accepted against the coming of a better day in European international relationships when a final and comprehensive settlement might be reached. Thus they state in their report: "We have been concerned with the technical, and not the political, aspects of the problem presented to us. We have recognized indeed that political considerations necessarily set certain limits within which a

<sup>23</sup> Report reproduced as Document 54 in Baker, *op. cit.*, Vol. III, p. 376.

<sup>24</sup> Paragraph 5 of Schedule C attached to the Reparation memorandum of Messrs. Davis, Strauss and Lamont, submitted to Col. House March 24, 1919. Reproduced in Baker, *op. cit.*, Vol. III, p. 394.

<sup>25</sup> See article "The Dawes Report on German Reparation Payments," this JOURNAL, Vol. 18 (1924), p. 419.

<sup>26</sup> *Ibid.*

<sup>27</sup> London Times, Aug. 18, 1924, p. 16.

solution must be found if it is to have any chance of acceptance;" and they finally point out "that while our plan does not, as it could not properly, attempt a solution of the whole reparation problem, it foreshadows a settlement extending in its application for a sufficient time to restore confidence, and at the same time is so framed as to facilitate a final and comprehensive agreement as to all the problems of reparation and connected questions as soon as circumstances make this possible."<sup>28</sup>

The Dawes Plan was silent on the most important item of the reparation problem, namely, the amount of Germany's liability. Notwithstanding Premier MacDonald's reference to the London agreement putting the plan into effect as "the first really negotiated agreement since the war" because "it was not the result of an ultimatum," the fact is that two days before the Dawes Committee met the French Foreign Office issued a communiqué in which it was declared that "France will not accept that a committee of experts make any changes in the amount of the debt as fixed May 1, 1921, and will give its consent to no reduction whatsoever in the amount of the obligations of Germany as determined by the Reparation Commission in May, 1921."<sup>29</sup>

The Dawes Committee accordingly confined its recommendations on the amount of reparation to a series of graduated annuities, computed according to Germany's supposed capacity to pay, and running for an indefinite period of time. The experts indicated the sources of revenue from which these payments should be made, and set up machinery in Germany under the supervision of foreigners to assure the collection of the pledged revenues and provide for their payment to the creditor governments. In effect, Germany has, for the five years of the Dawes Plan, been in the hands of an international receivership. The substitution of the New Plan for the Dawes Plan will mark the end of the receivership.

There seems to be no doubt that the Dawes Plan accomplished the purpose for which it was intended. Mr. S. Parker Gilbert, the American appointed by the Reparation Commission as Agent General for Reparation Payments, in his first report, dated November 30, 1925, said:

The adoption of the Experts' Plan by agreement between Germany and the Allied Powers represented a decision in favor of the rational settlement of the reparations problem, and an election at the same time in favor of the peaceful reconstruction of Europe. . . .

From the point of view of German reconstruction, it is already clear that the Plan marked the determining point in the recovery from the disorder and disorganization of the inflation, and that developments since its adoption are to be estimated in terms of the part they have played in the readjustment to stable conditions and the restoration of the German economy to a productive state. . . .

The Plan has realized during the first year its two essential prelimi-

<sup>28</sup> Reparation Commission, XIV. Official Documents. The Experts' Plan for Reparation Payments. pp. 10 and 39.

<sup>29</sup> London Times, Oct. 29, 1923, p. 12.

nary objects, that is to say, a balanced budget and a stable currency. Without these it was impossible to look forward to the recovery of German business and industry. . . .

From the point of view of reparation payments, the Plan has brought order into the management of the problem, and assured the determination by actual experience of the reparations that can safely be paid and transferred. Under it, payments and deliveries are moving regularly to the creditor Powers, and in accordance with expectation. (Page 102.)

In reviewing the record of what had been accomplished during four years of the operation of the plan, Mr. Gilbert in his annual report dated December 22, 1928, stated: "Fundamentally, confidence has been restored, and Germany has been reestablished as a going concern on a relatively high level of economic activity. From the very outset, moreover, the Plan has realized its primary object, by securing the expected reparation payments and transfers to the creditor Powers." (Page 166.)

The intimations contained in the illuminating reports of the Agent General for Reparation Payments seem to have given the impetus to the initiation of the steps that have led to the present settlement of the problem. In concluding his third annual report, dated December 10, 1927, Mr. Parker said:

As time goes on, and practical experience accumulates, it becomes always clearer that neither the reparation problem, nor the other problems depending upon it, will be finally solved until Germany has been given a definite task to perform on her own responsibility, without foreign supervision and without transfer protection. This, I believe, is the principal lesson to be drawn from the past three years, and it should be constantly in the minds of all concerned as the execution of the Plan continues to unfold. (Page 172.)

Six months later, in his interim report dated June 7, 1928, Mr. Gilbert reiterated:

But the success of the Plan should not obscure its true nature. The Experts themselves did not recommend the Plan as an end in itself but rather as the means to meet an urgent problem and to accomplish practical results. They aimed primarily to provide for the recovery of Germany's reparation debt to the Allies, and more broadly to provide for the reconstruction of Germany, not merely as the means of securing the payment of reparation but also as "part of the larger problem of the reconstruction of Europe." I believe, as indicated in the conclusions to my last report, that from both standpoints the fundamental problem which remains is the final determination of Germany's reparation liabilities, and that it will be in the best interests of the creditor Powers and of Germany alike to reach a final settlement by mutual agreement "as soon," to use the concluding words of the Experts, "as circumstances make this possible." (Page 108.)

At Geneva, on September 16, 1928, the representative of Germany, Belgium, France, Great Britain, Italy, and Japan agreed on the necessity for a

complete and final settlement of the question of reparations and of the constitution for this purpose of a committee of financial experts nominated by the six governments.<sup>30</sup> On December 22, 1928, the terms of reference to the committee were announced as follows:

The Belgian, British, French, German, Italian and Japanese Governments, in pursuance of the decision reached at Geneva on September 16, 1928, whereby it was agreed to set up a committee of independent financial experts, hereby entrust to the Committee the task of drawing up proposals for a complete and final settlement of the reparation problem. These proposals shall include a settlement of the obligations resulting from the existing treaties and agreements between Germany and the creditor Powers. The committee shall address its report to the governments which took part in the Geneva decision and also to the Reparation Commission.<sup>31</sup>

The committee was constituted with two experts of the six nationalities mentioned in the terms of reference, and two American experts appointed by the German Government and the Reparation Commission acting jointly. Each expert appointed an alternate. The first regular meeting of the committee was held in Paris on February 11, 1930, and after holding continuous sessions over a period of seventeen weeks, the committee submitted its report on June 7, 1929. The text of the report is printed in the Supplement to this JOURNAL, page 81. Its provisions will be commented on in the next issue of the JOURNAL.

GEORGE A. FINCH.

THE CONCILIATORY POWERS OF THE WORLD COURT: THE CASE OF THE  
FREE ZONES OF UPPER SAVOY

In the order handed down on August 19, 1929, by the Permanent Court of International Justice in the dispute between France and Switzerland concerning the Free Zones of Upper Savoy and the District of Gex (Series A, No. 22) occurs the following notable paragraph as part of the considerations upon which the order is grounded:

Whereas the judicial settlement of international disputes, with a view to which the Court has been established, is simply an alternative to the direct and friendly settlement of such disputes between the parties; and consequently it is for the Court to facilitate so far as is compatible with its Statute, such direct and friendly settlement.

The question whether the court has jurisdiction under the statute to settle disputes by conciliatory procedure, either *ex officio* or by agreement of the parties, is of great importance. France and Switzerland, after protracted

<sup>30</sup> Final Act of the Hague Conference, Jan. 20, 1930. British Parliamentary Papers, Misc. No. 4 (1930), Cmd. 3484, p. 14.

<sup>31</sup> Report of the Committee of Experts, Supplement to this JOURNAL, p. 81.