

2463  
SIXTH SUPPLEMENT  
TO THE  
FEDERATED MALAY STATES  
GOVERNMENT GAZETTE

OF FRIDAY, THE 12TH OF MARCH, 1920.

(No. 6, Vol. XII.)

PUBLISHED BY AUTHORITY.

SATURDAY, 20TH MARCH, 1920.

The following Notifications are, by direction of the Chief Secretary to Government, published for general information.

T. S. ADAMS,  
for Acting Under Secretary, F.M.S.

No. 1166.—The following Bill about to be introduced in the Federal Council is published for general information:

WHEREAS at Versailles on the 28th day of June, 1919, a Treaty of Peace (hereinafter referred to as "the Treaty") was signed on behalf of His Britannic Majesty: Preamble.

AND WHEREAS the Treaty contained the stipulations set out in the schedule hereto and it is expedient that provision consonant therewith and with other stipulations of the Treaty be made by law in the Federated Malay States:

It is hereby enacted by the Rulers of the Federated Malay States in Council as follows:

1. This Enactment may be cited as "The Treaty of Peace Enactment, 1920," and shall come into force on the publication thereof in the *Gazette*; provided, that sections 3 to 12, inclusive, of this Enactment shall not have effect unless and until the Chief Secretary to Government shall have, by notification in the *Gazette*, appointed a date for the taking effect thereof, in which event the said sections shall have effect on and after the date so appointed. Short title and commencement.

2. (i) For the purposes of this Enactment—

"Article" means an Article of the Treaty;

"The Clearing Office" means the Local Clearing Office established in the Federated Malay States under section 3 and includes the British Clearing Office established in the United Kingdom in accordance with paragraph 1 of the Annex to Section III of Part X of the Treaty;

"Custodian" means the Custodian of enemy property appointed in the Federated Malay States under "The Trading with the Enemy Enactment, 1914, Amendment Enactment, 1916";

"Enemy debt" has the meaning assigned to it by paragraph 2 of the Annex to Section III of Part X of the Treaty;

"Nationals" (with its grammatical variations) 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;

"The Mixed Arbitral Tribunal" means the Mixed Arbitral Tribunal established between the British Empire and Germany under Section VI of Part X of the Treaty.

(ii) For the purposes of the schedule hereto the expression "during the war" means during the period from the 4th day of August, 1914, to the 10th day of January, 1920.

3. (i) There shall be established in the Federated Malay States a Local Clearing Office under the control and management of such person (hereinafter referred to as the Controller) as the Chief Secretary to Government may appoint for the purpose and with such officers and servants as the Chief Secretary to Government may determine. Local Clearing Office, and Controller.

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(ii) The Chief Secretary to Government may by rule, not inconsistent with the provisions hereof, prescribe the powers and duties of the Controller; such rules, when published in the *Gazette*, shall have the same force as if they were enacted by this Enactment.

Prohibition of settlement of enemy debts except through Clearing Office.

4. (i) It shall not be lawful for any British national 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 Clearing Office, and no British national interested in any such debt as debtor or creditor shall have any communication with any other person interested therein as creditor or debtor except through or by leave of the Clearing Office.

(ii) If any person contravenes the provisions of sub-section (i), he shall be guilty of an offence and liable to be proceeded against and punished as if he had been guilty of an offence against "The Trading with the Enemy Enactment, 1914," and section 8 of that Enactment shall apply accordingly.

Prohibition of proceedings in Court, with certain exceptions.

5. It shall not be lawful for any British national 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 Part X of the Treaty.

Enforcement of payment of enemy debts.

6. (i) The Controller shall on behalf of the Clearing Office have in the Federated Malay States 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 Section III of Part X of the Treaty and for that purpose shall have all such rights and powers as if he were the creditor.

(ii) If an enemy debt has been admitted by the debtor or the debt or amount thereof has been found by arbitration or by a Court of law (in any case where recourse to a Court is permitted by this Enactment), the Controller may certify the amount so admitted or found due.

(iii) Where in the case of an enemy debt the Controller or the British Clearing Office has certified the amount admitted or found due, then on production of such certificate to the Registrar or an Assistant Registrar of the Supreme Court the certificate shall be registered by him and shall from the date of such registration be of the same force and effect, and all proceedings may be taken thereon, as if the certificate were a decree obtained in the Supreme Court for the recovery of a debt of the amount specified in the certificate and dated the day of such registration, and all reasonable costs and charges attendant upon the registration of such certificate shall be recoverable in like manner as if they were part of such decree.

Recovery of fines.

7. It shall be lawful for the Controller to recover on behalf of the Clearing Office from any person by whom a fine is payable under paragraph 10 of the Annex to Section III of Part X of the Treaty the amount of such fine.

Obligation to notify debts and furnish information.

8. (i) British nationals in the Federated Malay States being creditors in respect of enemy debts shall give to the Controller on or before the 10th day of June, 1920, notice of enemy debts due to them and shall furnish the Controller with any documents and information required of them.

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(ii) If any such creditor as aforesaid refuses or fails to comply with the provisions of sub-section (i), he shall be guilty of an offence and liable, on complaint of the Controller and on conviction, to a fine not exceeding one hundred dollars.

9. 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 be guilty of an offence and liable, on complaint of the Controller and on conviction, to a fine not exceeding one thousand dollars or to imprisonment of either description for a term not exceeding three months or to both such imprisonment and fine.

Penalty for collusion or false information.

10. The provisions of this Enactment, so far as they relate to enemy debts, may by order of the High Commissioner published in the *Gazette* be extended so as to apply to debts due to or from the nationals, resident in the Federated Malay States, of any of the Allied or Associated Powers parties to the Treaty and when so extended shall apply accordingly in like manner as they apply to debts due to or from British nationals so resident.

Extension of the provisions relating to enemy debts.

11. Proceedings in the Federated Malay States on behalf of the Clearing Office may be taken by the Controller, and costs may be awarded to or against the Controller.

Actions on behalf of Clearing Office.

12. (i) Every document purporting to be an order or other instrument issued by the Local Clearing Office or by the British Clearing Office and to be signed by the Controller thereof or by the secretary or other person authorized by such Controller shall be received in evidence and shall be deemed to be such order or instrument without further proof unless the contrary is shown.

Proof of documents issued or made by or on behalf of the Clearing Office.

(ii) A certificate signed by the Controller of the Local Clearing Office or of the British Clearing Office that an order or other instrument purporting to be made or issued by such Clearing Office is so made or issued shall be conclusive evidence of the facts so certified.

(iii) Prima facie evidence of any document issued, before or after the commencement of this Enactment, by or on behalf of the Clearing Office may be given in all Courts and in all legal proceedings whatsoever in all or any of the modes hereinafter mentioned, that is to say:

(a) by the production of a copy of the *London Gazette* or of the *Federated Malay States Gazette* purporting to contain such document;

(b) by the production of a copy of such document purporting to be printed under the superintendence or authority of His Britannic Majesty's stationery office or under the authority of the Government of the Federated Malay States;

(c) by the production of a copy or extract purporting to be certified to be true by the Controller or Secretary of the Local Clearing Office or the British Clearing Office (as the case may be) by or on behalf of which the document was issued or by any person authorized by such Controller to act on his behalf.

(iv) Any such copy or extract as is referred to in sub-section (iii) may be in print or in writing or partly in print and partly in writing.

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(v) No proof shall be required of the handwriting or official position of any person certifying to the truth of any copy of or extract from any document issued by or on behalf of the Clearing Office.

Decisions of  
Mixed Arbitral  
Tribunal.

**13.** All decisions of the Mixed Arbitral Tribunal, if within the jurisdiction of that tribunal, shall be final and conclusive and binding on all Courts in the Federated Malay States.

Enforcement of  
attendance of  
witnesses before  
Mixed Arbitral  
Tribunal.

**14.** For the purpose of enforcing the attendance of witnesses from the Federated Malay States before the Mixed Arbitral Tribunal, wherever sitting, and compelling the production before the tribunal of documents, the Chief Secretary to Government shall have power to issue orders which shall have the like effect as if the proceedings before the tribunal were an action in the Supreme Court and the order were a formal process issued by that Court in the due exercise of its jurisdiction, and shall be enforceable by that Court accordingly, and disobedience to any such order shall be punishable as contempt of Court.

Continued  
operation of  
Enactment  
No. 19 of 1915,  
as amended.

**15.** The Alien Enemies (Winding up) Enactment, 1915, together with all statutory amendments thereof, shall have effect as if references therein to alien enemies and to subjects of a State at war with His Britannic Majesty and to enemy country included references to German nationals and to German territory, and as if references therein to the carrying on of trade included references to the owning of property, movable or immovable, including industrial, literary and artistic property.

Charge on pro-  
perty, rights  
and interests  
of German  
nationals.

**16.** All property, rights and interests within the Federated Malay States belonging to German nationals at the commencement of this Enactment (not being property, rights or interests acquired under any licence issued by the Chief Secretary to Government) 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 or Malay nationals 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 any compensation awarded by the Mixed Arbitral Tribunal, or by an Arbitrator appointed by that Tribunal, and with payment of claims growing out of acts committed by the German Government or by German authorities since the 31st day of July, and before the 4th day of August, 1914; and

(b) secondly, with payment of the amounts due in respect of claims by British or Malay nationals 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.

Provided that any particular property, rights or interests so charged may at any time, if the Chief Secretary to Government thinks fit, be released from the charge so created. Provided further that the charge hereby created shall not affect any security existing at the commencement of this Enactment in favour of persons other than German nationals.

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**17.** With a view to making effective and enforcing the charge created by section 16—

Charge, how to  
be made  
effective.

- (a) no person shall, without the consent of the Custodian, transfer, part with or otherwise deal in any property, right or interest subject to the charge; and if any person does so he shall be guilty of an offence and liable, on complaint of the Custodian and on conviction, to a fine not exceeding one thousand dollars or to imprisonment of either description for a term not exceeding three months or to both such imprisonment and fine;
- (b) every person owning or having the control or management of any property, right or interest subject to the charge (including where the property, right or interest consists of shares, stocks or other securities issued by a company or other body or any right or interest therein such company or body) shall, unless particulars thereof have already been furnished to the Custodian in accordance with the Trading with the Enemy Enactments 1914 to 1916, within one month from the commencement of this Enactment by notice in writing communicate the fact to the Custodian, 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 be guilty of an offence and liable, on complaint of the Custodian and on conviction, to a fine not exceeding one thousand dollars;
- (c) where the property charged consists of inscribed or registered stock, shares or other securities, any company or other body by which the securities were issued or are managed shall, on application being made by the Custodian, enter the Custodian in the books in which the securities are inscribed or registered as the proprietor of the securities subject to the charge, and the Custodian shall, subject to the consent of the Chief Secretary to Government, have power to sell or otherwise deal with the securities as proprietor of which he is so registered or inscribed;
- (d) (1) the Chief Secretary to Government may by order vest in the Custodian any property, rights and interests subject to the charge, or the right to transfer the same, and may by any such order, or any subsequent order, confer on the Custodian such powers of selling, managing and otherwise dealing with the property as to the Chief Secretary to Government may seem proper;
- (2) a vesting order under clause (1) of this paragraph shall have the same effect as if the person whose property, rights or interests are thereby vested in the Custodian had executed an assignment thereof to the Custodian to the effect intended by the order, and shall be sufficient to vest in the Custodian any property, or the right to transfer any property as provided by the order, without the necessity of any further conveyance, assurance or document;

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(3) all property whereof the Custodian is registered as proprietor under paragraph (c) and which is vested in the Custodian under clauses (1) and (2) of this paragraph and the proceeds of the sale of, or money arising from, any such property shall be dealt with by him as if the same were money paid to and property vested in him under "The Trading with the Enemy Enactment, 1914, Amendment Enactment, 1916," and section 11 of that Enactment shall apply accordingly;

(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 the charge created by section 16, he shall, before paying, transferring or dealing with the same, report the matter to the Custodian and shall comply with any directions that the Custodian may give with respect thereto.

Contracts and  
prescriptions.

**18.** (i) Subject as in sub-section (ii) provided, Article 299, paragraphs (a) and (g) of Article 300, Article 301 and the Annex to Section V of Part X of the Treaty shall have full force and effect as law in the Federated Malay States.

(ii) Article 300 shall have effect as if the Federated Malay States were territory of His Britannic Majesty; and the Annex to Section V of Part X of the Treaty shall be read

(a) as if in paragraph 2 thereof the reference to Article 297 (b) of Section IV were a reference to section 15 of this Enactment and the reference to domestic laws, orders or regulations included reference to laws, orders or regulations passed or made in the Federated Malay States; and

(b) as if paragraphs 4, 12 and 13 thereof were deleted; and

(c) as if in paragraph 6 thereof the reference to the Powers which adopt Section III and the Annex thereto included reference to the Federated Malay States.

(iii) The date on which the period of prescription or limitation of right of action referred to in Article 300 shall begin again to run shall be the 10th day of July, 1920; 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 extend up to the 10th day of July, 1920.

Limitations on  
rights of  
industrial,  
literary or  
artistic  
property.

**19.** 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 Chief Secretary to Government may prescribe; provided that as regards rights of industrial, literary or artistic property acquired after the coming into force of the Treaty such limitations, conditions or restrictions shall only be imposed in cases where they are, in the opinion of the Chief Secretary to Government, necessary for the defence of the Federated Malay States or in the public interest. Any transfer in whole or in part or other dealing with any right so acquired as aforesaid effected since the 1st day of August, 1914, shall, if and so far as it is inconsistent with any limitation, condition or restriction imposed under this section, be void and of no effect.

## TREATY OF PEACE.

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## SCHEDULE.

(SECTIONS III AND V 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;

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(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 ratifications 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.

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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 judicial 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.

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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.

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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.

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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 Office in the same way as such debts.

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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 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.

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(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.

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(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 endorsers 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 endorser, 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.

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## 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 became 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.

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(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 insolvency of the Clearing Offices, which shall assume the rights of a holder as regards the various remedies open to him.

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.

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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 retransfer 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 <sup>the</sup> war became due upon a contract deemed not to have been dissolved <sup>under the preceding provision</sup> shall be recoverable after the war with addition of interest at 5 per cent. per annum from the date <sup>it</sup> became 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 contract, the assured or his representatives or the persons entitled shall have the right at any time within twelve 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 representative or the persons entitled shall have the right to restore the contract on payment of the premiums with interest at 5 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.

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## 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 associates of such Power.

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## 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.

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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.

## OBJECTS AND REASONS.

On August 18th, 1919, an Order was made by His Majesty in Council for giving effect to Sections III to VII of Part X of the Treaty of Peace signed at Versailles on June 28th, 1919; those Sections deal with debts—property, rights and interests—contracts, prescriptions and judgments—the mixed arbitral tribunal—and industrial property. It is desired that legislation be passed in these States based on the provisions of that Order in Council, so far as such legislation is considered necessary to give effect to these Sections of the Treaty.

The object of this Bill is to meet that desire. Besides regulating in the manner indicated by the Treaty the method of payment and recovery of enemy debts by British nationals, it takes account of, and seeks to provide in accordance with, the fact that during the war this Government followed the lead of the Imperial Government by prohibiting trading and commercial relations with enemies of His Majesty; it also purports to charge the local property of German nationals with payment of claims of British or Malay nationals, in the same way that the Order in Council charges such property within His Majesty's Dominions or Protectorates with payment of claims of British nationals.

KUALA LUMPUR,  
26th February, 1920.

F. BELFIELD,  
*Legal Adviser, F.M.S.*

## "THE PUBLIC EMERGENCY ENACTMENT, 1917."

**No. 1167.**—WHEREAS by section 5 of "The Public Emergency Enactment, 1917," it is enacted that the High Commissioner may, by notification in the *Gazette*, prohibit the importation into, or the exportation from, the Federated Malay States, either absolutely or from or to any country, territory or place without the Federated Malay States in such notification to be specified, of any animal or thing, and any animal or thing to which such prohibition as aforesaid relates shall be deemed for the purposes of the Customs Regulations Enactments, 1907, to be prohibited things:

NOW THEREFORE, His Excellency, in virtue and exercise of the powers aforesaid, prohibits the exportation of the things mentioned in the schedule hereto as follows:

1. The exportation of the articles mentioned in Schedule A is prohibited to all ports and destinations abroad other than ports and destinations in the United Kingdom, British Possessions, Protectorates and Protected States.

2. The exportation of the articles mentioned in Schedules A and B is prohibited to Russia, Germany, Austria, Hungary, Bulgaria and Turkey.

3. Any person who exports or attempts to export any article in contravention of these regulations or aids or abets any other person in exporting or attempting to export any such article shall be guilty of an offence against these regulations, and if such person is a Company, every Director or officer of the Company shall also be guilty of an offence against these regulations unless he proves that the contravention took place without his knowledge or consent.

4. Any person guilty of an offence against these regulations shall be liable on conviction before the Court of a First Class Magistrate, notwithstanding anything in the Criminal Procedure Code contained, to a fine not exceeding \$800 or to imprisonment of either description for a term which may extend to six months or to both such fine and imprisonment.

5. Nothing in these regulations shall apply to the exportation of any article in accordance with the conditions and restrictions of a licence issued by Order of the High Commissioner.

6. Notification No. 591, published in the *Federated Malay States Government Gazette* of 2nd February, 1920, is hereby revoked.

## SCHEDULE A.

Ammunition.	Firearms.
Butter.	Opium.
Cocaine.	Rice.
Explosives other than industrial explosives.	Silver.

## SCHEDULE B.

Aircraft of every description, including aeroplanes, airships, balloons and their component parts, together with accessories and articles suitable for use in connection with aircraft.

**No. 1168.**—THE FOOD CONTROL REGULATIONS, 1918.—

In exercise of the powers conferred upon him by regulation 6 of the Food Control Regulations, 1918, and of all other powers enabling him in that behalf, the Food Controller hereby fixes maximum prices, as per schedule annexed, for the sale of all white rice and all parboiled rice imported into or milled in the districts of Klang and Kuala Selangor.

## SCHEDULE.

## IN THE DISTRIBUTING CENTRES OF KLANG AND KUALA SELANGOR.

1. By licensed importers and wholesale dealers in rice ... \$17.38 per picul
2. By licensed retail dealers in rice ... \$1.09 per gantang

When sold outside the above-mentioned distributing centres nothing whatsoever shall be added to the above prices except a sum equal to the net amount of the charges for transport actually incurred by the seller and approved by the Food Controller.

The price at which all rice is sold shall be conspicuously posted at every place at which such sale is made.

Any person disobeying this order will be liable on conviction to a fine not exceeding \$800 and to imprisonment of either description which may extend to six months.

Notification No. 361, published in the *Gazette* on January 29th, 1920, is hereby cancelled in so far as it relates to the prices fixed for the distributing centres of Klang and Kuala Selangor.