COUNTER-CASE

PRESENTED ON BEHALF

OF THE

GOVERNMENT OF HIS BRITANNIC MAJESTY

TO THE

PERMANENT COURT OF INTERNATIONAL JUSTICE.

DECEMBER 23rd 1922.

THE FACTS (GENERAL OBSERVATION).

The Court will have noticed from a perusal of the British and French Cases that the facts relating to the actual issue of the Nationality Decrees of November 8th, 1921, are not in dispute.

Nor are the treaties and other documents mentioned in the British Case affected by the matters of fact referred to in the French Case under the head of "Position de la Question."

The French Case, however, presents the relations between France and its Protectorates and the respective powers of the protecting State and the territorial Sovereigns under an aspect entirely different to that appearing in the British Case — an aspect which, in the submission of His Majesty's Government, is not in accord with the relevant documents and true facts.

From their presentment, the Government of the French Republic deduce the conclusion that the imposition of French nationality upon British subjects in the Protectorates was a matter entirely of domestic jurisdiction, either of France, or of the territorial sovereign, or both.

Upon this branch of the case (1) it will be the task of the Court, if they consider it necessary or desirable for the decision of the Case, having regard to the other issues, to ascertain what, upon the relevant documents and true facts, as interpreted and found by the Court, are, according to international law, the rights and obligations, so far as relevant, of France and

(1) See British Case, pp. 61, 62, heads 2, 3, 4 ; p. 63, head 5.

the local Sovereigns as between the Protecting and Protected States, and as regards Great Britain.

The other points which are summarised in the British Case (1) and are independent of the above question will, it is submitted, be found to stand as there stated, without necessitating any finding of fact by the Court.

These points are, in the submission of His Majesty's Government, sufficient, apart from the question referred to above, to establish that the imposition by France of French nationality upon British subjects in Tunis and Morocco is not, in international law, a matter solely within the domestic jurisdiction of France ; in other words, that the question before the Court falls to be answered in the negative.

His Majesty's Government now proceed to deal with the contents of the French Case under their respective headings :

"Position de la Question."

His Majesty's Government do not deem it necessary to discuss in detail the earlier portions (pp. 3—8 exclusive of the last paragraph) of the argumentative statement under this heading in the French Case. The matters there referred to appear to be, in the main, irrelevant to the question of law which is before the Court.

The following points; however, seem to call for comment :

1. The statement is made at the very outset of the French Case (2) that it was the duty of France, flowing from its mission as the protecting Power of Tunis under the treaties of May 12th, 1881, and June 8th, 1883, and of Morocco (French zone) under the treaty of March 30th, 1912, to assist the protected States in developing the application of Western conceptions of nationality to the native populations. The same point is relied upon again on p. 4 and later passages of the French Case.

His Majesty's Government are unable to find any warrant for this statement in the preamble or other provisions of the

(1) See British Case, pp. 61, 62, heads 2, 3, 4; p. 63, head 5.
(2) French Case, p. 3, para. 1.

treaty of May 12th, 1881,(1) or the treaty of June 8th, 1883,(2) which is set out in the appendix hereto. Nor do the terms of the treaty of March 30th, 1912, (3) appear to support the statement.

It is desired, moreover, to emphasise that the powers and duties of France in respect of the Protected States are defined and limited by the said treaties. (*See* Dalloz, "Dictionnaire de Droit," 12e Ed., p. 1209.)

2. On p. 11 (4) the following passage occurs:

> "Par la prolongation de la résidence, un étranger devient-il *heimatlos* ? Ses enfants nés en Tunisie naissent alors Tunisiens et, ainsi, passent du rang de justiciables des tribunaux français du protectorat qu'avaient connu leurs pères, à celui d'indigènes relevant de la justice locale."

If this passage is intended to have reference to the persons affected by the Tunis Nationality Decrees of November 8th, 1921, who are claimed by His Majesty's Government as British subjects, there is, it is submitted, a complete misapprehension of the true position.

Although the question does not arise in the present case it may be desirable for the sake of clearness to recapitulate somewhat more fully the position, in English law, of these persons, which was stated in a summary form in the British Case : (5)

By the Common Law of England the child of British subjects who is born in a place where the King of England exercises extra-territorial rights of jurisdiction is born within His Majesty's allegiance and is, therefore, himself a natural-born British subject. This rule results from the principles of the Common Law which are stated in *Calvin's Case* (1609), 7, Coke's reports, p. 1.

If it be assumed, for the sake of argument, that the British Crown ceased to exercise capitulatory rights of jurisdiction in Tunis after 1883, (6) the children of British subjects born in

(1) British Case, App. No. 4, p. 70.
(2) Appendix No. 1, p. 477.
(3) British Case, App. No. 15, p. 136.
(4) French Case, p. 5 *ad fin.*
(5) British Case, p. 47.
(6) See British Case, p. 42.

Tunis thereafter would not come within the above principle of law, whilst, on the other hand, if His Majesty's Government is correct in its contention as to continuance of the capitulatory rights, they would.

But by the Statute 4, Geo. II, c. 21 (1730),(1) British nationality was conferred upon all children born out of the allegiance of the British Crown whose fathers were natural-born British subjects, and by the Statute 13, Geo. III, c. 21 (1772),(2) British nationality was conferred upon the children born out of the allegiance of the British Crown of fathers who were British subjects by virtue of the earlier statute.

"The British Nationality and Status of Aliens Act, 1914," (3) section 1 (1), is declaratory of the above-mentioned rule of Common Law. It is restrictive as to the above-mentioned statute law, in that it limits the British nationality of persons born out of His Majesty's allegiance to a single generation.

By section 1 (3) of the above Act of 1914, however, it is enacted that nothing in section 1 shall affect the status of any person born before the commencement of the Act.

The result of the last-mentioned provision is that persons born in Tunis before the 1st January, 1915 (the date when, under section 28 (3), the Act became operative), who are the children of a father also born in Tunis, who in turn was the child of a father also born in Tunis of British parents before 1884, are themselves British subjects by virtue of the above-mentioned statutes, even if British capitulatory rights of jurisdiction are assumed to have come to an end in 1883.

From the foregoing observations it is clear that on November 8th, 1921, none of the persons of British descent who were born in Tunis were *heimatlos*, subject to the possible exception, if the above assumption is made, of some children of tender age.

It follows that none of these persons "naissent alors Tunisiens." (4) Nor do they receive" à leur naissance la nationalité tunisienne."

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(1) Appendix No. 2, p. 479.
(2) Appendix No. 3, p. 482.
(3) British Case, App. No. 13, p. 122.
(4) French Case, p. 5 *ad fin*; p. 6, line 9.

It may be remarked that the argument developed on this point in the French Case suggests that the original mistake upon which the Nationality Decrees were based, as shown by the note from the Count de Saint-Aulaire to Lord Curzon, dated December 14th, 1921, (1) persists in the mind of the French Government.

3. Further, on p. 11, (2) the statement is made that :

> "Pour faire prévaloir sa nationalité sur celle des Etats étrangers, l'Etat protecteur peut, sans même attendre que ces nationalités étrangères abdiquent, leur opposer la sienne au titre des services effectivement rendus."

This proposition, in so far as it involves the claim that France is entitled to impose its nationality upon British subjects in the Protectorates, goes, of course, to the root of one aspect of the present Case.

The British Case (3) contains a statement of facts and some reasons against the claim in question, and it is proposed to deal more fully with this point below.

It appears sufficient, at present, to say that if, as His Majesty's Government contend, the claim is contrary to international law, it cannot be justified "au titre des services effectivement rendus." (4)

The French Case (5) proceeds to elaborate an argument based mainly upon expediency which His Majesty's Government cannot regard as well founded ; but in view of the point indicated avove, this argument does not seem material to the question in issue and it is, therefore, not thought necessary to make a detailed answer.

One matter, however, requires specific notice.

The statement is made that : (6)

> "Il convenait qu'elles (les colonies étrangères) fussent mises en demeure de sortir de la situation irrègulière qui

(1) British Case, App. No. 21 (4), p. 162.
(2) French Case, p. 7.
(3) British Case, pp. 37—57, 60—64.
(4) French Case, p. 7, line 6.
(5) French Case, p. 7.
(6) French Case, p. 8, line 2.

avait été la leur, en acceptant soit la nationalité du Protecteur, *soit celle du Protégé : l'une et l'autre également qualifiées* . . . .

The statement that it was competent for the Protecting Power to impose its nationality has already been dissented from, but the suggestion that the nationality of the Protected State could properly be imposed, cannot be allowed to pass unchallenged. His Majesty's Government propose to show that this suggestion is entirely erroneous.

The French Case first touches upon the matters more immediately relevant to the question before the Court in a passage which seems to embody in a summary form the considerations upon which the French Government rely as the foundation of their position.

This passage is the following : (1)

"Aussi, par un mutuel accord entre le Protecteur et le Protégé, en même temps que le Bey de Tunis réclame comme ses nationaux les descendants d'étrangers établis en Tunisie, quand les générations s'y succèdent, la nationalité française élève une revendication en face de laquelle, à moins que l'intéressé ne l'écarte, le Bey de Tunis consent à laisser tomber la sienne."

This passage involves three inter-related assumptions, each dependent for its validity upon that of the others, and none of which are, it is submitted, well founded :

1. That it is competent, in accordance with international law for the Bey of Tunis to impose Tunisian nationality on British subjects in his dominions.
2. That it is competent, according to international law, for France to impose French nationality upon the persons who have become Tunisian subjects under 1.
3. That this double operation can, consistently with international law, be accomplished by means of a mutual accord between the Protecting and Protected Powers.

(1) French Case, p. 8.

As to 1 : It is the contention of His Majesty's Government, as explained in the British Case,(1) that the Convention of 1875 between Great Britain and Tunis, under which capitulatory rights were conferred upon Great Britain, was, on November 8th, 1921, and still is, in force as between Great Britain and Tunis.

In confirmation of this contention the following illustration may be given :

Let it be supposed that the French Protectorate were to terminate and the French authorities to withdraw from the country. Would not the direct exercise of British capitulatory rights by the British Consular Authorities thereupon revive ? It is submitted that they clearly would, under and by virtue of the Convention. With the cessation of the delegated exercise of those rights by the French tribunals, they would revert unimpaired to the British Consular Courts. By the delegation to France in 1883 of the exercise of British rights and the Convention of 1897, both of which were a consequence of the recognition of the French régime of Protection, Great Britain did not forgo its capitulatory rights as against the Bey. There is no basis either in Lord Granville's note of June 20th, 1883, or the Convention for such a result, which would be clearly contrary to the intention of the parties concerned, having regard to the safeguards consistently demanded and obtained by European States in Mussulman countries.

It is well established that a Mahommedan State subject to Capitulations, cannot, according to international law and usage, impose its nationality upon the subject of a European State in possession of capitulatory rights under an existing treaty.

This principle has its root in historical facts, which are too well known to be elaborated. It suffices to recall that ever since 1535 (not to refer to the earlier Capitulations confirmed to Italian colonies), when France made its first Capitulatory Treaty with the Sultan of Turkey (*see* Noradounghian, volume 1, p. 83, text No. 1), European nationals in the Mussulman countries of the Levant, have lived and been born in suc-

(1) British Case, pp. 41, 42.

ceeding generations under their own laws, subject to their own Consuls, withdrawn from the jurisdiction and law of the territorial sovereign, who has never so much as attempted to confer or impose his nationality upon them.

This ancient and unbroken custom and usage is now an integral part of international law.

Although this principle of international law depends primarily on historical facts, it does not lack confirmation in authority : — *See* Féraud-Giraud, "De la Jurisdiction française dans les Echelles du Levant et de la Barbarie," 2nd edition, vol. II, pp. 58—59, referred to with approval by Lord Watson in the case of *Abdul-ul-Messih v. Farra* (1888), Law Reports 13, Appeal Cases 431, at p. 440 ; Du Rausas, "Le Régime des Capitulations dans l'Empire ottoman," vol. 1, pp. 204 and 430 ; Twiss, "Law of Nations," 2nd edition, pp. 267—268.

It follows from the principle of international law under discussion that if, as His Majesty's Government contend, Great Britain still enjoys capitulatory rights as against the Bey of Tunis, the proposition that it was competent for the Bey to affect British subjects with Tunisian nationality is not maintainable.

But it is desired to submit further that, even apart from the existence of capitulatory rights, it is contrary to ancient and unbroken international usage for a Mussulman State to impose its nationality upon the subjects of a European Power.

From 1535 until the 18th century, only a few European States besides France enjoyed Capitulations with Turkey. Thereafter they were obtained by most of the Western States at different dates, but not by all, as, for example, Switzerland has never sought or been granted capitulatory rights. Nevertheless, it is a matter of history that the subjects of all these States have throughout the period in question (from 1535 to the present time) enjoyed immunity from Ottoman nationality irrespective of whether their own sovereign enjoyed Capitulations or not. In some cases, families and colonies of this descriptions have been established in the Ottoman Dominions for generations and even centuries, without losing their original European nationality.

In this view it would not be permissible for the Bey of

Tunis to impose Tunisian nationality upon British subjects, even if, contrary to the contention of His Majesty's Government, British capitulatory rights against the Bey of Tunis had, on November 8th, ceased to exist.

As to 2. The considerations outlined above negative the Tunisian nationality of the persons referred to, and invalidate the premise upon which the second proposition rests. But even if the hypothesis on this point made in the French Case is accepted it is, nevertheless, submitted that according to international law it is not competent for France to impose its nationality upon these "Tunisian subjects."

The relation of France to Tunis being that of Protecting Power and not territorial sovereign, international law lends no countenance to the claim of the French Government to confer French nationality upon the subjects of the sovereign of Tunis.

The power of a State to confer or impose its nationality is inseparably linked to, and exclusively derived from, its sovereignty.

Far from being disputed by the Government of the French Republic, the statements made and the authorities relied upon in a later portion of the French Case (1) assert and establish this principle.

As is there pointed out, two principles are commonly appealed to as the basis of nationality legislation: *jus sanguinis* and *jus soli*.

The French Decree of November 8th, 1921, is obviously not founded upon the *jus sanguinis*, nor is it founded upon the *jus soli*, inasmuch as Tunis is not within the territorial limits over which France is sovereign.

His Majesty's Government are unable to find any warrant in international law for the exercise by France of this sovereign right outside its territories, and it is submitted that the principles of international law negative its propriety. (*See* Rodenburg, "De Jure quod oritur e Statutorum Diversitate," Tit. I, c. 3, § 1; Boullenois, "Traité de la Personnalité et de la Réalité des Lois," Principes généraux, VI; Huber, "Praelectiones

(1) French Case, pp. 20, 21.

Juris Civilis," Tom. II, Lib. I, Tit. III, "De conflictu Legum," § 2 ; Foelix, "Droit International Privé," 2e Ed., Ch. III, p. 13, § 10 ; Martens, "Précis du Droit des Gens," § 86 ; Kent's Commentaries, Tom. II, § 457 ; Chief Justice Parker in the case of *Blanchard* v. *Russell*, 13, Massachusetts Reports, p. 4 ; Story, "Conflict of Laws," 8th Ed., Ch. II, § § 20, 32 ; Hall. "International Law," 7th edition, § 64, pp. 224—225.)

It is further desired to point out that the imposition of French nationality upon Tunisian subjects would constitute an encroachment upon the sovereign rights of the Bey not authorised by any provision of the treaties of May 12th, 1881, (1) or June 8th, 1883. (2) (*See* the case of *Semmama* v. *Depienne, Dejeaune et le Gouvernement tunisien.* Cour d'Appel d'Alger, May 20th, 1890, "Journal des Tribunaux de la Tunisie," vol. II, year 1890.)

As to 3. This proposition assumes and depends upon the truth of the two preceding ones, which it has been sought to show cannot be supported. But even if the necessary assumptions are made, it is none the less suggested that, from the point of view of international law, the existence of an accord between the Protecting and Protected States is not effective to warrant the exercise of an essentially sovereign right, namely, bestowal of its nationality by one State within the territory and upon the subjects of another.

Moreover, whatever may be the effect of such an accord as between the States which are parties to it, it is submitted that it cannot operate internationally so as to override the existing nationality of the subjects of a third Power without its consent.

Where a State, by virtue of its sovereign right, confers its nationality upon the subjects, within its own territory, of another Power, the territorial sovereignty of the State is effective to render valid the alteration of status within the limits of the territory as against the Power whose subjects are affected, but His Majesty's Government are unable to appreciate how an agreement between two States which results in the

(1) British Case, App. No. 4, p. 70.
(2) Appendix No. 1, p. 477.

nationality of the subjects of a third Power being overridden and replaced by that of one of the parties to the agreement can be operative or effective as against the third Power.

Such an agreement is from the point of view of the third Power *res inter alios acta.*

Before leaving the passage under discussion His Majesty's Government desire to make it clear that whilst it has seemed material to make a somewhat detailed and technical criticism of this important contention, the main ground upon which they contest the action of the French Government is of a more general character. The fundamental considerations upon which His Majesty's Government rely as establishing that the imposition of French nationality upon British subjects in Tunis and Morocco is contrary to international law, may be summarised as follows :

The position of France in the two countries is that of Protecting Power and not territorial sovereign, the rights and duties flowing from that position being defined in the relevant treaties between the Protecting and Protected States. When Great Britain recognised the special position of France in the two countries, it recognised, and recognised only, the régime of protection so established, which involved protection by France of the rights enjoyed by British subjects at the time when that régime commenced. France is the trustee of those rights and cannot either by the purported exercise of sovereign power in the Protectorates or by agreement with the local sovereign, infringe or override those rights, including the right to British nationality, without the consent of Great Britain.

The French Case (1) proceeds to summarise the reasons which inspired the Nationality Decrees of November 8th, 1921, which are then set out.

In so far as Tunis is concerned, it seems sufficient to repeat that His Majesty's Government cannot recognise these reasons as being well founded.

In regard to Morocco (2) reference is merely made to the

(1) French Case, pp. 9—12.
(2) French Case, p. 11.

arguments relied upon as justifying the Tunis Decrees, these arguments being assumed to be equally applicable to Morocco. His Majesty's Government draw attention to the fact that in Morocco His Majesty's capitulatory rights were on November 8th, 1921, and still are, indisputably, in full vigour, and in direct exercise by the British Authorities. The considerations hereinbefore stated in connection with the imposition of French nationality upon British subjects in Tunis, are, therefore, applicable *a fortiori* in the case of Morocco.

The French Case (1) now passes to another matter, namely, that of the present applicability of the Morocco Decrees, with the following statement : "A raison du jeune âge du Protectorat de la France au Maroc, cette réforme ne pouvait encore produire directement aucun effet sensible. Statuant pour l'avenir, sans application directe au présent, elle ne devait appeler, dans l'opinion publique, aucun mouvement."

In a later part of the French Case (2) this point is relied upon as the foundation for an argument that the objection of His Majesty's Government to the nationality legislation in Morocco is merely theoretical, and contrary to the legal principle whereby an abstract complaint, not founded upon any present interest, gives rise to no cause of action.

His Majesty's Government (3) desire to point out that the statement in question is in contradiction with the tenour of the diplomatic correspondence between the French and British Governments relating to the Morocco Decrees, in the course of which the French Government treated the legislation as immediately applicable to persons claimed by His Majesty's Government as British subjects.

Moreover, the Shereefian Decree is, in so far as its terms are concerned, immediately applicable to all British subjects born in the French zone, one of whose parents was also born there, and it would appear from the contention advanced in

(1) French Case, p. 13, para. 1.
(2) French Case, p. 19, para. 2, p. 30, line 24.
(3) British Case, App. No. 21 (6), p. 165 ; (9) p. 174 ; (11) p. 178 ; (12) p. 184 ; (29) p. 210.

a later portion of the French Case, (1) that the Government of the French Republic suggest that the French Decree, is, in fact, applicable to British subjects born in the French zone of parents, one of whom was born there, on the ground that the parent is or ought to be "justiciable au titre étranger des tribunaux français du Protectorat."

It is now proposed to turn to the allegations made in the French Case (2) in regard to the attitude of the British colony in Tunis towards the nationality legislation.

The matters there stated appear to His Majesty's Government to be entirely irrelevant to the question before the Court.

Even if the view of the French Government (3) that the protest of His Majesty's Government could not be entertained in the absence of claims for British protection by the interested persons were correct, it is admitted by the French Government (4) that such claims were made by a certain number of persons, as is indeed abundantly clear from the correspondence annexed to the British Case.(5) In considering the legal questions which are alone in issue in the present case, the number of the persons who were averse to receive French nationality and claimed to preserve their British nationality is wholly immaterial.

Nevertheless, in view of the statements made in the French Case, (6) His Majesty's Government have no alternative but to place on record a courteous but unqualified denial of the whole of the allegations in question in so far as they state or imply that the British subjects in Tunis generally or as to the majority thereof acclaimed French nationality with enthusiasm, or renounced their British nationality freely.

In fact, the greater part of these persons claimed the right to preserve their British nationality, and appealed to the British Consular authorities for protection. Whatever manifestations in favour of French nationality occurred, were the

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(1) French Case, p. 30, line 24 *sq.*
(2) French Case, pp. 13—18.
(3) French Case, pp. 18, 19.
(4) French Case, pp. 17, 18.
(5) British Case, App. No. 21 ; (16) to (26), pp. 192—207.
(6) French Case, pp. 13—18.

result of prolonged and extensive propaganda, from which menaces were not always wanting, on the part of the French Authorities.

As observed above, this question of fact is, in the submission of His Majesty's Government, (1) irrelevant and it is therefore not proposed to substantiate the foregoing statement by formal and detailed evidence which would necessarily be of a somewhat voluminous and elaborate character. A few documents bearing upon the question are, however, annexed hereto by way of illustration.

"Discussion."

Under this heading the French Case (2) commences by stating the question in issue. His Majesty's Government (3) have indi cated in greater detail the nature of the question which is before the Court.

The Government of the French Republic (4) then raise a preliminary objection, based, as to Tunis, upon the alleged absence, except in rare cases, of appeals by the interested persons for British protection, and, as to Morocco, upon the alleged abstract nature of the dispute.

Both these points have been dealt with above, and it does not appear necessary to add to the observations there made, except in regard to the statement introduced into this preliminary objection that the action taken by His Majesty's Government in bringing the present dispute before the Council of the League of Nations (5) is an action "qui ne tend à rien moins qu'à faire casser des lois internes, *erga omnes*, par une autorité suprême, la Société des Nations." This point is relied upon again at a later stage, and it seems advisable to answer it at the first opportunity. (6)

His Majesty's Government do not claim, and have never intended so much as to suggest, that the Nationality Decrees

(1) Appendix Nos. 4, 5 and 6, pp. 485, 487, 491.
(2) French Case, p. 18, first para.
(3) British Case, p. 59.
(4) French Case, p. 18.
(5) French Case, p. 19, line 7.
(6) French Case, p. 23.

should be revoked by the League of Nations or the Court, neither of these august authorities having, as is obvious, any power or jurisdiction so to do.

The only action which His Majesty's Government contemplated in submitting the dispute to the Council under article 15 of the Covenant is a settlement of the dispute in accordance with the provisions of that article, resulting, if the Council should so decide, in a recommendation that the decrees ought not to be applied to British subjects. The scope of the Council's power or authority to affect the legislation complained of is plainly limited, under article 15, to the making of such a recommendation. It is clear, first, that it is France and the local Sovereigns alone who would have power or jurisdiction to abstain from so applying the decrees, and, secondly, that such an abstention would not be a revocation of the legislation in question.

Turning to the discussion of article 15, paragraph 8, (1) His Majesty's Government agree that the paragraph is of American origin; that it was absent from the first draft of the Covenant; and that it owes its origin to the desire of the American people or Government to reserve certain questions in regard to which the control of the League appeared to them unacceptable.

As stated in the British Case, (2) His Majesty's Government share the view of the French Government that tariff and immigration questions were aimed at; but they are unable to agree, as suggested in the French case, that questions of naturalisation were included.

In the view of His Majesty's Government, little light upon the interpretation of the paragraph is to be obtained from the opinion of commentators, but, as already submitted in the British case, the proper construction falls to be determined by the Court itself upon consideration of the intention of the framers as expressed in the language of the paragraph and the Covenant as a whole.

In connection with the statement that "l'immigration, la

(1) French Case, p. 19.
(2) British Case, p. 64, penultimate para.

naturalisation, ont été, dans les polémiques américaines relatives à la Société des Nations, formellement visées," (1) if this be the fact it is not appreciated how discussions in America after the signature of the treaty embodying the Covenant can be relevant to its interpretation.

It may be permissible to remind the Court that no official report of the proceedings preliminary to the drafting of the Convention exists.

It is, however, desired to point out that, even if questions of naturalisation had been intended to be included in the matters referred to as "solely of domestic jurisdiction," this would not conclude the question now in issue which relates not to naturalisation in its true sense of legislation within the territorial limits of the State itself, but to legislation imposing the nationality of one State upon the subjects of another State in the territory of a third State, so as to override their existing nationality.

In regard to the succeeding passages of the French Case, (2) which deal with the character and nature, in the view of international law and in municipal law, of nationality legislation, His Majesty's Government only desire to make one observation, namely, that the considerations and authorities there mentioned are applicable to nationality legislation as hitherto known and applied, viz., legislation, whether founded upon the *jus sanguinis* or *jus soli*, which flowed from the principle of sovereignty, but have no application, in the submission of His Majesty's Government, to the legislation in question in the present case.

The same observation, together with the statements made on p. 466 above, would appear to cover the contentions advanced in the two paragraphs which follow. (3)

The French Case (4) proceeds to discuss the efficacy of the *jus sanguinis* as against the territorial Sovereign and cites various authorities to establish the proposition that the territorial

(1) French Case, p. 20, para. 1.
(2) French Case, p. 20, last two paras. ; p. 21, first two paras.
(3) French Case, p. 22, last para. ; p. 23, first two paras.
(4) French Case, p. 23, third para. to p. 28, second para.

Sovereign is entitled to confer his nationality upon individuals within his territory who are, by the laws, founded upon the *jus sanguinis*, of another State, nationals of that State.

His Majesty's Government are in general agreement with this proposition, as well as with the authorities referred to, but they dissent entirely from the suggestion that the principles laid down have any bearing upon, or application to, the facts of the present case. The reasons for this view have already been sufficiently indicated (see pp. 457—465 *supra*). It may, however, be permissible again to emphasise that the position of France as protecting Power of Tunis and Morocco (French zone) and her fiduciary relation as regards Great Britain and its subjects involved in that position, and in the recognition of that position by Great Britain, give rise to an entirely different and distinct set of rights and duties to those which result from territorial sovereignty.

But it is necessary to consider the manner in which the Government of the French Republic seek to apply the principles relating to nationality *jure sanguinis* and *jure soli* to the régime of Protection, and, consequently, to the particular circumstances of the present case.

This appears from the following passage: (1)

> "Un État—la Tunisie, protégée de la France—déclare sujettes, comme nées sur le territoire de la Régence, des personnes que, nées de parents sujets britanniques, la Grande-Bretagne persiste, à la seconde génération, à tenir pour ressortissants britanniques. Par suite d'un accord conclu dans l'intérêt même des personnes dont il s'agit, un autre État—la France—les reçoit dans sa nationalité. De la légitimité de cet accord, la Grande-Bretagne ne saurait discuter, car s'immiscer dans les rapports du protecteur et du protégé serait, de sa part, avec une atteinte à leur indépendance réciproque, une intervention prohibée. Dès lors, en s'opposant à l'application en Tunisie du décret français qui fait, en Tunisie, de ceux que la Grande-Bretagne entend garder comme ressortissants, des Fran-

(1) French Case, p. 28, para. 3.

> çais, le Gouvernement de Sa Majesté britannique conteste tant au Bey de Tunis le droit de légiférer sur son territoire en matière de nationalité qu'à la France le droit de conclure librement, dans l'intérêt de l'accomplissement de sa mission protectrice, tous accords avec le protégé ! »

This passage would seem to contain the substance of the French contention both as justifying the legislation according to international law and as establishing that it is a matter solely of domestic jurisdiction.

His Majesty's Government have already indicated (see pp. 458—464 *supra*) their reasons for holding that the legislation is contrary to international law, and they reaffirm the proposition that, if contrary to international law, it cannot, by that law, be a matter solely of domestic jurisdiction.

It is, however, desired to add that, in the submission of His Majesty's Government, protest by one Power against an agreement between two other Sovereign States the effect of which is to override the nationality of the subjects of the protesting Power, without its consent, cannot be regarded, according to international law, as "une intervention prohibée."

The French Case (1) now turns to another aspect of the dispute, to which His Majesty's Government attach great importance, namely, the question of "un titre juridique particulier, issu soit de la coutume internationale, soit d'un traité spécial."

It has been shown in the British Case (2) that a question of international comity does arise in respect of the nationality legislation both in Tunis and Morocco.

As to the important question of "un titre juridique issu d'un traité spécial," the view is, in the first place, put forward in the French Case that "ni en Tunisie ni au Maroc les Capitulations ne sont un élément de solution du problème."

The Government of the French Republic (3) then proceed to put forward the contention that in Morocco whilst "la Grande-

(1) French Case, p. 29, para. 4.
(2) British Case, p. 58, head 3 ; p. 63, head 5.
(3) French Case, p. 30, para 4.

Bretagne prétend, il est vrai, maintenir sa juridiction consulaire," "cette attitude n'est pas légitime," since it is "en contradiction formelle avec l'engagement pris par la Grande-Bretagne en adhérant à l'accord du 4 novembre 1911 avec l'Allemagne de reconnaître les tribunaux français dès qu'ils seront constitués, et, dès lors, de renoncer, comme les autres Puissances, du moins en ce qui concerne la condition des personnes, au régime juridique privilégié des Capitulations." The French text continues: (1) "elle [the Court] ne saurait ici dire que l'exception de l'extraterritorialité capitulaire, arbitrairement prétendue par la Grande-Bretagne, forme, dans la zone française du Maroc, un obstacle, reçonnu par la loi internationale, à l'application des droits de la puissance publique territoriale."

The position is governed by the Declaration between the United Kingdom and France respecting Egypt and Morocco, and the secret articles annexed thereto signed on April 8th, 1904, together with the adhesion by Great Britain, given on November 14th, 1911, to the Franco-German Convention respecting Morocco dated November 4th, 1911.

All these documents are set out in the Appendix hereto and are referred to for their terms. (2)

His Majesty's Government must express clearly and formally their dissent from the conclusion stated in the French Case, which is based upon premises entirely contrary to the facts. The Franco-German Convention of 1911 (article 9), (3) is not an agreement for the suppression of the Capitulations; it provides a means of dealing with claims by foreigners against the Moorish authorities during the period before the establishment of the new judicial system. The wording of article 9 clearly contemplates that the replacement of the Consular Courts by the new system can only be effected by agreement with the Powers concerned; and it is material to observe that, although the judicial system in question was introduced some time before the war, the German Govern-

(1) French Case, p. 30, para. 4.
(2) Appendix Nos. 7, 8 and 9, pp. 494, 504, 516.
(3) Appendix No. 8, p. 508.

ment did not abandon their capitulatory rights until compelled to do so by the Treaty of Versailles.

As between France and Great Britain the question of the Capitulations in Egypt and Morocco is already regulated by article 2 (1) of the Anglo-French Declaration of 1904, in which His Majesty's Government agreed to "entertain proposals" for the abolition of Capitulations in Morocco on condition that the French Government would do the same in Egypt. The French contention appears to be that the British accession to the Convention of 1911 substituted the introduction of the new judicial system in Morocco for the abolition of Capitulations in Egypt as the date on which His Majesty's Government were pledged to abandon their rights. This view His Majesty's Government cannot accept. In the first place, it is entirely inconsistent with the prolonged negociations which have taken place with the French Government since the armistice for the mutual surrender of capitulatory rights in the two countries; and in the second place the Convention of 1911 cannot be, and never previously has been, regarded as superseding the Anglo-French Declaration of 1904. (2) The condition laid down in article 2 of the latter still holds good, and article 9 of the 1911 Convention (3) must be treated as subordinate thereto.

Conclusive as these arguments are, they do not represent the whole strength of the British Case. They proceed on the French assumption that the British accession to the Convention of 1911 was unconditional. This assumption does not accord with the facts. The British accession was explicitly declared to be conditional on the town and district of Tangier (4) being placed under international control —a condition which has not yet been fulfilled.

Apart from the above considerations, there are other aspects of the question to which attention must be called.

Some time after the accession of His Majesty's Government

(1) Appendix No. 7, p. 495.
(2) Appendix No. 7, p. 501.
(3) Appendix No. 8, p. 508.
(4) Appendix No. 9, p. 516.

to the Franco-German Convention of 1911, negotiations were opened between the two Governments for the reciprocal closing of the French Consular Court in Egypt and the British Consular Court in Morocco. These negotiations were protracted during the subsequent years and it was not until 1919 that a draft Convention (which is set out in the Appendix (1) hereto) was ready for signature. At that moment the French Government intimated for the first time that they were not prepared to sign it unless satisfaction was accorded to them in connection with Tangier. His Majesty's Government were unable to agree to this condition, and the draft Convention still remains unsigned. The British Consular Court thus remains in existence in Morocco, because the French Government have refused to sign the Convention providing for its closure.

Turning now to Tunis, it is stated in the French Case (2) that:

> "En Tunisie, depuis 1884, dans l'opinion du Gouvernement de la République et, de l'avis du Gouvernement britannique, depuis 1897, les Capitulations ont, en ce qui concerne la juridiction, cessé d'exister au profit de la Grande-Bretagne."

The facts relating to the British capitulatory rights in Tunis have been stated in the British Case, (3) and the reasons upon which it is claimed that these rights still subsist as against Bey of Tunis were there indicated, and have been somewhat more fully touched upon herein (see pp. 458—459 *supra*).

As to the statement that "de l'avis du Gouvernement britannique, depuis 1897, les Capitulations ont, en ce qui concerne la jurisdiction, cessé d'exister au profit de la Grande-Bretagne," the French Government no doubt refers to certain observations made on behalf of His Majesty's Government in the course of the diplomatic correspondence relative to the dispute.

If the passages referred to are those in Lord Hardinge's

(1) Appendix No. 10, p. 518.
(2) French Case, pp. 30, 31.
(3) British Case, pp. 39—44.

notes dated January 3rd, 1922, (1) and February 6th, 1922, (2) respectively, it is to be noticed that those passages are directed exclusively to the question: What is the date after which the descendants of British subjects in Tunis are to be regarded as no longer born within the allegiance of His Majesty?

The question of the existence or non-existence as against the Bey of capitulatory rights for the purpose of precluding the Bey from imposing his nationality upon British subjects was, as the context shows, not in the mind of the writer of the notes.

Even if it be that the effect of the Anglo-French Convention of 1897 (3) is to terminate the exercise of His Majesty's extra-territorial rights of jurisdiction so as to render the descendants of British subjects born in Tunis after that date persons who were no longer born within the allegiance of His Majesty, it is none the less submitted that the said Convention did not release the Bey from the obligations, or terminate as against him the rights of Great Britain, which result from the General Convention between Great Britain and Tunis of July 19th, 1875, (4) so as to enable him to impose Tunisian nationality upon British subjects.

Moreover, the Anglo-French Convention of 1897 (5) did not, in any respect, release the French Government from its obligation as protecting Power to protect and preserve, both as regards its own direct acts and its control over those of the local Sovereign, the existing rights of Great Britain and its subjects entrusted to the guardianship of France by Great Britain when it recognised the protectorate. On the contrary the preamble of the Convention seems to give express recognition to the intention to safeguard these rights.

The French Government,(6) whilst appearing to repudiate the relevance or applicability to the question before the Court of any "titre juridique particulier issu . . . . d'un traité spécial,"

(1) British Case, App., p. 164, second para.
(2) British Case, App., p. 171, second para.
(3) British Case, App. No. 8, p. 95.
(4) British Case, App. No. 5, p. 72.
(5) British Case, App. No. 8, p. 95.
(6) French Case, p. 29, para. 4.

invoke article 1 of the convention of 1897 (1) as justifying the legislation complained of in respect of Tunis.

As it has been pointed out in the British Case the interpretation of this article is one of the questions in dispute, and His Majesty's Government (2) relies strongly upon this fact as making it impossible to hold that the matters complained of are, by international law, solely within the domestic jurisdiction of France.

In the last place, the French Case (3) refers to the Franco-Italian Consular Convention of the 28th September, 1896, and the rights claimed by Great Britain in reference thereto under the notes of 1919. (4)

Here again the interpretation of the international agreement contained in the notes is in dispute, and this fact is, in the opinion of His Majesty's Government, (5) decisive in considering the question before the Court.

The suggestion that by reason of the terms of article 1 of the Anglo-French Convention of 1897, (6) all interest in the examination of this question of interpretation is removed, cannot be accepted. The construction of this article as well as that of the notes of 1919 is in dispute, and it is clearly inadmissible for one party by assuming the correctness of its interpretation of the former provision to claim that it becomes unnecessary to decide the question arising upon the interpretation and effect of the agreement enbodied in the notes.

Before closing these observations it is desired to state generally that, whilst it has been thought proper to deal with most of the points raised in the French Case, many of these points do not appear to His Majesty's Government to be directly relevant to the question which is before the Court;

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(1) French Case, p. 31, para. 2—4.
(2) British Case, p. 59, head 5; p. 62, head 4.
(3) French Case, p. 31, last para.
(4) British Case, pp. 44—45.
(5) See British Case, p. 59, head 7; p. 61, head 3.
(6) French Case, p. 31, last para.

and it may, perhaps, be permissible to remind the Court that the question which alone is in issue in the present case is the preliminary point of law stated in the British Case. (1)

CONCLUSION.

His Majesty's Government submit to the Court that the matters alleged and contentions set forth in the French Case do not in any way displace the conclusion of the British Case that the question before the Court should be answered in the negative.

(1) British Case, p. 59.

Appendix 1.

CONVENTION ENTRE LA FRANCE ET LA TUNISIE, POUR RÉGLER LES RAPPORTS RESPECTIFS DES DEUX PAYS. — SIGNÉE À LA MARSA, LE 8 JUIN 1883.

Son Altesse le Bey de Tunis, prenant en considération la nécessité d'améliorer la situation intérieure de la Tunisie, dans les conditions prévues par le Traité du 12 mai 1881, et le Gouvernement de la République, ayant à coeur de répondre à ce désir et de consolider ainsi les relations d'amitié heureusement existantes entre les deux pays, sont convenus de conclure une Convention spéciale à cet effet ; en conséquence, le Président de la République française a nommé pour son plénipotentaire, M. Pierre-Paul Cambon, son Ministre résident à Tunis, Officier de la Légion d'Honneur, décoré de l'Haïd et Grand-Croix du Nichau Iftikar, etc., lequel, après avoir communiqué ses pleins pouvoirs, trouvés en bonne et due forme, a arrêté avec son Altesse le Bey de Tunis les dispositions suivantes :

ARTICLE 1.

Afin de faciliter au Gouvernement français l'accomplissement de son Protectorat, son Altesse le Bey de Tunis s'engage à procéder aux réformes administratives, judiciaires et financières que le Gouvernement français jugera utiles.

ARTICLE 2.

Le Gouvernement français garantira, à l'époque et sous les conditions qui lui paraîtront les meilleures, un emprunt à émettre par son Altesse le Bey, pour la conversion ou le remboursement de la Dette consolidée s'élevant à la somme de 120,000,000 fr. et de la dette flottante jusqu'à concurrence d'un maximum de 17,550,000 fr.

Son Altesse le Bey s'interdit de contracter, à l'avenir, aucun emprunt pour le compte de la Régence sans l'autorisation du Gouvernement français.

ARTICLE 3.

Sur les revenus de la Régence, son Altesse le Bey prélèvera : (1) les sommes nécessaires pour assurer le service de l'emprunt garanti par la France ; (2) la somme de 2,000,000 piastres (1,200,000 fr.), montant de sa liste civile, les surplus des revenus devant être affectés aux dépenses d'administration de la Régence et au remboursement des charges du Protectorat.

ARTICLE 4.

Le présent arrangement confirme et complète, en tant que de besoin, le Traité du 12 mai 1881. Il ne modifiera pas les dispositions précédemment intervenues pour le règlement des contributions de guerre.

ARTICLE 5.

La présente convention sera soumise à la ratification du Gouvernement de la République française, et l'instrument de la dite ratification sera remis à son Altesse le Bey de Tunis dans le plus bref délai possible. [1])

En foi de quoi les soussignés ont dressé le présent Acte et l'ont revêtu de leurs cachets.

Fait à la Marsa, le 8 juin 1883.

(*L. S.*) ALI, *Bey de Tunis.*
(*L. S.*) PAUL CAMBON.

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1) The President of the French Republic was authorised to ratify this convention by law of the 9th April, 1884.

Appendix 2.

ANNO QUARTO GEORGII II, CAP. 21.

An Act to explain a Clause in an Act made in the Seventh Year of the Reign of Her late Majesty Queen Anne, for Naturalising Foreign Protestants, which relates to the Children of the Natural-born Subjects of the Crown of England or of Great Britain.

7 Anne cap 5. "WHEREAS by an Act of Parliament made in the seventh year of the reign of Her late Majesty Queen Anne, intituled an Act for naturalising of foreign Protestants, it is, amongst other things enacted, that the children of all natural-born subjects born out of the ligeance of Her said late Majesty, her heirs and successors, should be deemed, adjudged and taken to be natural-born subjects of this kingdom to all intents, 10 Anne cap. 5. constructions and purposes whatsoever: And whereas in the tenth year of Her said late Majesty's reign another Act was made and passed to repeal the said Act (except what related to the children of Her Majesty's natural-born subjects, born out of Her Majesty's allegiance): And whereas some doubts have arisen upon the construction of the said recited clause in the said Act of the seventh year of Her late Majesty's reign": Now for the explaining the said recited clause in the said Act, relating to children of natural-born subjects, and to prevent any disputes touching the true intent and meaning thereof, may it please your Most Excellent Majesty that it may be declared and enacted, and be it declared and enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that all children born out of the ligeance of the Crown of England or of Great Britain, or which shall hereafter be born out of such ligeance, whose fathers were or shall be natural-born subjects of the Crown of England, or of Great Britain, at the time of the birth of such children respectively, shall and may, by virtue of the said recited clause in the said Act of the seventh year of the reign of Her said late

Children of natural-born subjects born out of the allegiance of the Crown declared to be natural-born.

7 Anne, cap. 5, sec. 3.

Majesty, and of this present Act, be adjudged and taken to be, and all such children are hereby declared to be natural-born subjects of the Crown of Great Britain to all intents, constructions and purposes whatsoever.

Children of parents attainted of treason,

2. Provided always, and be it further enacted and declared by the authority aforesaid, that nothing in the said recited Act of the seventh year of Her said late Majesty's reign, or in this present Act contained, did, doth or shall extend, or ought to be construed, adjudged or taken to extend, to make any children born or to be born out the of ligeance of the Crown of England, or of the Crown of Great Britain, to be natural-born subjects of the Crown of England, or of Great Britain, whose fathers at the time of the birth of such children respectively were or shall be attainted of high treason, by judgement, outlawry or otherwise, either in this kingdom or in Ireland, or whose fathers at the time of the birth of such children respectively, by any law or laws made in this kingdom or in Ireland were or shall be liable to the penalties of high treason or felony, in case of their returning into this kingdom or into Ireland without the licence of His Majesty, his heirs or successors, or of any of His Majesty's royal predecessors, or whose fathers at the time of the birth of such children respectively were or shall be in the actual service of any foreign Prince or State then in enmity with the Crown of England or of Great Britain, but that all such children are, were and shall be and remain in the same state, plight and condition to all intents, constructions and purposes whatsoever, as they would have been in, if the said Act of the seventh year of Her said late Majesty's reign, or this present Act, had never been made ; anything herein, or in the said Act of the seventh year of Her said late Majesty's reign contained to the contrary in anywise notwithstanding.

or in actual service of foreign Princes in enmity with the Crown excepted.

Proviso.

3. Provided always, and be it further enacted by the authority aforesaid, that if any child, whose father at the time of the birth of such child was attainted of high treason as aforesaid, or was liable to the penalties of high treason or felony, in case of returning into this kingdom or Ireland without licence as aforesaid, or was in the actual service of any foreign Prince or State then in enmity with the Crown of England or of Great Britain (other than and excepting always out of this

proviso all children of such persons, who went out of Irela id in pursuance of the articles of Limerick) hath come into Great Britain or Ireland, or any other of the dominions belonging to the Crown of Great Britain, and hath continued to reside within Great Britain or Ireland, or other the dominions aforesaid, for the space of two years, at any time between the 16th day of November in the year of our Lord, 1708, and the 25th day of March in the year of our Lord, 1731, and during such residence hath professed the Protestant religion ; or if any child, whose father at the time of his or her birth was within any of the descriptions before mentioned, hath come into Great Britain or Ireland, or any other of the dominions belonging to the Crown of Great Britain and professed the Protestant religion, and died within Great Britain or Ireland or any other of the dominions aforesaid, at any time between the said 16th day of November in the year of our Lord, 1708, and the said 25th day of March in the year of our Lord, 1731 ; or if any child, whose father at the time of his or her birth was within any of the descriptions before mentioned, hath been and continued in the actual possession or receipt of the rents and profits of any lands, tenements or hereditaments in Great Bretain or Ireland, for the space of one whole year, at any time between the said 16th day of November in the year of our Lord, 1708, and the said 25th day of March in the year of our Lord, 1731, or hath *bonâ-fide*, and for good and valuable consideration, sold, conveyed or settled any lands, tenements or hereditaments in Great Britain or Ireland, and any person claiming title thereto under such sale, convevance or settlement hath been and continued in the actual possession or receipt of the rents and profits thereof for the space of six months between the said 16th day of November in the year of our Lord, 1708, and the said 25th day of March in the year of our Lord, 1731, every such child shall be deemed, adjudged and taken to be, and to have been, a natural-born subject of the Crown of England, or of the Crown of Great Britain to all intents, constructions and purposes whatsoever ; anything herein contained to the contrary thereof in anywise notwithstanding.

Appendix 3.

ANNO DECIMO TERTIO GEORGII III, CAP. 21.

An Act to extend the provisions of an Act, made in the Fourth Year of the Reign of His late Majesty King George the Second, intituled "An Act to explain a clause in an Act made in the Seventh Year of the Reign of Her late Majesty Queen Anne, for Naturalising Foreign Protestants, which relates to the Children of the Natural-born Subjects of the Crown of England, or of Great Britain, to the Children of such Children."

Preamble. "WHEREAS divers natural-born subjects of Great Britain, who profess and exercise the Protestant religion, through various lawful causes, especially for the better carrying on of commerce, have been and are obliged to reside in several trading cities and other foreign places, where they have contracted marriages and brought up families: And whereas it is equally just and expedient that the kingdon should not be deprived of such subjects, nor lose the benefit of the wealth that they have acquired; and therefore that not only the children of such natural-born subjects, but their children also, should continue under the allegiance of His Majesty, and be intituled to come into this kingdom, and to bring hither and realise, or otherwise employ, their capital; but no provision hath hitherto been made to extend farther than to the children born out of the ligeance of His Majesty, whose fathers were natural-born subjects of the Crown of England or of Great Britain": May it therefore please your most Excellent Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same: That all persons born, or who hereafter shall be born, out of the ligeance of the Crown of England or of Great Britain, whose fathers were or shall be, by virtue of a statute made in the fourth year of King George the Second to explain a clause in an Act made in the seventh year of the

reign of Her Majesty Queen Anne for naturalising foreign Protestants, which relaties to the natural-born subjects of the Crown of England or of Great Britain intitled to all the rights and privileges of natural-born subjects of the Crown of England or of Great Britain, shall and may be adjudged and taken to be, and are hereby declared and enacted to be, natural-born subjects of the Crown of Great Britain, to all intents, constructions and purposes whatsoever, as if he and they had been and were born in this kingdom: anything contained in an Act of the twelfth year of the reign of King William the Third, intituled, "An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject," to the contrary in any wise notwithstanding.

Provisoes, &c., of 4 Geo. II not repealed by this Act.

2. Provided always, and be it enacted and declared by the authority aforesaid, that nothing in this present Act contained shall extend, or be construed, adjudged or taken to extend, to make any persons born, or to be born, out of the ligeance of the Crown of England, or of the Crown of Great Britain, to be natural-born subjects of the Crown of Great Britain, contrary to all or any of the provisoes, exceptions, limitations and restrictions contained in the aforesaid Act, made in the fourth year of the reign of His said late Majesty, or to repeal, abridge, or alter the same; but such clauses shall be, and remain in the same state, plight and condition, to all intents, constructions and purposes whatsoever, as they would have been if this present Act had never been made.

Not to abridge or alter the Act 5 Geo. I.

3. Provided also and be it further enacted by the authority aforesaid, that nothing in this present Act contained shall extend, or be construed, adjudged, or taken to repeal, abridge, or any ways alter an Act made in the fifth year of the reign of His late Majesty King George the First, intituled, "An Act to prevent the Inconveniences arising from seducing Artificiers in the Manufactures of Great Britain into Foreign Parts"; nor to repeal, abridge, or any ways alter, any law, statute, custom or usage whatsoever now in force concerning aliens, duties, customs and impositions, nor to cause any privilege, exemption, or abatement relating thereto, in favour of any person naturalised by virtue of this Act, unless such person

shall come into this realm, and there inhabit and reside, and shall take and subscribe the oaths, and make, repeat and subscribe the declaration appointed by an Act made in the first year of the reign of His late Majesty King George the First, intituled, "An Act for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for Extinguishing the Hopes of the pretended Prince of Wales, and his Open ond Secret Abettors," in such manner and form, and at such place and places as are in and by the said Act directed, and also receive the Sacrament of the Lord's Supper, according to the usage of the Church of England, or in some Protestant or reformed congregation within this Kingdom of Great Britain, within three months before their taking the oaths in the said Act mentioned; and shall, at the time and place of taking and subscribing the said oaths, and of the making, repeating and subscribing the said declaration, produce a certificate signed by the person administering the said sacrament, and attested by two credible witnesses, whereof an entry shall be made of record in the court and courts respectively wherein such oaths shall have been taken and subscribed, without any fee or reward.

Not to defeat any right vested in another person on the last day of this session.

4. Provided always, and be it further enacted by the authority aforesaid, that no person shall be enabled hereby to defeat any estate, right or interest which upon the last day of this session shall be lawfully vested in any other person, or to claim or demand any estate or interest which shall hereafter accrue, unless such claim or demand be made within five years next after the same shall accrue.

Appendix 4.

PROTEST OF THE MALTESE COLONY, PORTO-FARINA, TO HIS BRITANNIC MAJESTY'S CONSUL-GENERAL AT TUNIS.

Porto-Farina, le 12 février 1922.

Monsieur,

Nous soussignés avons l'honneur de porter à votre connaissance ce qui suit :

Aujourd'hui dimanche 12 courant, M. le Cheik de Porto-Farina nous a convoqués en son bureau pour nous communiquer de vive voix les ordres donnés à lui de vive voix par M. le Contrôleur civil de Bizerte au sujet du décret du 8 novembre écoulé concernant la nationalité anglo-maltaise.

Comme notre devoir nous oblige, malgré que cette convocation nous a été faite par un fonctionnaire indigène, nous nous sommes inclinés respectueusement pour avoir connaissance de ce qui suit. Voici ce que nous a dicté ce fonctionnaire :

« J'ai l'honneur de porter à votre connaissance, en ce qui concerne la colonie britannique, que la propagande faite par M. Camilleri, chancelier du consulat britannique de Bizerte, est *sans fondement* et que ce monsieur est *un menteur* et que lui-même a été convoqué par le Contrôleur pour choisir une de ces deux conditions: accepter la nationalité française, ou serait expulsé de la régence."

La même menace que celle faite à notre chancelier a été faite à nous-mêmes par ledit fonctionnaire, toujours parlant au nom de M. le Contrôleur civil de Bizerte.

La dernière phrase de M. le Cheik est ainsi conçue :

« Je vous ai donné le procès-verbal qui m'a été transmis de vive voix par M. le Contrôleur civil de Bizerte et je suis chargé de l'informer de votre décision. »

Nous soussignés avons demandés par plaisir à cet aimable fonctionnaire un délai de huit jours, qui nous a été accordé sans aucune difficulté, avant de déclarer notre décision définitive.

Donc, en ce moment, M. le Consul, notre situation se trouve dans un état critique, puisque nous sommes sous la *menace d'expulsion*, nous avons reçu cette *grosse insulte*, et, pour montrer que nous sommes fidèles à notre nation britannique, nous n'avons pris aucune décision et, pour vous le prouver, un intermédiaire chargé de nos sujets vous communique la présente lettre avec l'espoir d'avoir satisfaction.

Nous demandons tous que cette satisfaction nous sera donné officiellement avec le porteur de la présente et prions votre haute bienveillance de bien vouloir être notre défenseur auprès des autorités locales pour mettre fin à notre cause.

N.B. — C'est la deuxième fois que la convocation a eu lieu au bureau du cheik, mais la première fois concernant notre rôle dans l'enregistrement.

Avec l'espoir d'avoir suite favorable à notre requête, nous vous présentons, M. le consul général de Sa Majesté britannique, l'expression de nos sentiments bien dévoués et nos remerciements anticipés.

Vos serviteurs soussignés.

LAURENT BALDACCHINO.
VINCENZO BALDACCHINO.
FELIX BALDACCHINO.
MARNIS.
SPITERI SOCVERIO.
ANDRE BALDACCHINO.
SALVO BALDACCHINO.
CARMELO MUSCAT.
UN ILLÉGIBLE.
C. MUSCAT.
J. CORDINA.
J. BALDACCHINO.
M. MUCAT.
L. GRIMO.
T. GRIMO.
C. GRIMA.
UN ILLÉGIBLE.
UN ILLÉGIBLE.
F. MUSCAT.
UN ILLÉGIBLE.
MUSCAT GAETAN.
L. CORDINA.
C. BALDAQUINO.
MUSCAT PEPNO.
M. CORDINA.
BENOIT MUSCAT.
XAVIER BALDACCHINO.
CHARLES BALDACCHINO.
E. BALDACCHINO.
S. BALDACCHINO.
UN ILLÉGIBLE.

Appendix 5.

PETITION TO GOVERNOR OF MALTA.
(Communicated by H. M. Consul-General at Tunis, March 23, 1922.)

Nous soussignés, sujets britanniques habitant la Tunisie, protestons formellement par la présente contre les procédés des fonctionnaires français, tendant à nous priver de nos droits de nationalité.

Nous réclamons la protection du Gouvernement britannique et nous prions respectueusement son Excellence le Maréchal Plumer de vouloir bien attirer l'attention du Gouvernement à notre situation et nous désirons profiter de la présence à Tunis de son Excellence le Maréchal Plumer, Gouverneur de Malte, pour attirer l'attention du Gouvernement britannique aux procédés arbitraires et injustices dont nous sommes victimes.

D. CAMILLERI.
E. CAMILLERI.
GAETANO MUSCAT.
CARMELO MUSCAT.
GABRIEL MUSCAT.
EMILIA MUSCAT.
GABRIEL MUSCAT.
ARMAND MUSCAT.
JULES GRIMA.
ANTOINE GRIMA.
G. BALDACCHINO.
G. GALEA.
L. BALDACCHINO.
ANDREA BALDACCHINO
MARIA BALDACCHINO.
RIATA BALDACCHINO.
CARMELA BALDACCHINO.
ANDREA MUSCAT.
J. C. MUSCAT.
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CA. MUSCAT.
J. BALDACCHINO.
V. CAMILLERI.
F. X. BALDACCHINO.
A. CAMILLERI.
C. BALDACCHINO.
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L. BALDACCHINO.
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CARMELO CAMILLERI.
L. BALDACCHINO.
L. GRIMA.
JO. BALDACCHINO.
ANNA CAMILLERI.
MATHIEU CORDINA.
L. GRIMA.
V. GRIMA.

A. GRIMA.
G. BALDACCHINO.
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AURELLIEN CAMILLERI.
ANTOINE BALDACCHINO.
J. MUSCAT.
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A. SCOTTO.
ANGELO SCOTTO.
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S. CORDINA.
A. BALDACCHINO.
ANTOINE BALDACCHINO.
FRANÇOIS BALDACCHINO.
VINANT BALDACCHINO.
LOUISA BALDACCHINO.
JH. BALDACCHINO.
APHIRIANO BALDACCHINO.
M. BALDACCHINO.
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MARIE CAMILLERI.
BENOIT CAMILLERI.
CARMELO CAMILLERI.
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NICOLA BALDACCHINO.
LAZARE BALDACCHINO.
FELIX BALDACCHINO.
JOSEPH BALDACCHINO.
ANGELO BALDACCHINO.
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A. MUSCAT.
AD. BALDACCHINO.
A. MUSCAT.
S. BORG, *Curé de Porto-Farina.*

M. MUSCAT.
G. BALDACCHINO.
R. BALDACCHINO.
M. BALDACCHINO.
T. BALDACCHINO.
U. BALDACCHINO.
X. MUSCAT.
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J. MUSCAT.
C. MUSCAT.
O. SALIBA.
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A. BALDACCHINO.
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C. GRIMA.
R. GRIMA.
M. GRIMA.
A. GRIMA.
G. SPITERI.
M. SPITERI.
L. SPITERI.
C. SPITERI.
B. MUSCAT.
J. BALDACCHINO.
A. MUSCAT.
A. GRIMA.
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M. GRIMA.
M. GRIMA.
H. SALIBA.
P. GRIMA.
S. SPITERI.
MADALENA SPITERI.
ANTONIO SPITERI.
ANNA A. SPITERI.
G. SPITERI.
MADALENE SPITERI.
A. SPITERI.
E. MUSCAT.
C. MUSCAT.
R. MUSCAT.
M. MUSCAT.
R. MUSCAT.
E. MUSCAT.
Y. MUSCAT.
A. PERSICO.
H. CLEWS.
J. BALDAKINO.
L. BONNICI.
Jos. SPITERI.
A. SCERRI.
MARIUS BALDAQUINO.
A. BALDACCHINO.

E. BALDACCHINO.
L. SPITERI.
T. GRIMA.
C. BORG.
C. SANT.
SAVERIO TANTI.
G. SANT.
GIUSEPPE BEZZINA.
ANTOINE GALEA.
GIUSEPPINA SANT.
AIDA SANT
VINC. SANT
FRANCESCO SANT.
NINA SANT.
JOSEPHINE AZZOPARDI.
LIBERA AZZOPARDI.
PETER MICALLEF.
CARMELA MICALLEF.
PAULA MICALLEF.
MICHELE SCOTTO.
CARMELO SAPIANO.
CARMELO AZZOPARDI.
JH. MUSCAT.
A. MICALLEF.
MICHEL GRIMA.
CANDIDO SAPIANO.
MARCEL CAMILLERI.
C. BALDACCHINO.
A. BALDACCHINO.
S. GRIMA.
GIUSEPPE MAGRO.
ADRIANO MAGRO.
NICOLINA MAGRO.
CATERINA MAGRO.
MARIA MAGRO.
ERNESTO MAGRO.
VERGINIA MAGRO.
MARIA CARUANA.
FRANCESCO ATTARD.

ANGELO ATTARD.
CARMELA ATTARD.
GIUSEPPE ATTARD.
GIOV. ATTARD.
ANTONIO ATTARD.
ALBERTA ATTARD.
CARMELO ATTARD.
MODESTA ATTARD.
CONCETTA CARUANA.
LUIGIA BONAVIA.
LUIGI CARUANA.
GIUSEPPE CARUANA.
ROCCO CARUANA.
CONCETTA CARUANA.
M. BALDACCHINO.
G. SPITERI.
L. GRIMA.
CARMELO MAGRO.
ANNETTA MAGRO.
ESTER MAGRO.
MARIA MAGRO.
ANTONIA MAGRO.
ALBERTO MAGRO.
GIUSEPPA MAGRO.
PAOLINO MAGRO.
MADORKA MAGRO.
LAZZARO MAGRO.
ALBERTO MAGRO.
CELESTINO MAGRO.
GIANNINA MAGRO.
LUCIA MAGRO.
ROCCO MAGRO.
JEAN PSAILA.
JOSEPH PSAILA.
CARMELA PSAILA.
PAUL PSAILA.
FRANÇOIS PSAILA.
EMMANUEL PSAILA.
MARIA PSAILA.
SAUVEUR MUSCAT.

Appendix 6.

MR. EVELYN WRENCH TO SIR W. TYRRELL.

Overseas Club and Patriotic League,
Vernon House, Park Place,
London, January 19th, 1922.

Dear Sir William,

I am venturing to enclose a copy of a letter from the secretary of the Tunis branch of the Patriotic League of Britons Overseas, from which you will observe that he says undue pressure is being brought to bear on many of the local Maltese British subjects so that they can become French citizens.

I do not know if there is very much you can do in the matter, but I thought you ought to know what was happening.

Yours sincerely,

EVELYN WRENCH.

Enclosure.

MR. BURROUGH TO MR. EVELYN WRENCH.

Patriotic League of Britons Overseas,
5, Rue des Protestants,
Tunis, January 9th, 1922.

Dear Mr. Wrench,

It has not been possible for us to take as yet the usual steps towards getting in the subscriptions for 1922, the reason being that the whole colony is in a state of suspense and uncertainty in view of recent happenings.

On November 8th two decrees were published officially here to the effect that all foreigners born in Tunisia of parents either of whom was born in this country became French subjects. It was clearly understood that this was aimed specially against the British Maltese colony, but it was necessarily made to include all foreigners. Quite apart from the legality of the decrees, which is very doubtful, the fact that the provisions were made retroactive and extended national status to either father's or mother's side created much consternation in the colony. At the same time a violent press campaign was carried on, which we cannot help feeling was inspired to urge the British subjects to inscribe themselves immediately as French subjects.

The consul-general immediately took up the matter very strongly and so did the Patriotic League. The political side of the question is now in hand, and is being taken up strongly by the Foreign Office, and we expect shortly a thoroughly satisfactory result, thanks to our consul-general's wise and energetic action. Both he, myself and others have been attacked in the local press, however.

The local French authorities have sought to use intimidation in order to persuade the Maltese to inscribe their names as French, more especially in the smaller centres. A number of Maltese have, either through fear or for interest, inscribed themselves as French and so repudiated their British

nationality. But a large majority of British subjects, there are about 15,000 Maltese in this country, have refused to be intimidated.

The most serious side of the matter is the religious side, and it is to this that I specially call your attention. It is generally recognised that freedom of conscience is one of the essential bases of British nationality, and it is supposed to be that of France. But the Maltese are very strong Roman Catholics as a rule, and unfair advantage has been taken of this fact to intimidate them. I understand that even the Confessional has been used in this way, but of this I can give no proof. One glaring fact is undeniable. Canon Attard, Canon of the Cathedral at Tunis and a prominent member on the committee of the Patriotic League and one who has been indefatigable in his efforts for the Maltese colony here, had such pressure brought upon him by the Archbishop that he had to leave the country in order to avoid being forced to become a French subject. He is now living in Algiers. Such an abuse of ecclesiastical authority is absolutely intolerable.

Further, the Archbishop had the audacity to organise a *Te Deum* in the Cathedral in honour of the decrees, which was attended by the Resident-General and other authorities, including the Bey's Prime Minister, and to this our consul-general was actually invited ! Further, a local paper, run by a naturalised Maltese, states that anyone who opposes the application of the decrees constitutes himself an enemy of the Catholic Church.

You will agree with me that such action is absolutely unbearable, and more especially so in a Mahommedan country which is a French protectorate. Nothing could be more dangerous for the French themselves than for the Arabs to find them using religion as a lever for political ends, and it is most unedifying for all to see political strife being pushed on between Allied nations by religious weapons. Many of the Maltese are very angry about this and are turning against the Church in consequence.

The main mover in this is the Archbishop, Mgr. Lemaitre. His mission here is obviously political. I understand that during the war he was obliged to quit the Soudan because he

was suspected of anti-British propaganda. I think his attitude ought to be brought very strongly to the notice of the Roman Catholic authorities in London and in Rome. It is really unbearable that the religious weapon should be used either in France or England or in their protectorates for political purposes, and that the questions of nationality and religion should be mixed. This is especially dangerous in the case of a Mahommedan country under the protection of an Allied Power.

Will you consider this matter and see what you think ought to be done in the interests of justice and political and religious freedom ? Meanwhile I enclose you copies of the consul-general's letters that you may see how the political side is shaping.

Until this matter is definitely settled the usual activities of our branch have to be in abeyance, especially as some members of the committee have gone and signed on as French.

Yours very sincerely,

H. C. BURROUGH.

Appendix 7.

DECLARATION BETWEEN THE UNITED KINGDOM AND FRANCE RESPECTING EGYPT AND MOROCCO, TOGETHER WITH THE SECRET ARTICLES SIGNED AT THE SAME TIME.

SIGNED AD LONDON, APRIL 8TH, 1904.

[*English Text,*]

ARTICLE 1.

His Britannic Majesty's Government declare that they have no intention of altering the political status of Egypt.

The Government of the French Republic, for their part, declare that they will not obstruct the action of Great Britain in that country by asking that a limit of time be fixed for the British occupation or in any other manner, and that they give their assent to the draft Khedivial Decree annexed to the present arrangement, containing the guarantees

considered necessary for the protection of the interests of the Egyptian bondholders, on the condition that, after its promulgation, it cannot be modified in any way without the consent of the Powers signatory of the Convention of London of 1885.

It is agreed that the post of Director-General of Antiquities in Egypt shall continue, as in the past, to be entrusted to a French *savant*.

The French schools in Egypt shall continue to enjoy the same liberty as in the past.

ARTICLE 2.

The Government of the French Republic declare that they have no intention of altering the political status of Morocco.

His Britannic Majesty's Government, for their part, recognise that it appertains to France, more particularly as a Power whose dominions are conterminous for a great distance with those of Morocco, to preserve order in that country, and to provide assistance for the purpose of all administrative, economic, financial, and military reforms which it may require.

They declare that they will not obstruct the action taken by France for this purpose, provided that such action shall leave intact the rights which Great Britain, in virtue of treaties, conventions, and usage, enjoys in Morocco, including the right of coasting trade between the ports of Morocco, enjoyed by British vessels since 1901.

ARTICLE 3.

His Britannic Majesty's Government, for their part, will respect the rights which France, in virtue of treaties, conventions and usage, enjoys in Egypt, including the right of coasting trade between Egyptian ports accorded to French vessels.

ARTICLE 4.

The two Governments, being equally attached to the principle of commercial liberty both in Egypt and Morocco, declare that they will not, in those countries, countenance any inequality either in the imposition of customs duties or other taxes, or of railway transport charges.

The trade of both nations with Morocco and with Egypt shall enjoy the same treatment in transit through the French and British possessions in Africa. An agreement between the two Governments shall settle the conditions of such transit and shall determine the points of entry.

This mutual engagement shall be binding for a period of thirty years. Unless this stipulation is expressly denounced at least one year in advance, the period shall be extended for five years at a time.

Nevertheless, the Government of the French Republic reserve to themselves in Morocco, and His Britannic Majesty's Government reserve to themselves in Egypt, the right to see that the concessions for roads, railways, ports, etc., are only granted on such conditions as will maintain intact the authority of the State over these great undertakings of public interest.

ARTICLE 5.

His Britannic Majesty's Government declare that they will use their influence in order that the French officials now in the Egyptian service may not be placed under conditions less advantageous than those applying to the British officials in the same service.

The Government of the French Republic, for their part, would make no objection to the application of analogous conditions to British officials now in the Moorish service.

ARTICLE 6.

In order to ensure the free passage of the Suez Canal, His Britannic Majesty's Government declare that they adhere to the stipulations of the treaty of October 29th, 1888, and that they agree to their being put in force. The free passage of the Canal being thus guaranteed, the execution of the last sentence of paragraph 1 as well as of paragraph 2 of article 8 of that treaty will remain in abeyance.

ARTICLE 7.

In order to secure the free passage of the Straits of Gibraltar, the two Governments agree not to permit the erection of

any fortifications or strategic works on that portion of the coast of Morocco comprised between, but not including, Melilla and the heights which command the right bank of the River Sebou.

This condition does not, however, apply to the places at present in the occupation of Spain on the Moorish coast of the Mediterranean.

ARTICLE 8.

The two Governments, inspired by their feeling of sincere friendship for Spain, take into special consideration the interests which that country derives from her geographical position and from her territorial possessions on the Moorish coast of the Mediterranean. In regard to these interests the French Government will come to an understanding with the Spanish Government.

The agreement which may be come to on the subject between France and Spain shall be communicated to His Britannic Majesty's Government.

ARTICLE 9.

The two Governments agree to afford to one another their diplomatic support, in order to obtain the execution of the clauses of the present Declaration regarding Egypt and Morocco.

In witness whereof His Excellency the Ambassador of the French Republic at the Court of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty's Principal Secretary of State for Foreign Affairs, duly authorised for that purpose, have signed the present Declaration and have affixed thereto their seals.

Done at London, in duplicate, the 8th day of April, 1904.

(*L. S.*) LANSDOWNE.
(*L. S.*) PAUL CAMBON.

[*Texte français.*]

ARTICLE 1er.

Le Gouvernement de Sa Majesté britannique déclare qu'il n'a pas l'intention de changer l'état politique de l'Egypte.

De son côté, le Gouvernement de la République française déclare qu'il n'entravera pas l'action de l'Angleterre dans ce pays en demandant qu'un terme soit fixé à l'occupation britannique ou de toute autre manière, et qu'il donne son adhésion au projet de Décret khédivial qui est annexé au présent arrangement, et qui contient les garanties jugées nécessaires pour la sauvegarde des intérêts des porteurs de la Dette égyptienne, mais à la condition qu'après sa mise en vigueur aucune modification n'y pourra être introduite sans l'assentiment des Puissances signataires de la Convention de London de 1885.

Il est convenu que la Direction générale des Antiquités en Egypte continuera d'être, comme par le passé, confiée à un savant français.

Les écoles françaises en Egypte continueront à jouir de la même liberté que par le passé.

ARTICLE 2.

Le Gouvernement de la République française déclare qu'il n'a pas l'intention de changer l'état politique du Maroc.

De son côté, le Gouvernement de Sa Majesté britannique reconnaît qu'il appartient à la France, notamment comme Puissance limitrophe du Maroc sur une vaste étendue, de veiller à la tranquillité dans ce pays, et de lui prêter son assistance pour toutes les réformes administratives, économiques, financières, et militaires dont il a besoin.

Il déclare qu'il n'entravera pas l'action de la France à cet effet, sous réserve que cette action laissera intacts les droits dont, en vertu des traités, conventions, et usages, la Grande-Bretagne jouit au Maroc, y compris le droit de cabotage entre les ports marocains dont bénéficient les navires anglais depuis 1901.

ARTICLE 3.

Le Gouvernement de Sa Majesté britannique, de son côté, respectera les droits dont, en vertu des traités, conventions, et usages, la France jouit en Egypte, y compris le droit de cabotage accordé aux navires français entre les ports égyptiens.

ARTICLE 4.

Les deux Gouvernements également attachés au principe de la liberté commerciale tant en Egypte qu'au Maroc, déclarent qu'ils ne s'y prêteront à aucune inégalité, pas plus dans l'établissement des droits des douanes ou autres taxes que dans l'établissement des tarifs de transport par chemin de fer.

Le commerce de l'une et l'autre nation avec le Maroc et avec l'Egypte jouira du même traitement pour le transit par les possessions françaises et britanniques en Afrique. Un accord entre les deux Gouvernements réglera les conditions de ce transit et déterminera les points de pénétration.

Cet engagement réciproque est valable pour une période de trente ans. Faute de dénonciation expresse faite une année au moins à l'avance, cette période sera prolongée de cinq en cinq ans.

Toutefois, le Gouvernement de la République française au Maroc et le Gouvernement de Sa Majesté britannique en Egypte se réservent de veiller à ce que les concessions de routes, chemins de fer, ports, etc., soient données dans des conditions telles que l'autorité de l'Etat sur ces grandes entreprises d'intérêt général demeure entière.

ARTICLE 5.

Le Gouvernement de Sa Majesté britannique déclare qu'il usera de son influence pour que les fonctionnaires français actuellement au service égyptien ne soient pas mis dans des conditions moins avantageuses que celles appliquées aux fonctionnaires anglais du même service.

Le Gouvernement de la République française, de son côté, n'aurait pas d'objection à ce que des conditions analogues

fussent consenties aux fonctionnaires britanniques actuellement au service marocain.

ARTICLE 6.

Afin d'assurer le libre passage du Canal de Suez, le Gouvernement de Sa Majesté britannique déclare adhérer aux stipulations du traité conclu le 29 octobre 1888, et à leur mise en vigueur. Le libre passage du Canal étant ainsi garanti, l'exécution de la dernière phrase du paragraphe 1 et celle du paragraphe 2 de l'article 8 de ce traité resteront suspendues.

ARTICLE 7.

Afin d'assurer le libre passage du Détroit de Gibraltar, les deux Gouvernements conviennent de ne pas laisser élever des fortifications ou des ouvrages stratégiques quelconques sur la partie de la côte marocaine comprise entre Melilla et les hauteurs qui dominent la rive droite du Sébou exclusivement.

Toutefois, cette disposition ne s'applique pas aux points actuellement occupés par l'Espagne sur la rive marocaine de la Méditerranée.

ARTICLE 8.

Les deux Gouvernements, s'inspirant de leurs sentiments sincèrement amicaux pour l'Espagne, prennent en particulière considération les intérêts qu'elle tient de sa position géographique et de ses possessions territoriales sur la côte marocaine de la Méditerranée ; et au sujet desquels le Gouvernement français se concertera avec le Gouvernement espagnol.

Communication sera faite au Gouvernement de Sa Majesté britannique de l'accord qui pourra intervenir à ce sujet entre la France et l'Espagne.

ARTICLE 9.

Les deux Gouvernements conviennent de se prêter l'appui de leur diplomatie pour l'exécution des clauses de la présente Déclaration relative à l'Egypte et au Maroc.

En foi de quoi son Excellence l'Ambassadeur de la République française près Sa Majesté le Roi du Royaume-Uni de la Grande-Bretagne et d'Irlande et des Territoires britanniques au delà des Mers, Empereur des Indes, et le Principal Secrétaire d'Etat pour les Affaires Etrangères de Sa Majesté britannique, dûment autorisés à cet effet, ont signé la présente Déclaration et y ont apposé leurs cachets.

Fait à Londres, en double expédition, le 8 avril 1904.

(*L. S.*) LANSDOWNE.
(*L. S.*) PAUL CAMBON.

SECRET ARTICLES.

ARTICLE 1.

[*English Text.*]

In the event of either Government finding themselves constrained, by the force of circumstances, to modify their policy in respect to Egypt or Morocco, the engagements which they have undertaken towards each other by articles, 4, 6 and 7 of the Declaration of to-day's date would remain intact.

ARTICLE 2.

His Britannic Majesty's Government have no present intention of proposing to the Powers any changes in the system of the Capitulations, or in the judicial organisation of Egypt.

In the event of their considering it desirable to introduce in Egypt reforms tending to assimilate the Egyptian legislative system to that in force in other civilised countries, the Government of the French Republic will not refuse to entertain any such proposals, on the understanding that His Britannic Majesty's Government will agree to entertain the suggestions that the Government of the French Republic may have to make to them with a view of introducing similar reforms in Morocco.

ARTICLE 3.

The two Governments agree that a certain extent of Moorish territory adjacent to Melilla, Ceuta and other *présides* should, whenever the Sultan ceases to exercise authority over it, come within the sphere of influence of Spain, and that the administration of the coast from Melilla as far as, but not including, the heights on the right bank of the Sebou shall be entrusted to Spain.

Nevertheless, Spain would previously have to give her formal assent to the provision of Articles 4 and 7 of the declaration of to-day's date, and undertake to carry them out.

She would also have to undertake not to alienate the whole, or a part, of the territories placed under her authority or in her sphere of influence.

ARTICLE 4.

If Spain, when invited to assent to the provisions of the preceding article, should think proper to decline, the arrangement between France and Great Britain, as embodied in the declaration of to-day's date, would be none the less at once applicable.

ARTICLE 5.

Should the consent of the other Powers to the draft Decree mentioned in article 1 of the declaration of to-day's date not be obtained, the Government of the French Republic will not oppose the repayment at par of the Guaranteed, Privileged and Unified Debts after July 15th, 1910.

Done at London, in duplicate, the 8th day of April, 1904.

(*L. S.*) LANSDOWNE.
(*L. S.*) PAUL CAMBON.

[*Texte français.*]

ARTICLES SECRETS.

ARTICLE 1er.

Dans le cas où l'un des deux Gouvernements se verrait contraint, par la force des circonstances, de modifier sa politique vis-à-vis de l'Egypte ou du Maroc, les engagements qu'ils ont contractés l'un envers l'autre par les articles 4, 6 et 7 de la Déclaration de ce jour demeureraient intacts.

ARTICLE 2.

Le Gouvernement de Sa Majesté britannique n'a pas l'intention de proposer, quant à présent, aux Puissances de modification au régime des Capitulations et à l'organisation judiciaire en Egypte.

Dans le cas où il serait amené à envisager l'opportunité d'introduire à cet égard en Egypte des réformes tendant à assimiler la législation égyptienne à celle des autres pays civilisés, le Gouvernement de la République française ne refuserait pas d'examiner ces propositions, mais à la condition que le Gouvernement de Sa Majesté britannique accepterait d'examiner les suggestions que le Gouvernement de la République française pourrait avoir à lui adresser pour introduire au Maroc des réformes du même genre.

ARTICLE 3.

Les deux Gouvernements conviennent qu'une certaine quantité de territoire marocain adjacente à Melilla, Ceuta et autres présides doit, le jour où le Sultan cesserait d'exercer sur elle son autorité, tomber dans la sphère d'influence espagnole et que l'administration de la côte depuis Melilla jusqu'aux hauteurs de la rive droite du Sébou exclusivement sera confiée à l'Espagne.

Toutefois, l'Espagne devra au préalable donner son adhésion formelle aux dispositions des articles 4 et 7 de la déclaration de ce jour, et s'engager à les exécuter.

Elle s'engagera en outre à ne point aliéner tout ou partie

des territoires placés sous son autorité ou dans sa sphère d'influence.

ARTICLE 4.

Si l'Espagne, invitée à adhérer aux dispositions de l'article précédent, croyait devoir s'abstenir, l'arrangement entre la France et la Grande-Bretagne, tel qu'il résulte de la déclaration de ce jour, n'en serait pas moins immédiatement applicable.

ARTICLE 5.

Dans le cas où l'adhésion des autres Puissances ne serait pas obtenue au projet de décret mentionné à l'article 1er de la déclaration de ce jour, le Gouvernement de la République française ne s'opposera pas au remboursement au pair, à partir du 15 juillet, 1910, des Dettes garantie, privilégiée et unifiée.

Fait à Londres, en double expédition, le 8 avril 1904.

(*L. S.*) LANSDOWNE.
(*L. S.*) PAUL CAMBON.

Appendix 8.

FRANCO-GERMAN CONVENTION RESPECTING MOROCCO, SIGNED NOVEMBER 4th, 1911.

[*Translation.*]

In consequence of the troubles which have arisen in Morocco, and which have shown the necessity of carrying on, in that country, in the interests of all, the work of pacification and progress provided for by the Algeciras Act, the Government of the French Republic and the Imperial German Government have deemed it necessary to define more precisely and to complete the Franco-German Agreement of February, 9th, 1909.

Therefore, M. Jules Cambon, Ambassador Extraordinary of the French Republic accredited to His Majesty the German Emperor, and M. de Kiderlen-Waechter, Secretary of State for Foreign Affairs of the German Empire, having commu-

nicated to one another their powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1.

The Imperial German Government declare that, having only economic interests in Morocco, they will not obstruct such action as may be taken by France with a view to assist the Moorish Government in the introduction of any administrative, judicial, economic, financial and military reforms of which they may stand in need for the good government of the Empire, as also of any new regulations and modifications in existing regulations which these reforms may entail. Consequently, the German Government adhere to the measures of reorganisation, of control, and of financial guarantee, which the French Government, after obtaining the consent of the Moorish Government, may consider it necessary to take with this object in view, with the reservation that French action will ensure economic equality between the nations in Morocco.

In the event of France being led to strengthen and to extend her control and her protection, the Imperial German Government, recognising France's full liberty of action, will raise no objection, subject to the reservation that the commercial liberty guaranteed by former treaties is respected.

It is agreed that the rights and proceedings of the Morocco State Bank, as defined in the Algeciras Act, shall not be in any way impeded.

ARTICLE 2.

With this view it is agreed that the Imperial Government will raise no objection to France, after obtaining the consent of the Moorish Government, proceeding with such military occupation of Moorish territory as she may consider necessary for the maintenance of order and the security of commercial transactions, and to her exercising all rights of police on land and in Moorish waters.

ARTICLE 3.

From now henceforward, if His Majesty the Sultan of Morocco should entrust to the diplomatic and consular agents

of France the representation and protection of Moorish subjects abroad, the Imperial Government declare that they will raise no objection.

If, on the other hand, His Majesty the Sultan handed over to the French representative at the Moorish Court the duty of acting as intermediary with the other foreign representatives, the German Government would raise no objection.

ARTICLE 4.

The French Government declare that, firmly attached to the principle of commercial liberty in Morocco, they will not permit any inequality either as regards the establishment of customs duties, taxes, or other contributions, or as regards the establishment of tariffs for transport by rail, river, or other means, and especially as regards all questions of transit.

The French Government will also use their influence with the Moorish Government with a view to prevent any differential treatment of subjects of the different Powers; they will more particularly oppose any measure, the promulgation, for instance, of administrative decrees dealing with weights and measures, gauging, stamping, etc., which might place the merchandise of a Power in a position of inferiority.

The French Government engage to use their influence with the State Bank with a view to the posts of delegate which are in the gift of the bank, on the Commission of Customs Valuation and on the Standing Customs Committee being conferred in turn on the members of the management of the bank at Tangier.

ARTICLE 5.

The French Government will see that no export duty is levied in Morocco on iron exported from Moorish ports. Mines of iron ore will be subject to no special tax on their output or methods of working. They shall, apart from the general taxes, pay only a fixed charge, calculated by the hectare and yearly, and a charge in proportion to the gross output. These charges, which shall be fixed in accordance with articles 35 and 49 of the draft mining regulations attached

to the protocol of June 7th, 1910, of the Paris Conference, shall be paid equally by all mining undertakings.

The French Government will see that the mining taxes are collected regularly, and that on no pretext whatever the whole or a part of these taxes shall be remitted.

ARTICLE 6.

The Government of the French Republic engage to see that the contracts for works and materials which may be necessary in connection with any future concessions for roads, railways, harbours, telegraphs, etc., are allotted by the Moorish Government in accordance with the rules of adjudication.

They engage further to see that the conditions for tendering, more especially as regards the supply of materials and the limit of time within which tenders must be submitted, do not place the subjects of any Power in a position of inferiority.

The working of the great undertakings mentioned above shall be reserved to the Moorish State or entrusted, by a concession, to third parties, who may be asked to furnish the funds necessary for the purpose. The French Government will see that, as regards the working of railways and other means of transport, as also the application of the regulations which govern such working, no differential treatment is accorded to the subjects of the different Powers who use such means of transport.

The Government of the Republic will use their influence with the State Bank with a view to the post of delegate on the General Commission of Tenders and Contracts being conferred in turn on the members of the management of the bank at Tangier.

Similarly, the French Government will use their influence with the Moorish Government in order that, so long as article 66 of the Algeciras Act remains in force, one of the three posts of Shereefian delegate on the Special Committee of Public Works is conferred on a subject of one of the Powers represented in Morocco.

ARTICLE 7.

The French Government will use their influence with the

Moorish Government in order that the owners of mines and other industrial or agricultural undertakings, without distinction of nationality, and in accordance with the regulations which may be issued on the model of French legislation on the same subject, may be authorised to build light railways connecting their centres of production with the lines of general public utility and with the ports.

ARTICLE 8.

Each year a report on the working of the railways in Morocco shall be presented drawn up in the same form and under the same conditions as the reports which are laid before the meetings of shareholders in French railway companies.

The Government of the Republic shall entrust to one of the directors of the State Bank the duty of drawing up this report which, together with the materials on which it is based, shall be submitted to the censors, and then published, with, if necessary, such observations as the latter may wish to append thereto, founded on their own information.

ARTICLE 9.

In order to avoid, as far as possible, diplomatic representations, the French Government will urge the Moorish Government to refer to an arbitrator, nominated *ad hoc* in each case by agreement between the French consul and the consul of the Power interested, or, failing them, by the two Governments, such complaints brought by foreign subjects against the Moorish authorities or agents acting in the capacity of Moorish authorities as shall not have been found capable of adjustment through the intermediary of the French consul and the consul of the Power interested.

This mode of procedure shall remain in force until such time as a judicial system, founded on the general principles embodied in the legislation of the Powers interested, shall have been introduced, which shall ultimately, by agreement between those Powers, replace the consular courts.

ARTICLE 10.

The French Government will see that foreign subjects continue to enjoy the right of fishing in Moorish waters and harbours.

ARTICLE 11.

The French Government will urge the Moorish Government to open to foreign commerce new ports from time to time in accordance with the growing requirements of trade.

ARTICLE 12.

In order to meet a request of the Moorish Government, the two Governments undertake to urge, in agreement with the other Powers and on the basis of the Madrid Convention, the revision of the lists and the reconsideration of the position of foreign-protected subjects and mokhalats ("associés agricoles"), which are dealt with in articles 8 and 16 of that convention.

They likewise agree to urge upon the signatory Powers any modifications of the Madrid Convention which may be made necessary, when the time comes, by the change in the status of foreign-protected persons and mokhalats ("associés agricoles").

ARTICLE 13.

Any clause of an agreement, convention, treaty or regulation which may conflict with the foregoing stipulations is, and remains, abrogated.

ARTICLE 14.

The present agreement shall be communicated to the other signatory Powers of the Algeciras Act, and the two Governments engage to give their mutual support with a view to obtain the adhesion of those Powers.

ARTICLE 15.

The present convention shall be ratified, and the ratifications exchanged at Paris as soon as possible.

Done in duplicate at Berlin, November 4th, 1911.

JULES CAMBON.
KIDERLEN.

(*French Text*).

A la suite des troubles qui se sont produits au Maroc et qui ont démontré la nécessité d'y poursuivre, dans l'intérêt général, l'oeuvre de pacification et de progrès prévue par l'Acte d'Algésiras, le Gouvernement de la République française et le Gouvernement Impérial allemand ont jugé nécessaire de préciser et de compléter l'accord franco-allemand du 9 février, 1909.

En conséquence, M. Jules Cambon, Ambassadeur Extraordinaire de la République française auprès de Sa Majesté l'Empereur d'Allemagne, et M. de Kiderlen-Waechter, Secrétaire d'État des Affaires Étrangères de l'Empire d'Allemagne, après s'être communiqué leurs pleins pouvoirs, trouvés en bonne et due forme, sont convenus des dispositions ci-après :

ARTICLE 1er.

Le Gouvernement Impérial allemand déclare que, ne poursuivant au Maroc que des intérêts économiques, il n'entravera pas l'action de la France en vue de prêter son assistance au Gouvernement marocain pour l'introduction de toutes les réformes administratives, judiciaires économiques, financières et militaires dont il a besoin pour le bon gouvernement de l'Empire, comme aussi pour tous les règlements nouveaux et les modifications aux règlements existants que ces réformes comportent. En conséquence, il donne son adhésion aux mesures de réorganisation, de contrôle et de garantie financière que, après accord avec le Gouvernement marocain, le Gouvernement français croira devoir prendre à cet effet sous la réserve que l'action de la France sauvegardera au Maroc l'égalité économique entre les nations.

Au cas où la France serait amenée à préciser et à étendre son contrôle et sa protection, le Gouvernement Impérial allemand reconnaissant pleine liberté d'action à la France, et sous la réserve que la liberté commerciale prévue par les traités antérieurs sera maintenue, n'y apportera aucun obstacle.

Il est entendu qu'il ne sera porté aucune entrave aux droits et actions de la Banque d'État du Maroc tels qu'ils ont été définis par l'Acte d'Algésiras.

ARTICLE 2.

Dans cet ordre d'idées, il est entendu que le Gouvernement Impérial ne fera pas obstacle à ce que la France, après accord avec le Gouvernement marocain, procède aux occupations militaires du territoire marocain qu'elle jugera nécessaires au maintien de l'ordre et de la sécurité des transactions commerciales, et à ce qu'elle exerce toute action de police sur terre et dans les eaux marocaines.

ARTICLE 3.

Dès à présent, si Sa Majesté le Sultan du Maroc venait à confier aux agents diplomatiques et consulaires de la France la représentation et la protection des sujets et des intérêts marocains à l'étranger, le Gouvernement Impérial déclare qu'il n'y fera pas d'objection.

Si, d'autre part, Sa Majesté le Sultan du Maroc confiait au représentant de la France près du Gouvernement marocain le soin d'être son intermédiaire auprès des représentants étrangers, le Gouvernement allemand n'y ferait pas d'objection.

ARTICLE 4.

Le Gouvernement français déclare que, fermement attaché au principe de la liberté commerciale au Maroc, il ne se prêtera à aucune inégalité pas plus dans l'établissement des droits de douane, impôts et autres taxes, que dans l'établissement des tarifs de transport par voie ferrée, voie de navigation fluviale ou toute autre voie, et notamment dans toutes les questions de transit.

Le Gouvernement français s'emploiera également auprès du Gouvernement marocain afin d'empêcher tout traitement différentiel entre les ressortissants des différentes Puissances ; il s'opposera notamment à toute mesure, par exemple, à la promulgation d'ordonnances administratives sur les poids et mesures, le jaugeage, le poinçonnage, etc., qui pourrait mettre en état d'infériorité les marchandises d'une Puissance.

Le Gouvernement français s'engage à user de son influence sur la Banque d'Etat pour que celle-ci confère à tour de rôle aux membres de sa direction à Tanger les postes de délégué dont elle dispose à la Commission des Valeurs douanières et au Comité permanent des Douanes.

ARTICLE 5.

Le Gouvernement français veillera à ce qu'il ne soit perçu au Maroc aucun droit d'exportation sur le minerai de fer exporté des ports marocains. Les exploitations de minerai de fer ne subiront sur leur production ou sur leurs moyens de travail aucun impôt spécial. Elles ne supporteront en dehors des impôts généraux qu'une redevance fixe, calculée par hectare et par an, et une redevance proportionnée au produit brut de l'extraction. Ces redevances, qui seront assises conformément aux articles 35 et 49 du projet de *règlement minier annexé au* protocole du 7 juin 1910, de la Conférence de Paris, seront également supportées par toutes les entreprises mimières.

Le Gouvernement français veillera à ce que les taxes minières soient régulièrement perçues sans que des remises individuelles du total ou d'une partie de ces taxes puissent être consenties sous quelque prétexte que ce soit.

ARTICLE 6.

Le Gouvernement de la République française s'engage à veiller à ce que les travaux et fournitures nécessités par les concessions éventuelles de routes, chemins de fer, ports, télégraphes, etc., soient octroyés par le Gouvernement marocain suivant les règles de l'adjudication.

Il s'engage également à veiller à ce que les conditions des adjudications, *particulièrement en ce qui concerne les fournitures* de matériel et les délais impartis pour soumissionner, ne placent les ressortissants d'aucune Puissance dans une situation d'infériorité.

L'exploitation des grandes entreprises mentionnées ci-dessus sera réservée à l'État marocain ou librement concédée par lui à des tiers, qui pourront être chargés de fournir les fonds

nécessaires à cet effet. Le Gouvernement français veillera à ce que, dans l'exploitation des chemins de fer et autres moyens de transport comme dans l'application des règlements destinés à assurer celle-ci, aucune différence de traitement ne soit faite entre les ressortissants des diverses Puissances qui useraient de ces moyens de transport.

Le Gouvernement de la République usera de son influence sur la Banque d'État afin que celle-ci confère à tour de rôle aux membres de sa direction à Tanger le poste dont elle dispose de délégué à la Commission générale des Adjudications et Marchés.

De même, le Gouvernement français s'emploiera auprès du Gouvernement marocain pour que, durant la période où restera en vigueur l'article 66 de l'Acte d'Algésiras, il confie à un ressortissant d'une des Puissances représentées au Maroc un des trois postes de délégué chérifien au Comité spécial des Travaux publics.

ARTICLE 7.

Le Gouvernement français s'emploiera auprès du Gouvernement marocain pour que les propriétaires de mines et d'autres exploitations industrielles ou agricoles, sans distinction de nationalité, et en conformité des règlements qui seront édictés en s'inspirant de la législation française sur la matière, puissent être autorisés à créer des chemins de fer d'exploitation destinés à relier leurs centres de production aux lignes d'intérêt général et aux ports.

ARTICLE 8.

Il sera présenté tous les ans un rapport sur l'exploitation des chemins de fer au Maroc, qui sera établi dans les mêmes formes et conditions que les rapports présentés aux assemblées d'actionnaires des sociétés de chemins de fer françaises.

Le Gouvernement de la République chargera un des administrateurs de la Banque d'État de l'établissement de ce rapport, qui sera, avec les éléments qui en seront la base, communiqué aux censeurs, puis rendu public avec, s'il y a lieu, les observations que ces derniers croiront devoir y joindre d'après leurs propres renseignements.

ARTICLE 9.

Pour éviter, autant que possible, les réclamations diplomatiques, le Gouvernement français s'emploiera auprès du Gouvernement marocain afin que celui-ci défère à un arbitre désigné *ad hoc* pour chaque affaire, d'un commun accord, par le consul de France et par celui de la Puissance intéressée ou, à leur défaut, par les deux Gouvernements, les plaintes portées par des ressortissants étrangers contres les autorités marocaines ou les agents agissant en tant qu'autorités marocaines, et qui n'auraient pu être réglées par l'intermédiaire du consul français et du consul du Gouvernement intéressé.

Cette procédure restera en vigueur jusqu'au jour où aura été institué un régime judiciaire inspiré des règles générales de législation des Puissances intéressées et destiné à remplacer, après entente avec elles, les tribunaux consulaires.

ARTICLE 10.

Le Gouvernement français veillera à ce que les ressortissants étrangers continuent à jouir du droit de pêche dans les eaux et ports marocains.

ARTICLE 11.

Le Gouvernement français s'emploiera auprès du Gouvernement marocain pour que celui-ci ouvre au commerce étranger de nouveaux ports au fur et à mesure des besoins de ce commerce.

ARTICLE 12.

Pour répondre à une demande du Gouvernement marocain, les deux Gouvernements s'engagent à provoquer la revision, d'accord avec les autres Puissances et sur la base de la Convention de Madrid, des listes et de la situation des protégés étrangers et des associés agricoles au Maroc dont parlent les articles 8 et 16 de cette convention.

Ils conviennent également de poursuivre auprès des Puissances signataires toutes les modifications de la Convention de Madrid que comporterait, le moment venu, le changement du régime des protégés et associés agricoles.

ARTICLE 13.

Toute clause d'accord, convention, traité ou règlement qui seraient contraires aux précédentes stipulations sont et demeurent abrogées.

ARTICLE 14.

Le présent accord sera communiqué aux autres Puissances signataires de l'Acte d'Algésiras, près desquelles les deux Gouvernements s'engagent à se prêter mutuellement appui pour obtenir leur adhésion.

ARTICLE 15.

La présente convention sera ratifiée, et les ratifications seront échangées à Paris aussitôt que faire se pourra.

Fait à Berlin le 4 novembre 1911 en double exemplaire.

JULES CAMBON.
KIDERLEN.

Appendix 9

Adhesion of Great Britain to Franco-German Convention of November 4, 1911.

SIR EDWARD GREY TO M. DAESCHNER.

Foreign Office, November 14, 1911.

Sir,

It was with much satisfaction that His Majesty's Government learnt of the definite conclusion of the negotiations which have been proceeding between the French and German Governments on the subject of Morocco.

His Majesty's Government have, as you are aware, in no way endeavoured to influence the course of these negotiations, as they felt assured that the French Government would not set their hand to any agreement under which the legitimate and acknowledged interests of Great Britain in Morocco would be unfavourably affected.

You were good enough to transmit to me in your note of the 3rd instant a copy of the convention which has now been signed between the French and German Governments, and at the same time you informed me that the French Government would be glad to receive at an early date a notification of the adherence to it of His Majesty's Government.

His Majesty's Government have given their careful consideration to the articles of the convention, and in doing so they have assumed that the engagements taken by the French Government towards His Majesty's Government as regards Morocco under articles 4 and 7 of the Anglo-French Declaration of 1904 will not in any way be affected by the present agreement.

His Majesty's Government note that in the articles of the present agreement renewed provision is made for the economic equality in Morocco of the subjects of all Powers. They observe, however, that under article 1 the German Government gives its assent to such measures of reorganisation

of control and of financial guarantees as the French Government may, in agreement with the Moorish Government, think fit to take, provided that the action of the French Government safeguards in Morocco economic equality between the *two* nations.

His Majesty's Government presume it is not intended by the use of these words to establish in favour of German nationals any superior claim to equality of treatment than is, under existing conditions, enjoyed by the subjects of all the Powers, as such a construction would conflict with the general spirit of the agreement itself, and they understand that British subjects will continue to receive in Morocco as favourable economic treatment as those of any other State.

In view of the freedom of action now conceded to France under the new Franco-German Convention, His Majesty's Government take this opportunity to remind the French Government of the importance attached by both of them equally to the preservation of the exceptional character which the town of Tangier derives from the presence of the diplomatic body and from its municipal and sanitary institutions. His Majesty's Government feel confident that the French Government will accordingly concur in adequate arrangements being made for placing the town and municipal district of Tangier definitely under international control.

Subject to the above observations and in the belief that they are in harmony with the views and intentions of the French Government, His Majesty's Government have much pleasure in giving their adherence to the Franco-German Convention.

I have, etc.,

E. GREY.

Appendix 10.

PROJET DE CONVENTION RELATIVE A L'APPLICATION AU MAROC ET A L'EGYPTE DE LA DÉCLARATION DU 8 AVRIL 1904.

(*Communicated by British Delegation, Paris; Received at Foreign Office September* 25, 1919.)

Le Gouvernement de la République française et le Gouvernement de Sa Majesté britannique ayant, à la suite de la reconnaissance du protectorat de la France au Maroc et de la Grande-Bretagne en Egypte, jugé le moment venu de donner à la déclaration du 8 avril 1904 la plénitude de ses effets, tant dans la zone française du Maroc qu'en Egypte, où désormais les deux Gouvernements assument respectivement la responsabilité de la paix, de l'ordre et de la bonne administration; après avoir pris connaissance, le Gouvernement français, des garanties que lui assure le projet de loi égyptien d'organisation judiciaire des tribunaux unifiés, et le Gouvernement britannique, de celles que lui donnent les lois déjà promulguées dans la zone française du Maroc, ont décidé de remplacer le régime actuellement existant dans la zone française du Maroc pour les ressortissants britanniques et en Egypte pour les ressortissants français, par les dispositions suivantes:

ARTICLE 1er.

Le Gouvernement de Sa Majesté britannique renonce en faveur du Gouvernement de la République française à tous les droits et privilèges qu'il tient du régime des Capitulations dans la zone française du protectorat de la France au Maroc.

ARTICLE 2.

Soixante jours après la mise en vigueur de la présente convention, les tribunaux consulaires britanniques de la zone française cesseront de siéger, si ce n'est pour terminer les affaires en cours.

ARTICLE 3.

Les ressortissants britanniques jouiront, dans la zone française, en ce qui concerne les libertés publiques, l'administration de la justice, les droits privés, y compris la propriété foncière et les droits miniers, les professions libérales, industrielles et commerciales, les impôts et taxes, du même traitement que les ressortissants français.

Les enfants nés dans la zone française d'un père ressortissant britannique y jouissant des privilèges de l'étranger auront droit à la nationalité britannique ; ils ne deviendront pas sujets marocains.

Une liste sera dressé d'accord entre la Résidence générale de France et le Consulat général de Grande-Bretagne des indigènes marocains de la zone française qui, jouissant de la protection britannique, seront désormais, leur vie durant, justiciables des tribunaux français de l'Empire chérifien.

ARTICLE 4.

Les consuls généraux, consuls, vice-consuls et agents consulaires de Grande-Bretagne dans la zone française jouiront, dès la fermeture des tribunaux consulaires, des mêmes immunités qu'en France.

Ils continueront d'exercer, dans l'intérêt des particuliers, pour autant que les lois de zone française ne s'y opposeront pas, toutes leurs fonctions non judiciaires, dans les mêmes conditions que par le passé.

ARTICLE 5.

En ce qui concerne la zone française, tous traités existant entre la Grande-Bretagne et le Maroc sont et demeurent abrogés.

Toutefois, jusqu'à la conclusion d'un nouveau traité de commerce et de navigation, la Convention commerciale anglo-marocaine du 9 décembre 1856, complétée par l'article 68 de l'Acte d'Algésiras du 7 avril 1906 relatif à l'exportation des têtes de bétail de l'espèce bovine, reste en vigueur sauf en ce qui concerne toutes stipulations incompatibles avec l'article 1er de la présente convention.

Sauf en ce qui concerne les conventions de commerce et de navigation, les traités en vigueur entre la France et la Grande-Bretagne s'étendent de plein droit à la zone française.

Pour l'application de la Convention anglo-française du 14 août 1876, relative à l'extradition des criminels, il est convenu que la période de quatorze jours stipulée par l'article 9 s'étendra à deux mois et, en ce qui concerne la convention du 17 octobre 1908, que la faculté qu'elle donne à chacune des hautes parties contractantes de refuser à l'autre l'extradition de ses nationaux s'étendra, lorsqu'il s'agira de personnes réfugiées dans la zone française, tant aux sujets de Sa Majesté chérifienne qu'aux autres ressortissants français.

ARTICLE 6.

En ce qui concerne le régime de la Banque d'État, le rôle de cette Banque et la part de la Grande-Bretagne tant dans son capital que dans son administration, le Gouvernement de Sa Majesté britannique renonce, dans la zone française, à tous les droits qu'il tient de l'acte d'Algésiras sans que le Gouvernement de la République française puisse avoir d'autre obligation que de désintéresser pécuniairement, sur leur demande, les porteurs britanniques.

ARTICLE 7.

Les écoles britanniques de tout ordre continueront à jouir dans la zone française, notamment au point de vue de l'enseignement de la langue anglaise, de la même liberté que par le passé ; elles se soumettront aux lois de contrôle scolaire applicables à toutes les écoles européennes de la zone française.

ARTICLE 8.

Le Gouvernement de Sa Majesté britannique renonce à se prévaloir dans la zone française de la Convention de Madrid du 3 juillet 1880, de l'Acte d'Algésiras du 7 avril 1906 et de l'accord du 4 novembre 1911.

Cette renonciation portera effet dès que les autres Puissances alliées, associées ou amies signataires de ce traité, auront également renoncé à s'en prévaloir.

Le Gouvernement de Sa Majesté britannique s'engage à prêter au Gouvernement de la République française son appui pour obtenir cette renonciation.

ARTICLE 9.

Le Gouvernement de la République française renonce en faveur du Gouvernement de Sa Majesté britannique à tous les droits et privilèges qu'il tient en Egypte du régime des Capitulations.

Il s'engage à prêter au Gouvernement de Sa Majesté britannique son appui pour obtenir des autres Puissances qu'elles y renoncent également.

ARTICLE 10.

Soixante jours après la notification par le Gouvernement de Sa Majesté britannique à l'Ambassadeur de la République française à Londres de l'organisation judiciaire nouvelle instituée en Égypte sous l'autorité de la Puissance protectrice, les tribunaux consulaires français cesseront de siéger, si ce n'est pour terminer les affaires en cours.

ARTICLE 11.

Les ressortissants français jouiront en Égypte en ce qui concerne les libertés publiques, l'administration de la justice, les droits privés, y compris la propriété foncière et les droits miniers, les professions libérales, industrielles et commerciales, les impôts et taxes, du même traitement que les ressortissants britanniques.

Les enfants nés en Égypte d'un père ressortissant français y jouissant des privilèges de l'étranger auront droit à la nationalité française ; ils ne deviendront pas sujets égyptiens.

ARTICLE 12.

Les consuls généraux, consuls, vice-consuls et agents consulaires de France en Égypte jouiront, dès la fermeture des tribunaux consulaires, des mêmes immunités qu'en Grande-Bretagne.

Ils continueront d'exercer, dans l'intérêt des particuliers, pour autant que les lois de l'Égypte ne s'y opposeront pas, toutes leurs fonctions non judiciaires dans les mêmes conditions que par le passé.

ARTICLE 13.

Tout traité existant entre la France et l'Égypte est et demeure abrogé.

Toutefois, jusqu'à la conclusion d'un nouveau traité de commerce et de navigation entre la France et l'Égypte, les stipulations de la convention du 26 novembre 1902 restent en vigueur, sauf en ce qui concerne toutes stipulations incompatibles avec l'article 9 de la présente convention.

Sauf en ce qui concerne les conventions de commerce et de navigation, les traités en vigueur entre la Grande-Bretagne et la France s'étendent à l'Égypte.

Pour l'application de la Convention anglo-française du 14 août 1876 relative à l'extradition des criminels, il est convenu que la période de quatorze jours stipulée à l'article 9 s'étendra à deux mois, et, en ce qui concerne la convention du 17 octobre 1908, que la faculté qu'elle donne à chacune des hautes parties contractantes de refuser à l'autre l'extradition de ses nationaux s'étendra, lorsqu'il s'agira de personnes réfugiées en Égypte, tant aux sujets de Sa Hautesse le Sultan qu'à tous ressortissants britanniques.

ARTICLE 14.

Pour sauvegarder la situation des porteurs de titres des emprunts émis par le Gouvernement égyptien, le Gouvernement de Sa Majesté britannique déclare que, faute par le Gouvernement égyptien de payer l'annuité de la Dette garantie et l'intérêt des Dettes privilégiées ou unifiées, il prendra les mesures nécessaires pour rétablir l'équilibre financier et protéger les intérêts des porteurs de titres de la Dette publique égyptienne.

La Caisse de la Dette publique égyptienne n'ayant dans ces conditions plus de raison d'être pour la protection des porteurs de la Dette égyptienne, le Gouvernement de la République

française consent au retrait ou à modification dans la mesure que le Gouvernement égyptien jugera convenable du décret pris par Son Altesse le Khédive le 28 novembre 1904.

ARTICLE 15.

Les écoles françaises de tout ordre continueront à jouir en Egypte, notamment au point de vue de l'enseignement du français, de la même liberté que par le passé : elles se soumettront aux lois de contrôle scolaire applicables à toutes les écoles européennes du protectorat.

Au cas où les écoles supérieures du Gouvernement égyptien se grouperaient en université, les écoles françaises auraient le droit de s'affilier à l'université ainsi fondée aux mêmes conditions que les autres écoles de même ordre.

Tant que les étrangers garderont au point de vue de l'administration de la justice par les tribunaux unifiés des privilèges quelconques, tout Français jouissant des privilèges de l'étranger en Égypte et muni d'un diplôme donnant accès au barreau de France sera admis au barreau en Égypte dans les mêmes conditions que les Égyptiens munis du diplôme égyptien.

Pendant le même délai, tout autre titulaire d'un diplôme français devra passer, avant d'être admis au barreau égyptien, un examen au cours duquel il devra justifier d'une bonne instruction secondaire et d'une connaissance suffisante du droit égyptien. Les titulaires du diplôme de baccalauréat français seront dispensés de la première partie de cet examen, mais il auront à subir les épreuves de langue arabe prescrites pour le baccalauréat égyptien. Quand il s'agira d'un élève de l'École française de Droit du Caire, le jury d'examen comprendra au moins un professeur désigné par la Faculté de Droit de Paris.

ARTICLE 16.

Jusqu'au 8 avril 1934, le poste de Directeur général des Antiquités en Egypte continuera à être confié à un Français.

ARTICLE 17.

En raison de la substitution du Gouvernement britannique au Gouvernement Impérial ottoman dans la charge de la défense territoriale et du maintien de l'ordre public de l'Égypte, le Gouvernement de la République française reconnaît que les pouvoirs conférés à Sa Majesté Impériale le Sultan par la Convention de Constantinople du 29 octobre 1888 relative à la libre navigation du Canal de Suez sont, par l'effet du protectorat, transférés au Gouvernement de Sa Majesté britannique.

ARTICLE 18.

Le Gouvernement de la République française accepte que, sans autre réserve que celle du consentement unanime des Puissances intéressées, tous les droits et devoirs de la Commission internationale de Quarantaine en Égypte passent aux autorités anglo-égyptiennes.

ARTICLE 19.

La présente convention entrera en vigueur dès l'échange des ratifications.