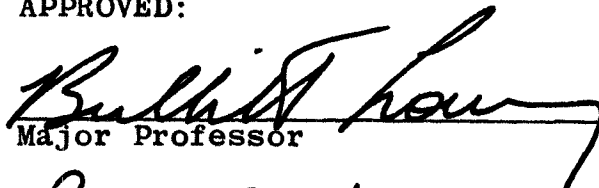
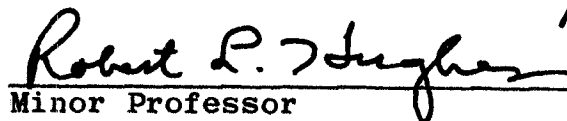


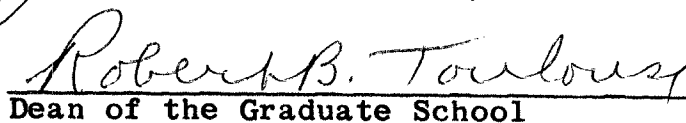
THE GERMAN SUBMARINE CABLES AND UNITED STATES
DIPLOMACY, 1914-1927

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THE GERMAN SUBMARINE CABLES AND UNITED STATES
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INTRODUCTION

Immediately after the outbreak of the World War, Great Britain, France and Japan cut the German submarine cables which were situated in the different oceans of the world. Germany desperately needed the cable facilities which the Allies had eliminated. She could no longer communicate with her African colonies or the countries of South America. Japan seized all of the German cables which had been used to communicate with the East Indies and the Far East. The Germans lost their vital cables crossing the Atlantic to the United States. Cutting and diverting of the communication facilities gave the impression that the action was a simple part of the overall Allied military strategy; but the cutting of the German cables was not aimed solely at a military victory.

When Cyrus Field had successfully laid the trans-Atlantic cable in 1866, most of the nations of the world immediately realized the full implication and importance of a world-wide cable system. By the time of the World War, Great Britain and her interests possessed cables in all the strategic areas of the world. Germany and the United States had not entered the race for cable development as early as Great Britain. But when the war erupted, Germany possessed a considerable amount of cables. Although the United States

had developed extensively the cables of the Caribbean area and possessed one cable to the Far East, her communication with the continent of Europe depended upon cables which American companies had leased from the British concerns and the cables of France and Germany. The strategic islands required as relay stations for the long trans-oceanic cables were all occupied by the other Powers. Because radio was still in its infancy and had yet to challenge seriously the older submarine cables, the business interests of the United States had to use the cable systems of foreign nations and companies if they desired to communicate with most foreign areas.

Almost immediately after the war began in 1914, the Americans witnessed the elimination of the German cables. The United States entered the war only in 1917, long after England, France and Japan had cut the German cables. Those nations, it seemed, had no intention of returning the cables to Germany when the hostilities ended.

The delegates who represented America at the subsequent Peace Conference at Paris were determined that Great Britain, France and Japan should not retain the German cables they had seized. National interests, not principles and idealism, dictated the American position at Paris. The delegates based their arguments directed towards advancing their national interests on principles; they claimed that the cutting of the cables had been a clear violation of international

law. The cables, therefore, should be returned to Germany. But a definite violation of international law had not been committed. Few clear precedents and treaties existed, and the other Powers refused to return the cables to Germany under any circumstances.

When the argument based in legal principles failed, the American delegates claimed that the interests of the world would be served more equitably if the German cables were internationalized. The United States also would benefit by the adoption of this procedure. The delegates of the other Powers agreed--provided that the question of international control would be discussed after Germany had ratified the Peace Treaty.

The United States, in its turn, agreed that Great Britain, France and Japan could retain the cables during the intermediate period, and this loophole destroyed all hope of any international control. Nevertheless, the United States refused to admit defeat and continued the negotiations for the internationalization of the cables. When the Americans finally became convinced that their endeavors were hopeless, they decided that a title to a part of the German cables would best serve their interests.

The problem of the Island of Yap in the Northern Pacific was an issue of vital concern to the Americans. The German cable system in this area radiated from the island; moreover, it was an indispensable relay station for a

possible trans-Pacific cable. The Japanese had occupied Yap during the war, and the United States, after the failure of the proposal for international control, entered into bilateral negotiations with Japan in order to secure landing rights on that island and the German cable from Yap to Guam. The success of these negotiations was a pale glimmer which makes the failure of the other American efforts even more noticeable by contrast.

The study of the submarine cables during the World War and its aftermath is a complex problem. To understand the post-war negotiations, previous international agreements, treaties and the ownership, operation and financing of the cables must be understood. Many important facts and decisions undoubtedly remain unavailable to historians in the archives of the private companies. The proceedings of the Paris Peace Conference are recorded--at least in part. Unfortunately, none of the principal figures at the Paris Peace Conference bothered to record for posterity the reasons and basis of his arguments. Historians have also avoided this topic. It is important to note that such possible sources as the British press hardly concerned themselves with the problem. Great Britain had an adequate cable development. The United States raised an outcry; the American Government and its interests had nothing to lose and everything to gain.

CHAPTER I

SUBMARINE CABLES--1914

The 300,000 nautical miles of submarine cables which crossed the oceans of the world in 1914 were not distributed equitably among the various nations.¹ Every government was vitally interested in these commodities, but no nation possessed as many cables as it needed and desired. Not every nation had participated in the early development of cable facilities. But by 1914, every major nation realized the necessity of an extensive system, and the major powers welcomed any additional cables for their communications.

The first construction of a submarine cable across the ocean had been accompanied with much skepticism.² In the establishment of the cable across the Atlantic in 1858, British investors had provided the necessary finances. The cable failed, but the project was renewed after the American Civil War had ended. The cable promoters had learned by

¹George Able Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States (Boston, 1924), p. 239. The appendix to this volume has an excellent account of all the cable systems of the world and their ownership and control.

²The English Channel had been successfully bridged by submarine cables in the 1850's.

their mistakes in 1858, and after failing in 1865, they were finally successful during the following year. Direct cable communication between the United States and Great Britain was inaugurated.

The major powers--excluding the United States--immediately began to lay cables and attempt to secure the important landing places. The newly-acquired means of communications became a vital instrument to the business world. The financial investors and the enterprising industrialists could remain in their offices while their agents in foreign lands cabled them information on business investments. With the advent of the submarine cable, governments could avoid the possibility of war by easing the tensions of a potential belligerent, or they could more readily direct the actions of their armies and navies if the conflict had not been avoided. Such was the situation when the war erupted in 1914.

When the belligerents began hostilities in 1914, the systems of submarine cables were developed to a considerable extent. Cables were not yet superseded by radio-- which could not compete successfully until the 1920's--and all the major powers owned some, at least nominally. The various governments had realized the necessity and potential of an adequate cable system. Some nations, such as the United States and Germany, had entered the race at a later stage, but even they possessed cables when the war erupted. Their lines were a vital link of the world systems as were the

cables of England and France. If Germany were to lose her cables, the United States would not want to see the lines retained by powers which already owned a large percentage of the entire cable communications of the world.

The nation which had fully recognized and developed the necessary and most extensive cable facilities was Great Britain.³ Except on the North Atlantic, England had a virtual monopoly in many areas of the globe.⁴ Most of the cables through the Mediterranean, the Red Sea, all over the Far East, through the West Indies to South America and over the continent of Africa were owned either by Britain or British interests. Britain also owned one of the two cables crossing the Pacific. This cable began at British Columbia, ran to Fanning Island in the South Pacific, then to Australia, and from there to Borneo, Sumatra and China.⁵ Across the English Channel, the British and the Germans jointly operated

³In 1914, England possessed approximately 145,000 nautical miles of cables. Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, p. 259.

⁴P. T. McGrath, "Transatlantic Cables and Their Control," The American Review of Reviews, (May, 1915), p. 51.

⁵Ibid., pp. 591-592. This line was inefficient because of the extreme length. The Hawaiian Islands would have made an excellent relay station if Great Britain and the United States had made reciprocal arrangements. The United States needed a relay station on the British-controlled Azores.

six cables.⁶ Thirteen cables crossed the Atlantic from the United States to Great Britain through Newfoundland and Nova Scotia.⁷ Approximately 10,000 miles of these cables were under governmental control.⁸

The largest operator of submarine telegraphs under government control was France. She had an extensive system to her African possessions, and operated international cables to such places as Spain, Sardinia, Italy, Portuguese East Africa and Dutch Borneo.⁹ The government of Italy had a great number of telegraphic lines, but most of these connected with North Africa and the east coast of the Adriatic Sea. Her entire system totaled only 1,999 nautical miles.¹⁰ Japan's limited system of 7,809 miles united her islands and connected with the mainland of China.¹¹

Although American private companies owned approximately 73,513 miles of cables,¹² the system did not possess the same strategic value as the cables of England and German.

⁶ Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, p. 29.

⁷ McGrath, "Transatlantic Cables and Their Control," pp. 391-392. The ownership, control and operation of these thirteen lines will be discussed in this chapter.

⁸ Schreiner, Cables and Wireless and their Role in the Foreign Relations of the United States, p. 259.

⁹ Ibid., p. 231. Her two privately-owned companies controlled cables along the coast of Africa to Liberia and Brazil. Ibid., p. 238.

¹⁰ Ibid., p. 233. ¹¹ Ibid., p. 236. ¹² Ibid., p. 239.

Most of the American cables were located in the Caribbean area, ran to Mexico and Latin and South America. The private companies also owned the cables which connected with the British system at Newfoundland. The only extensive international line of strategic importance was one of the two Pacific cables. This cable began at San Francisco, crossed the Pacific to Honolulu and continued to the Midway Islands, Guam and the Philippines. From Manila the cable extended to Shanghai.¹³

Before the outbreak of the World War, Germany possessed a total of 23,045 nautical miles of cables. Of this total, only 1,765 miles were owned by the government. One cable ran from Emden to Vigo, Spain. A line that connected Constantza, Rumania to Kilia, Turkey, was also owned by a private company.¹⁴ Two cables authorized by a treaty in 1899 crossed the Atlantic to the United States, going from Emden to New York via the Azores.¹⁵

The Germans had a cable system in the South Atlantic. A line ran from Emden to Teneriffe (Canary Islands) and from there to Monrovia, Liberia. A year before the war began, the German South American Telegraph Company extended this

¹³ Ibid., p. 243.

¹⁴ Ibid., pp. 258-259.

¹⁵ U. S., Dept. of State, Papers Relating to the Foreign Relations of the United States, 1920, 2 vols. (Washington, 1935), I, 141. This work will be cited hereafter as FRUS.

line to Lome (Togoland) and from Lome to Duala (German Cameroons). German interests also owned a cable from Monrovia to Pernambuco, Brazil.¹⁶ The Germans had a controlling interest in the Argentine cable from Buenos Aires and Montevideo to Colonia, Uruguay. All that remained was for Germany to connect Pernambuco with Colonia in order to have an adequate cable system in South America.¹⁷

In the Pacific the Germans operated jointly--through the agency of the German-Netherlands Telegraph Company--a network of submarine cables radiating from the Island of Yap. Its basis lay in an agreement concluded between Governments of Germany and Netherlands on July 24, 1901. The Treaty provided that the two nations jointly undertook to further the laying and exploiting by a German-Dutch Company of a cable system in the North Pacific. A cable from Menado (Celebes) would be joined with the American Pacific station at Guam through the German island of Yap. Both the German and Dutch Governments had reciprocal arrangements for the landing of cables on their respective territories for forty years. Both governments agreed to pay a subsidy. The result was the German-Netherlands Telegraph Company.¹⁸ A subsequent cable was laid

¹⁶ Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, p. 257.

¹⁷ New York Times, March 31, 1918, Sec. 5, p. 3.

¹⁸ FRUS, I, 118. Netherlands Legation in Washington to the Department of State, April 18, 1920.

from the Island of Yap to Shanghai.¹⁹ At Menado, the German-Netherlands Company connected its cables with the system extending to Australia, India and beyond. Thus, the Island of Yap was the key to the whole system of cable communications in the Pacific area north of the equator and was of major political importance.²⁰

Despite the German, American, and British lines of communication in the Pacific, the cable systems in this area had been inadequately developed. The telegraph companies of one nation were reluctant to land their cables on the territory of another. The government of a foreign nation might demand a censorship of the cablegrams or even seize the landing station and office.²¹ Strategic islands which could be used as relay stations were no longer available, and it was generally impractical to operate a continuous line for more than 2500 miles. When attempted over that distance, the messages tended to fade away, and a lengthy cable that broke was more difficult to repair.

Other than the British line which wandered inconveniently from British Columbia to Australia before proceeding north again to India, the only direct line across the Pacific was owned by an American Company. This is the line that ran from

¹⁹New York Times, March 31, 1918, Sec. 5, p. 3.

²⁰Ray Stannard Baker, Woodrow Wilson and World Settlement, 3 vols. (New York, 1922), II, p. 469.

²¹Ibid., p. 470.

San Francisco to Honolulu, to the Midway Islands, to Guam, Manila and Shanghai, with a spur to the Bonin Islands.²²

The United States, although it possessed the Hawaiian Islands, also needed more islands as relay points if it were to communicate adequately with the Far East. And the United States had not realized until it was too late that the "American" Commercial Pacific Cable Company was controlled by British interests.

The Commercial Pacific Cable Company had managed to stave off attempts to break the monopoly. At the turn of the century, the vice-president of the company appeared before a Congressional Committee to urge that the United States not lay a cable from San Francisco to Honolulu to the Philippines in competition with his company, which was already in the process of constructing a cable in the same location. His argument rested on the fact that it would cost his company about two and one-half million dollars. The cost to the government would be approximately fifteen million dollars. At the time of the hearings, the cost between New York and the Philippines was \$2.35 a word. The company promised that, within two years after the cable began its operation, the company would charge only thirty-five cents a word from San Francisco to the Philippines. The United States granted the

²² Silas Bent, "Regarding a New Pacific Cable," Asia, XIX (March, 1919), p. 251.

necessary permission.²³ As late as 1919, it was the only cable system across the Pacific.²⁴ The "American" Commercial Cable Company did not reduce its rates.

When the United States had issued the permit in 1904, the Government was not aware that the company had entered into a contract with the Eastern Telegraph Company and the Great Northern to lay the Pacific system. The Eastern Telegraph (British) owned one-half of the stock of the Commercial Pacific, and the Great Northern (Danish) owned one-fourth.²⁵ This type of ownership--whether the ownership of a cable carried with it the power to control the line--was to be a subject of considerable controversy in the next two decades.

A telegraph company of one nation could lease its cables to a company of another nation. Yet, the former country could exercise control over the cable leased to the foreign company by such means as censorship. Or the stock of an American-based company could be held by foreign investors. A government of one nation could lay a cable to the territory of another only to be subject to the regulations of the private companies of the latter country. A cable between two

²³Senate Executive Documents, 57th Congress, 1st Session, No. 141. Committee on Naval Affairs, Hearings Relating to the Construction, Operation, and Maintenance of Telegraphic Cables Between the United States and Hawaii, Guam, and the Philippine Islands and other Countries, and to Promote Commerce (Washington, 1902), p. 22.

²⁴Walter S. Rogers, "Communications," American Relations With China; A Report of the Conference held at Johns Hopkins University, September 17-20 (Baltimore, 1925), pp. 104-105.

²⁵Ibid.

national territories might have to rest on some foreign island. The ownership of a cable did not necessarily ensure complete control to a telegraph company. A telegraph company could control a cable which was the property of another concern. One company might have to use the relay services of another corporation which had been granted exclusive privileges in a certain area. The problem of ownership and control became a subject of considerable debate between the United States and Great Britain. Under no circumstances could the United States permit the German cables to fall into the hands of the British.

Up to the time of the World War, Great Britain was the leading power in international communications. At the outbreak of war, London was still the business capital of the world; and it was from London that the cable system emerged which encircled the globe.²⁶ The British control of the cables was confronted with certain difficulties.

Five of the thirteen British cables between the United States and England were controlled by the Commercial Cable Company (American).²⁷ In 1912, the Western Union Telegraph Company of New York secured control of seven cables under a ninety-nine year lease. The Western Union also leased the one cable owned by the Direct United States Cable Company,

²⁶ Charles Hodges, Background of International Relations (New York, 1931), p. 475.

²⁷ McGrath, "Transatlantic Cables and Their Control," p. 592.

another British concern.²⁸ The British had been forced to lease these cables to the American companies because the businessmen who controlled the land systems in the United States would not permit a foreign company to connect a line to their private systems.

The result of all these contracts was that the operation of every cable submerged in the Northern Atlantic passed into the hands of the Americans. The two French cables and the two German cables were not leased to the American companies. The western ends of these last four cables were also controlled by American interests because the Commercial Cable Company had an agreement with them.²⁹

This brought out the astonishing situation, that although the United States has never manufactured a cable /submarine/, all of this work being done either in England or in Germany, American capitalists are absolute masters of this whole system of intercommunication across the Atlantic, with all the advantages appertaining thereto.³⁰

The Americans did not control the cables when they landed in England. The Americans may have visualized profits from the technical operation of the thirteen cables, but the British were able to determine the nature of the messages which transversed the lines. Although the British may have preferred

²⁸Ibid.

²⁹Ibid.

³⁰Ibid.

this system, "this concentration of communication has resulted in clogged wires, frequent long delays in transmitting press dispatches, and oftentimes emasculation if not actual suppression of the news."³¹

During the years preceding the conflict, it was impossible for a cable message of any nature to reach a destination in England or any part of the European Continent from the United States or elsewhere without first passing, and sometimes stopping for an indefinite period of time at a British station. The British Government possessed the necessary facilities for the interception of any cablegram arriving from almost any part of the world. Businessmen, especially the Americans, were not satisfied with the situation.

Speaking generally it is true that the British cable companies dominate the cable business. . . . The American-operated transatlantic cables could not live a day except for their arrangements with the British Government telegraph system for the interchange of business.³²

The American merchants had been doing a large business with the Europeans. Any business cable would have to pass over the British lines or over the limited French and German

³¹George T. Odell, "The Cable Control Controversy," Nation, 112 (February 2, 1921), p. 169.

³²Baker, Woodrow Wilson and World Settlement, II, p. 469.

cables.³³ The thirteen cables which crossed the Atlantic between Great Britain and the United States landed on British property. Although all of the cables were leased by American concerns, only the short spans of cable between the mainland and the landing places on Newfoundland and Nova Scotia were controlled by Americans. If the cables did not first proceed to such intermediate points as Newfoundland and Nova Scotia, then they would land at the Azores before continuing to the Continent.³⁴

The American cable heads lie on British territory or Azores islands, which are nominally Portuguese but actually British territory also. . . . It is asserted . . . that the majority of the stock is held in the United States. But again we deal with the fact that it is the British government that issues the landing licenses at home in Newfoundland and the Dominion and controls the Portuguese island that serves as relay points.³⁵

The United States and other interested parties who might have wished the destruction of the British monopoly were

³³ Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, p. 29. "France had a censorship even more exasperating, and Great Britain controlled all the other cables and cable stations, including those of the American commercial cable companies." Ibid.

³⁴ McGrath, "Transatlantic Cables and Their Control," pp. 591-592.

³⁵ Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, pp. 106-107.

confronted with various insurmountable obstacles. Prior to the World War, submarine cables were manufactured only in Britain and Germany.³⁶ Equally important, most of the miles of cable which the British sold carried a provision that the British companies would also lay the cable. This practice had placed in British hands a "vital knowledge of enemy communications within the belligerent areas!"³⁷

British control was exercised in several ways; some were obvious, others were not. For example, Great Britain owned the biggest fleet of ships made exclusively for the laying of cables. Beginning with the Great Eastern in 1865, the British had dominated continually the laying of the cables.³⁸ Moreover, Great Britain was able to maintain her monopoly through the control of the essential raw materials.

A submarine cable is merely a land telegraph line with a heavier insulation containing three basic parts--an inner core of copper, insulation made from a substance called gutta-percha, and another protective shield of steel wire.³⁹

³⁶ New York Times, December 28, 1918, p. 18.

³⁷ Hodges, The Background of International Relations, p. 476.

³⁸ New York Times, December 28, 1918, p. 118.

³⁹ McGrath, "Transatlantic Cables and Their Control," p. 594. Gutta-percha is a whitish-to-brown substance resembling rubber but containing more resin and changing less on vulcanization. The substance was obtained from the latex of several Malaysian trees of the sapodilla family.

The United States was able to obtain the necessary material for the copper core. No synthetic replacement of gutta-percha for insulation had been developed.⁴⁰ This substance-- a natural material from which rubber was made--was noted for its elastic properties and an ability to withstand the corrosive activity of sea water. Gutta-percha was obtainable only in the islands of the Malacca peninsula and the Malayan archipelago--an area in the British sphere of influence. The small independent dealers of this commodity had long-term contracts with the British.⁴¹ Finally, England possessed yet another advantage. If a cable was the property of a non-British company, "censorship by spying" was not necessarily eliminated. Great Britain "was practically the only nation in the world that had turned out cable operators . . . 95 percent of our cable employees are British subjects."⁴²

⁴⁰ W. Averill Harriman told Clarence Baron on August 8, 1920, that "our government is destroying American business and business communication. The cable across the Pacific works only intermittently as it is repaired. The result is that the American merchants have to cable by way of Hong Kong and England; of course their business is known to their British rivals." The Pacific cable could not be repaired because after the war, "our government sold to England the stock of gutta-percha on hand." Arthur Pound and Samuel Taylor Moore, editors, They Told Baron: Conversations and Revelations of an American Pepsys in Wall Street (New York, 1930), p. 71.

⁴¹ Bent, "Regarding a New Pacific Cable," p. 252.

⁴² Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, pp. 122-123. Testimony of the President of the Western Union.

An ability to manufacture cable facilities did not necessarily create a cable system. Cables may be laid outside the three-mile territorial claim in any ocean body, but the lines have to be connected on the mainland. If the span of water between territories is too large, islands are needed as intermediate points.

Nations prized highly the acquisition of exclusive landing rights on foreign soil. Such concessions were obtained in many areas of the world. Some were used for immediate purposes. Nations also acquired exclusive landing permits for the purpose of excluding rivals.⁴³ One of the many reasons why the various nations had engaged in imperialistic rivalries was to obtain islands for the long submarine cables. Germany had acquired the Caroline and Mariana Islands and later one of the Samoa group during the Spanish-American War. The Island of Yap, in which the United States would express a profound interest after the war, is in the Caroline group.⁴⁴

The United States was connected with the old world commercial market centers only on one side of the ocean. As long as it had played a passive role in foreign commerce and was content with isolation, this limited type of cable communication had been sufficient. More islands were needed for an expanding communications system. Except for the

⁴³Baker, Woodrow Wilson and World Settlement, II, p. 474.

⁴⁴"Ocean Cables and Wireless," Scientific American, 85, Supplement No 2216 (June 22, 1918) p. 386.

Hawaiian Islands and a few isolated territories such as Guam, the United States found herself with a limited number of these necessary islands. "Such remote points of land as Ascension in the South Atlantic, Fannin, Guam and Midway in the Pacific, and Cocos in the Indian Ocean, have become cross-roads of world communications simply by virtue of their geographical position."⁴⁵ But there were no unclaimed islands in 1914.

The United States had not adopted submarine cable development on a broad scale. The few ventures had been profit-making propositions which were largely isolated. The provincial-minded Americans had not foreseen--as had the British--the possibility and the necessity of an extensive cable system.

While the other nations had entered the race for ocean cables, the American investor and speculator was able to find ample resources for exploitation at home. The cables of the United States were generally linked with the extensive systems of the other countries at the most convenient points, or else, these connections were made by other countries. Ray Stannard Baker believed that these connections to the

⁴⁵ Arthur Charles Clarke, Voice Across the Sea (New York, 1958), p. 100. Even if the United States could have obtained the islands it desired, the cables would still have to land on foreign soil. The United States did not possess overseas territories as did the sixteen other major powers.

American systems by foreign companies were made for the purpose of exploiting the American businessman.⁴⁶

As the time of the World War approached, certain cables could be regarded as extremely vital for war communications. These were particularly the lines that crossed the Atlantic which were used to communicate with the United States. The Germans possessed two of these lines. Germany could also communicate with South America by means of the Monrovia-Pernambuco cable. Their control of the Island of Yap was a vital link in the communications of the Pacific area north of the equator. All of these lines could be eliminated by a superior sea power; and whoever had the best facilities for communication would have an advantage in the conflict. The British supremacy in communications during the World War contributed one of the principal strategic advantages held by the Allies. Within a few hours after London declared war, German's communication with the outside world was eliminated.⁴⁷

⁴⁶ Baker, Woodrow Wilson and World Settlement, II, p. 468.

⁴⁷ Hodges, The Background of International Relations, p. 476.

CHAPTER II

INTERNATIONAL LAW AND THE CUTTING OF SUBMARINE CABLES

If the question of the cutting of submarine cables by a belligerent appeared before a Prize Court, the presiding judges would not have an easy task. The cable in question could have been a means of communication between two belligerents; it could have connected the territories of two neutrals. One belligerent might have severed a cable between the territory of another belligerent and the landing station of a neutral. The judges would also have to consider whether the cutting of the cable, which was either privately owned or an enterprise of a national government, had been performed on the open seas or within the three-mile protective restriction. A belligerent and a neutral--whether a private citizen or a government would not possess identical rights in these two areas.

"All writers seem to agree that cutting of cables by belligerents within neutral jurisdiction is prohibited."¹ Judges usually base their opinions on precedents, principles

¹George Grafton Wilson, Handbook of International Law, rev. ed. (St. Paul, 1939), p. 342.

and international law--provided that the necessary regulations have been established. And even though there is agreement among writers that the cutting by belligerents within belligerent jurisdiction is permitted, jurists prefer the established precedents in the body of international law.

Under the established principles, a belligerent may cut on the high seas a cable which travels between two areas under belligerent occupation even if the control of one of the areas is temporary. If a cable is to be restored after the hostilities end, compensation should be a subject of study in the peace treaty. A belligerent should not eliminate a cable joining an enemy and neutral territory "except in the case of clear military necessity."² But the necessities of war usually overwhelm treaties and conventions and destroy accepted principles of international law. The creation of new interpretations of international law by a victorious power does not necessarily eliminate established principles and precedents--provided that the latter did exist.

In order to ascertain the responsibility of the Allied Nations in the cutting and subsequent diverting of the German submarine cables during World War I, a thorough study of the established precedents and principles of international law has to be made. The Allied Powers expressed the opinion that all of their actions regarding the German submarine cables

²Ibid.

had been justified. The United States did not hold a similar view. A few principles and precedents did exist prior to the World War.

The first attempt to establish cable regulations by international agreement came with the St. Petersburg International Convention of 1875.³ No specific guidelines for governing the actions of belligerents were established. Only two articles were inserted, and these were vague enough to allow any future belligerent freedom of action:

Article 7. The High Contracting Parties reserve to themselves the right of stopping the transmission of any private telegram which may appear dangerous to the security of the state, or which may be contrary to the laws of the country, to public order, or decency.

Article 8. Each government also reserves to itself the right of suspending the international telegraph service for an indefinite period, if it deem necessary, either generally or only upon certain kinds of correspondence, upon condition that it immediately advises each of the other contracting governments.⁴

The United States was not a signatory to this agreement.⁵

³George Abel Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States (Boston, 1924), p. 26. Schreiner wrote that "as is the case in many another international agreement, the St. Petersburg Convention falls far short of taking care of the contingency of war." p. 26.

⁴As cited in Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States, p. 26. For a study of this convention as it was extended and modified, see Great Britain, Parliamentary Papers, International Telegraph Convention of Saint-Petersburg and Service Regulations Annexed, Revision of Paris, (London, 1926) pp. 138-139.

⁵James G. Harbord, "America's Position in Radio Communication," Foreign Affairs, IV (April, 1926), p. 472.

The first definite international ruling for the regulation of cables during wartime came through the Convention of Paris of 1864.⁶ The articles on the cutting of cables were limited and provided leeway for the possible action of belligerent signatories. The convention emphasized the protection of submarine cables during peacetime outside of territorial waters; the convention did not regulate the actions of belligerents. The major powers, including the United States, which was a signatory of this treaty, desired an avenue of escape if the future occasion of war demanded the necessity.

Provisions in the convention sanctioned the actions of belligerents. Article X held a neutral country responsible if any of the provisions--which regulated the actions of ships towards cables--were violated.⁷ Only a neutral nation would be required to report to the proper authorities any damage inflicted upon a submarine cable. The owner of a belligerent vessel was not responsible for any accidental damage, but the provision of the convention which was responsible for destroying any hope of belligerent regulation

⁶ William M. Halley, editor, Treaties, Conventions, International Acts, Protocols and Agreements Between the United States of America and Other Powers, 1776-1909, 2 vols., Senate Document No. 357 (Washington, 1910), II, 1954.

⁷ John Bassett Moore, A Digest of International Law, 8 vols. (Washington, 1906), VII, 368-369.

was Article XV: "It is understood that the stipulations of this Convention shall in no wise affect the liberty of action of belligerents."⁸

The British and Belgian Governments had accepted the attitude that a signatory who was a belligerent could act as if the convention did not exist. Presumably, the belligerent could cut the cables.⁹ The United States concurred.¹⁰ No nation desired an obstacle in its future war activities.

The various nations did not consider the formal extension of these limited regulations until the Hague Convention of 1899. During the previous year, the United States, which up to the advent of the Spanish-American War had usually insisted upon established principles for the justification of international actions by belligerents, had created a precedent with the cutting of the cables to Cuba, Porto Rico and the Philippine Islands. It may have been this action which caused the various delegates to desire an international ruling of the actions of belligerents towards cables.

In the provisions of the Hague Convention of 1899 which governed the actions of belligerents in hostile territory, one article stipulated that

⁸Malloy, Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers, II, 1956.

⁹Moore, Digest of International Law, III, p. 369.

¹⁰John Bassett Moore, The Collected Papers of John Bassett Moore, 7 vols. (New Haven, 1944), II, 173.

railway plant, land telegraphs, including shore ends of cables . . . even though belonging to private persons, are likewise material which may serve for military operations, but they must be restored and compensation fixed when peace is made.¹¹

According to this provision, a belligerent could terminate communications by a submarine cable, but compensation would have to be made when the hostilities ended. The delegates of the British Government requested that mention of shore ends be excluded from the article. Although the British delegates probably had ulterior motives, they objected to the article on the grounds that the conference had agreed to exclude naval matters. The provision was modified, and the submarine cables were excluded from the provision.¹²

Eight years later at the Second Hague Conference, the Danish delegation proposed an amendment to the regulations of 1899 respecting the Laws and Customs of War on Land.¹³

The amended article carried the following provision:

¹¹Article 53. James Brown Scott, editor, The Proceedings of the Hague Peace Conferences, 5 vols. (New York, 1921), I, 77.

1921 ¹²Ibid., I, 101.

¹³Article 53 of the Annex to the Hague Convention IV of 1907, Scott, The Proceedings of the Hague Peace Conferences, III, 244.

Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They shall likewise be restored and compensation fixed when peace is made.¹⁴

But what is "absolute necessity"? The vagueness of this term permitted the passage of the article. A Prize Court would have a difficult decision.

During the interval between the Hague Conferences of 1899 and 1907, the Institute of International Law had convened in Brussels in 1902. This international organization had no governmental function, but it is important to note what the legal experts regarded as the proper procedure for belligerents to follow concerning the submarine cables. Under no circumstances could a cable joining two neutral territories be cut. The cables connecting the territories of one of the belligerents with the territory of a neutral could not be cut in the neutralized waters of the non-belligerents with the territory of a neutral could not be cut in the neutralized waters of the non-belligerent. The same cable could be severed on the high seas provided that the belligerent had effective blockade.¹⁵ If these proposals

¹⁴ Green Haywood Hackworth, Digest of International Law, 8 vols. (Washington, 1944), IV, p. 266.

¹⁵ Elbert J. Benton, International Law and Diplomacy of the Spanish-American War (Baltimore, 1908), p. 211.

had been adopted formally by the various nations prior to the World War, the Allies would have encountered difficulty justifying some of their actions.

The next international meeting sanctioned by the various nations to consider the regulation of international communications was the International Wireless Telegraph Convention of 1912.¹⁶ The articles of this agreement were just as ineffective as the provisions of the Convention of Paris of 1884.

The World War prevented any further negotiations for an international regulation. The few existing conventions needed revision and added regulations. The United States came forth with its own provisions for the conduct of belligerents towards cables. In June, 1917, the Navy issued a set of instructions to guide its personnel:

Unless under satisfactory censorship or otherwise exempt, the following rules are established with regard to the treatment of submarine telegraph cables in time of war, irrespective of ownership.

(a) Submarine cables between points in territory belonging to or occupied by the enemy or between such territory of the United States are subject to such treatment as the necessities of war may require.

(b) Submarine telegraph cables between points in territory belonging to or occupied by the enemy and neutral territory may be interrupted within the territorial jurisdiction of the enemy or at any point outside of neutral jurisdiction, if the necessities of war require.

¹⁶Malloy, Conventions, International Acts, Protocols and Agreements Between the United States and Other Powers, III, 3053. Article XVII of the Convention simply provided that "provisions of Articles 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, and 17 of the International Telegraph Convention of St. Petersburg of July 10-12, 1875, shall be applicable to international radiotelegraphy." Ibid., III, 3053.

(c) Submarine cables connecting an occupied territory shall not be seized or destroyed except in the case of absolute necessity.

(d) Submarine telegraph cables between two neutral territories shall be held inviolable and free from interruption.¹⁷

But the United States had entered the war after the Allies had already cut the German cables. By these provisions, the Allies were justified in the cutting of the cables between Germany and the United States. If the United States had issued the instructions prior to the outbreak of the war, the cutting of some of the cables during the conflict would have been a clear violation of Article "d."

There were no further attempts at the establishment of regulations prior to the Paris Peace Conference. Regulation by international law was needed and was absent. The status of the cables during the World War could have been more definite if the various governments had provided precedents based on the actual cutting of a cable. There were two such occurrences. It is ironic that the nation which would argue most heatedly at the Paris Peace Conference against the legality of the cutting of the cables during the World War was itself responsible for the two incidents--the United States.

In 1891, the Chilean Government had been confronted with a rebellion by a group of revolutionaries. The Central and

¹⁷As cited in Hackworth, Digest of International Law, IV, p. 267.

South American Telegraph Company, an American concern, wanted further landing concessions from the Chilean Government. The American company already had a line from Callao, Peru, to Iquique--the latter being the headquarters of the rebels. The head of the Chilean Government agreed to grant more licenses if the American company would cut the line to Iquique, and connect the severed end at Iquique to a line from Valparaiso, Chile. Thus, the Chilean Government would have a direct line from Callao to Valparaiso, but the communication cable of the rebels--Callao to Iquique--would be eliminated.¹⁸

In July, 1891, the company's steamer, the Relay, under the protection of the United States Navy, severed the cable off Iquique, and joined it in the deep sea--outside the three-mile limit--with the line to Valparaiso. The rebels objected to this action as a violation of neutrality by the United States.¹⁹ But it was not the Americans who would pay any compensation.

The rebels were successful in their revolution, and they were fully installed in power on September 1, 1891. The American company sought compensation for the expenses in the diversion of the cable. In 1894, a United States-Chilean Commission ruled that the Central and South American Telegraph Company was justified in receiving approximately forty

¹⁸John Bassett Moore, "The Late Chilean Controversy," Political Science Quarterly, VIII (September, 1893), pp. 469-470.

¹⁹Moore, The Collected Papers of John Bassett Moore, VI, p. 287.

thousand gold dollars for having to move the cable at the request of the former Chilean Government and then restoring the cable to its original position at Iquique.²⁰ According to this decision, a belligerent was responsible for the destruction of neutral cables.²¹

The Spanish-American War of 1898 was responsible for the creation of another precedent. In May, 1898, two of three cables connecting Cuba with the outside world were cut by the United States Navy. First, an unsuccessful attempt was made to cut the Santiago de Cuba-Jamaica cables on May 16. Two days later, a cable was cut less than three miles off Morro Castle. Finally, on May 20, the cable between Cuba and Haiti was broken outside of the three-mile limit off Mole St. Nicholas. "All or nearly all the cables were the property of neutrals. . . . In all these cases the object of interruption was to confuse and frustrate the military operations, whether offensive or defensive, of the enemy."²²

On May 1, 1898, Commodore Dewey, after destroying the Spanish fleet in Manila Bay, proposed to the Spanish

²⁰Marjorie M. Whitsman, editor, Damages in International Law, 3 vols. (Washington, 1943), III, 1679.

²¹In July, 1892, the Chilean Government had placed at the disposal of the United States 75,000 gold dollars as compensation for damages to American citizens during the revolution. Perhaps, the compensation to the American company also had been an attempt to gain the goodwill of the Americans.

²²Moore, The Collected Papers of John Bassett Moore, II, pp. 416-417.

Captain-General that both the United States and the Spanish authorities should be permitted to transmit messages through the cable from Manila to Hong Kong. The Spanish refused, and the American fleet cut the cable on the following day.²³

After Commodore Dewey had cut and obtained possession of the Philippines end of the line, he discovered that he could not control the Hong Kong terminus for exclusive use because of the provisions of the Spanish franchise under which the cable had been laid. The United States then sought permission to have an American company lay a cable from Manila to Hong Kong. The British refused on the grounds that the granting of the necessary permission would be a breach of neutrality.²⁴

Almost all of the cables uniting Cuba, Porto Rico and Manila with the outside world had been the property of British companies. The United States had cut these lines on the principle that a belligerent could not cut a neutral cable in mid-ocean, but a neutral cable could not claim to be exempt from destruction within the territory of the enemy. This rule adopted by the United States formed an important precedent in international law.²⁵

²³Manley O. Hudson, editor, Cases and Other Materials On International Law (St. Paul, 1929), pp. 1289-1293. The Manila-Hong Kong cable was the property of a British corporation.

²⁴Moore, The Collected Papers of John Bassett Moore, II, pp. 416-417.

²⁵Benton, International Law and the Diplomacy of the Spanish-American War, p. 211.

The "important precedent" provided that cables in mid-ocean, if they were the property of a neutral owner, could not be cut. But within the three-mile international limit of the belligerent, cables could be destroyed--whether they were owned by a belligerent or by a neutral.

After the hostilities of 1898 had ended, the companies²⁶ which owned the cables claimed compensation for the damage inflicted by the United States. Although the Attorney-General of the United States had ruled that the companies had no right to compensation, on January 16, 1900, President McKinley submitted the claims of the British Eastern Extension, Australasian and China Telegraph Company with a recommendation that "as an act of equity and comity provision be made by the Congress for reimbursement to the company of the actual expenses incurred by it in repair of the cables."²⁷ The claims of the Cuba Submarine Telegraph Company and the French Trans-Atlantic were also submitted.²⁸ Congress took no action at this time.

²⁶ The three companies were the British Eastern Extension, the British Cuba Submarine Telegraph Company and the French Trans-Atlantic Telegraphic Company.

²⁷ Senate Executive Documents, 58th Congress, 1st Session, No. 16. A Report From the Secretary of State, with Accompanying Papers, with references to the claim of the Eastern Extension Australasian and China Telegraph Company, Limited, For Compensation On Account of Expenses Incurred in Repairing its Manila-Hong Kong and Manila-Capiz Cables Cut By the United States Forces During War With Spain (Washington, 1900), pp. 10-15.

²⁸ Ibid., p. 2.

On March 2, 1903, an amendment to the general deficiency bill had been inserted by the Appropriations Committee to pay the claims of the French Company and the Cuba Submarine Company. The Committee decided to compensate the companies because President McKinley had requested the firms to repair the lines going to Cuba in order to communicate with the American forces, but the House did not adopt the amendments.²⁹

President Roosevelt submitted the claims of the three companies to Congress on December 11, 1903. The Senate referred the claims to the Committee on Foreign Relations. The House sent Roosevelt's proposal to the Committee on War Claims. The Committee on Foreign Relations gave the claims to the Committee on the Philippines.³⁰ Apparently, Congress was in no mood to pay any compensation. Roosevelt again submitted the claims of the Cuba Submarine Telegraph Company on December 13, 1906. No action was taken. Yet by an act of April 6, 1906, the Secretary of the Treasury had been instructed to pay the claims of the French Company.³¹ Evidently, the members of the United States did not believe that the

²⁹ Ibid., pp. 22-23.

³⁰ Congressional Record, 58th Congress, 2nd Session (Washington, 1904), III, pp. 114, 145, 275.

³¹ Moore, Digest of International Law, VI, p. 926.

British were entitled to any compensation.³² The United States had only paid the claims of the French company because President McKinley had requested that the company repair the cut cable for the use of the United States. The payment to the French company had not been the result of a decision by a Prize Court. And the years preceding the World War presented no other incident of the cutting of a cable by a belligerent.

No incident creating a precedent occurred during the Russo-Japanese War in 1904. Yet the Russian Press protested when the Commercial Pacific Cable Company, presumably acting in the interests of Japan, made an application to the United States to connect Japan with Guam and the Philippine Islands. Such a cable would have permitted direct communication between the United States and Japan.³³ The Japanese feared that the two cables connecting Nagasaki with Guam and the Philippine Islands would be destroyed. More cables would

³²The British decided in 1923 to force through the courts compensation from the United States. The Tribunal of Fromageot, Innes and Olds, in a Claims Arbitration, decided the case. The United States argued that "as a general proposition and as a matter of law, neutral telegraphic cables were exposed to the same vicissitudes in time of war as other neutral property; that this view found conventional confirmation in Article XV of the treaty of Paris of March 14, 1884 . . . it was preferable to consider the claims from the point of view of equity." Moore, Digest of International Law, VI, 924-925. The Tribunal decided that the United States was not liable, because a belligerent possesses the right to cut cables. A neutral country takes the chance in a war. Hudson, Cases and Other Materials on International Law, 1289-1293.

³³Amos S. Hershey, The International Law and Diplomacy of the Russo-Japanese War (New York, 1906), p. 79.

have insured better communications. The Russian Press charged that the granting of a permit would have constituted a breach of neutrality.³⁴ The Commercial Pacific Company proceeded to lay the cable across the Pacific, but the Russian navy did not molest the Japanese cables.

International law as to the right of a belligerent to cut a cable was not well-established by the time of the World War. Almost every nation admitted the right to eliminate the cables in time of war; but not all powers agreed upon the circumstances involved. As an example, one of the provisions of the contract between the United States and the Commercial Pacific Cable Company stipulated that the "United States shall have the authority to sever at discretion [sic] all branches which may be connected with the main line aforesaid during war or threatened war."³⁵ In 1904, the company proceeded to lay a cable from San Francisco to Honolulu and from the Hawaiian terminus to the Philippines.

No writer on international law--much less the body of international law itself--presented a definite ruling. Disagreement existed as to the various points. The United States had not been willing to pay compensation for the damage to the cables during the Spanish-American War. The

³⁵U. S. Congress. Senate. Doc. No. 24. Submarine Telegraphs in Pacific. 57th Cong. 2d. Sess. (Washington, 1902), p. 2.

few conventions had not distinguished between the privately and government-owned cables. This question would form the basis for violent debate at the Paris Peace Conference.

Immediately after the outbreak of the World War, Secretary Lansing issued a memorandum which he may have intended to be used as a guide for the belligerents during the conflict. The American Secretary of State was of the opinion that a neutral power was not bound to forbid or restrict the use of submarine cables landing on its territory whether those cables belonged to government or to private interests. Yet if the station was erected by a government, either before or during war for military purposes, the neutral country had to restrict its operations or even forbid its operation. A neutral government should prevent a belligerent government from using cable facilities to send messages to its agents in neutral territory unless both belligerents possessed an equal opportunity to use the communication facilities.³⁶

The American Secretary had not denied entirely the right of a belligerent to cut a cable.

The enemy of the belligerent, in whose territory the cable is landed, may, if he is able, cut such cable in the open sea or in the territorial waters of the belligerent. This may be done by the belligerent under the generally accepted principles of international law.³⁷

³⁶U. S. Department of State, Papers Relating to the Foreign Relations of the United States . . . The Lansing Papers, 1914-1920, 2 vols. (Washington, 1939), I, 153.

³⁷Ibid.

Lansing also maintained that all cables between neutrals and belligerents should be used on an equal basis by both belligerents, or else, all of these cables should be closed.

As the World War erupted, England, France, Japan and Germany had a few definite guiding principles in the assorted jumble of conventions and precedents. While England, France and Japan were in the process of cutting the German Submarine cables, they were aware of established--although vague--laws and regulations. Under no circumstances did they have a right to cut a cable between two neutral nations. A cable between a neutral and a belligerent could be cut, but not in the territorial waters of the neutral. Although no nation had ever denied the right of a belligerent to sever a cable between two territories of another belligerent, all of the countries which had cut the German cables had agreed previously that compensation must be made when the hostilities ended. Yet the Allies would argue that the cables had been cut because of "absolute necessity."

CHAPTER III

THE GERMAN SUBMARINE CABLES DURING THE FIRST WORLD WAR

The destruction of the German submarine cables after the outbreak of the World War was for the Allies a necessary act. A nation in war holds a strategic advantage over the enemy if it possesses a superior means of communication. The superiority of a belligerent can be further increased if the communications of the enemy are eliminated. Such was the situation during the World War. Yet some of the actions of the Allies towards the German submarine cables extended beyond the realm of clear military necessity.

The cutting of a cable is not as easy a task as it might seem. International law "forbids" the cutting of a cable within the three-mile territorial limit of a neutral, and even if a cable was cut immediately outside this boundary, repair would be simple because the water would probably be shallow and the severed cable could be easily located. There is also a stronger steel casing near the shore.¹ In deep water, however, the problems of locating the cable make both

¹"Submarine Cables and National Defense," The American Review of Reviews, 43 (March, 1911), 365.

cutting and repairing it more difficult. When a cable had been broken accidentally during peace time, days, and sometimes weeks, passed before the cable could be located with the hooking apparatus. In times of peace, the searching vessel did not have to keep a watch for a possible enemy warship or submarine.

Walter S. Rogers, an American communications expert, did not believe that the cutting of the German submarine cables was based entirely on military necessity. A few of the cables would have aided the Germans. (He did not specify which.) The overall elimination of the German communications indicated a "purpose to dismember permanently the German cable system to strengthen their own."² The British had not hesitated when the war erupted. When their ultimatum to Germany expired on August 4, 1914, the British immediately began the process of controlling the communications with other countries. "Officers of the War Office and Admiralty were placed in the buildings of the various cable companies."³

On August 5, 1914, the British cut the two German cables-- Emden to New York--on the European side of the Azores. The British diverted one of these cables to Penzance (Land's End),

²Walter S. Rogers, "International Electrical Communications," *Foreign Affairs*, I (December 15, 1922), 149-150.

³Francis W. Hirst, The Consequences of the War to Great Britain, Vol. XXIV of The Economic and Social History of the World War (British Series), edited by James T. Shotwell, 24 vols. (London, 1934), p. 105.

England.⁴ In July, 1917, the British navy cut the American end of the cable about 600 miles from New York.⁵ This end of the line was diverted to Halifax, Nova Scotia. The British then had their first government-owned cable across the Atlantic, running from Penzance, England, to Halifax, Nova Scotia through the Azores.⁶ To all these incidents, the Americans replied that the cables had been cut illegally because the United States had been a neutral at the time of the cutting.⁷

France cut the other German cable crossing the Atlantic between the Azores and New York.⁸ This action had been performed outside the three-mile territorial limit of the United States. The Emden terminus, which had been cut by the British, was diverted to Brest. After the French had obtained the permission of the United States Government, they moved the American end of the cable from its previous position to the offices of a French cable company in New York City.⁹ President Wilson had issued a permit authorizing this move

⁴New York Times, August 6, 1914, p. 6.

⁵New York Times, January 11, 1921, p. 16.

⁶Rogers, "International Electrical Communications," p. 149.

⁷New York Times, March 13, 1919, p. 2.

⁸New York Times, October 24, 1920, p. 14.

⁹Rogers, "International Electrical Communications," p. 149.

on August 23, 1917.¹⁰ In order to give permission to the French to relay the German cable, Wilson had cancelled the license granted to the Germans in 1899. The agreement between the Americans and the Germans was declared null and void. The Germans could reapply for a new license if they desired to lay more cables to the United States.¹¹ It was doubtful that the Germans would do this while the hostilities were in progress.

The French cut the German cable between Monrovia, Liberia, and Pernambuco, Brazil, on September 13, 1915. This cable had not been utilized or diverted because of the opposition of the United States.¹² The French and the British had divided the German cables which crossed the Atlantic. France was assigned the Pernambuco-Monrovia cable. When the American Government had given permission for the diversion of one of the Emden-New York lines, the French requested a similar request to use the Pernambuco-Monrovia cable. The United States refused this permission.¹³

¹⁰U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1920, 2 vols. (Washington, 1935), I, 141. This work will be cited hereafter as FRUS, 1920.

¹¹Executive Order No. 3360-A. FRUS, 1920, I, 141.

¹²Richard C. Bundy to Secretary Lansing, November 29, 1919. U. S., Dept. of State, Papers Relating to the Foreign Relations of the United States, 1919, 2 vols. (Washington, 1934), II, 506.

¹³Ambassador in France to Acting Secretary of State, February 15, 1919. FRUS, 1919, II, 524.

The French also cut the cable between the Canary Islands (Teneriffe) and Emden, Germany. The line was then diverted, and the French constructed from it a new cable from Brest to Casa Blanca, Morocco, and then to Dakar, Senegal. The German cable between Monrovia and the Canary Islands had also been cut a few miles from Monrovia and at a junction about opposite Freetown, Sierra Leone. The end of the section nearest Monrovia had been joined at sea off Monrovia to the cable between Loma and Monrovia.¹⁴

The British also cut the Liberian end of the Monrovia-Lome cable. Thus, the British had made, at the expense of the Germans, direct contact from Freetown to Lome, eliminating Monrovia entirely in the process. The French claimed that they did not know what happened to the section of cable between the Canary Islands and the point off Freetown where the line from Monrovia to the Canary Islands had been cut.¹⁵ Apparently, the line had disappeared.

In the Pacific Ocean, the Japanese took control of the Island of Yap in 1914. In the same area, the British captured the cable from Yap to Singapore.¹⁶ "Possession of these lines, it is held, insures business control of a fair

¹⁴Charge in Liberia (Bundy) to the Acting Secretary of the State, February 25, 1919. FRUS, 1919, II, 526-527.

¹⁵Ibid.

¹⁶New York Times, March 30, 1921, p. 4.

proportion of Australian Polynesia, which is regarded as properly within the field of American commercial effort."¹⁷

These were not all of the German cables that were severed. At the Paris Peace Conference in 1919, Admiral Thaon Di Revel of Italy stated that his government had not appropriated any of the German cables. One cable had been cut in the North Adriatic. "In the lower Adriatic there were two cables, one between San Giovanni di Medua and Taranto and the other between Otranto and Corfu. Both had been cut, and the latter had been diverted by the British Government."¹⁸ After the British had initiated the movement for the elimination of enemy submarine cables, the Germans likewise attempted an identical procedure.

On November 9, 1914, the German cruiser, Emden, put ashore a landing party on the Cocos Islands in order to destroy the cable station and cut the British cables. The Cocos Islands in the Indian Ocean are the junction for the British cables coming from South Africa, the East Indies, and Australia. Before the Germans could cut the cables, the Sydney, a British cruiser, was notified and the Emden was sunk.¹⁹ In the Pacific, the crew of the German cruiser,

¹⁷New York Times, March 13, 1919, p. 2.

¹⁸U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919 . . . Paris Peace Conference, 13 Vols. (Washington, 1942-1947), IV, 470. Council of Ten, March 24, 1919, 4 p.m.

¹⁹Arthur Charles Clarke, Voice Across the Sea (New York, 1958), p. 101.

Nürnberg, cut the cable on Fanning Island.²⁰ Yet the Germans did not perform an adequate job, because the disjointed cable was located quickly by a British diver.²¹ The British cables connecting the United States were not cut.²²

The Allies were pleasantly surprised that Germany did not cut the cables between Europe and the United States. A successful dismemberment of these communications would have played havoc with the Allies. After the unsuccessful attempt at the Cocos and Fanning Islands, the Germans--if they had made any subsequent attempts--did not succeed in cutting any cables. Although this task might have proved difficult if conventional vessels had been used, "any submarine could attend to this detail and in the light of this naval men are still wondering why the German submarines did not during the war cut every cable connecting Europe and America."²³

One can only speculate on the lack of German initiative. Germany may have wished, prior to 1917, to avoid any further offending of the United States. After their cables to the United States had been eliminated, the Germans offered to pay for the repair of the two cables if the British and

²⁰ Fanning Island was the relay station for the British Cable which crossed between British Columbia and Australia.

²¹ New York Times, December 2, 1915, p. 6.

²² James Wilford Garner, International Law and the World War, 2 vols. (London, 1920), II, 410.

²³ George Abel Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States (Boston, 1924), pp. 199-200.

French promised that the lines would not be disturbed again, The United States could have used whatever censorship it desired. The British and French refused. Germany believed that her version of the conflict was not receiving an equal treatment because of the lack of communications.²⁴

Before the United States had entered the war, Germany had not requested special privileges--only an equal treatment which the United States seemed willing to grant. On August 11, 1914, the United States proposed tentatively to the German, French and British Governments that

(1) All the belligerents may send and receive wireless messages in code or cipher via Sayville and Tuckerton. The American censors at those stations to receive codes and ciphers used in order to be able to see that the neutrality of the United States is not violated. Ciphers and codes to remain known only to the censors and the United States Government, also the contents of messages sent; or

(2) Germany may use the English or French cables. The telegrams of all the belligerents submitted to the censor as stated before.²⁵

The Germans preferred to use the wireless stations--provided that the censorship would be applied equitably. They could

²⁴New York Times, July 9, 1915, p. 1.

²⁵Secretary of State (Bryan) to Ambassador in Great Britain (Page), August 11, 1914. U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1914, Supplement I, The World War (Washington, 1928), p. 670.

not use the French and British cables because the messages would be delayed.²⁶ The British also chose the radio.²⁷

The British decision to use the wireless facilities permitted an alternative. All of the messages on the wireless, including the German, would be censored. If the British desired to send some message which they did not want censored, then they could use their submarine cables. The American censors would not be at the intermediate points such as Newfoundland. The German cables had been eliminated; the only alternative for Germany was to use the wireless facilities, which would be censored. The British were not likely to adopt the proposal by the United States that the Germans be permitted to use the British cables. Of the three countries--Great Britain, France and Germany--only the British and the French could benefit from the proposal. There was no doubt that the "British supremacy in communications at the time of the World War contributed one of the principal strategic advantages held by the Allies."²⁸

As the war was nearing its completion, the United States visualized prospects for increasing her cable facilities. When the war ended, American businessmen hoped to assume a

²⁶The Ambassador in Germany (Gerard) to the Secretary of State, August 28, 1914. FRUS, 1919, p. 676.

²⁷The Ambassador in Great Britain (Page) to the Secretary of State, August 30, 1914. FRUS, 1919, p. 677.

²⁸Charles Hodges, The Background of International Relations (New York, 1931), p. 475.

new and active role in world commerce with America's newly-built and expanding merchant fleet. During the war, President Wilson had been advised that the United States "should be badly handicapped by finding most of our cable communications controlled by our rivals."²⁹ The World War had not witnessed an increase in the miles of cables spanning the globe. Discounting the cut German cables which remained unused, there were between 290,000 and 300,000 miles of cables in 1919. The mileage of the cables had not increased since 1914.³⁰

There had been at least a semi-balance of power concerning the cables before the war; but after the hostilities had ended, Germany had lost nearly all of her cables.³¹ Some of the cables had been added to the holdings of Great Britain, Japan and France. After the cables had been cut, Great Britain's predominance became even more striking. "The control of one of the most vital links in international trade--communication--by America's greatest rival, Great Britain, became a vitally serious problem."³²

The United States had two alternatives in the attempt to eliminate her deficiencies in submarine cables. She could

²⁹Ray Stannard Baker, Woodrow Wilson and World Settlement, 3 vols. (New York, 1922), II, p. 468.

³⁰"Maintaining Ocean and Telegraphic Cables," Scientific American, 86, Supplement No. 2242 (December 21, 1918), p. 388.

³¹The German cables between that nation and England had not been cut.

³²Baker, Woodrow Wilson and World Settlement, II, p. 466.

join in a world-wide scramble in an imperialistic dash for the control of cable communications. The other alternative was an internationalization of these facilities.³³ Communication by internationally-controlled cables would be better than no communication at all.

Yet the United States could not join in any race for the control of these facilities. The country was already handicapped and too far behind. Landing rights at such vital points as the Azores and China were already forbidden the United States through exclusive contracts with other nations. Because the United States had permitted the industry to pass to Great Britain and Germany, international cable development would have to begin in its elementary form. The United States possessed neither adequate plants for the manufacture nor the ships for the laying of the cables. Private capital was difficult to find because profit was so distant under these disadvantages. The United States could strike for a share of the cables at the Peace Conference, even though an equitable division of the German cables would not be sufficient to offset the position of Great Britain.³⁴

The American Delegates to the Peace Conference would not have any comprehensive or constructive program for the economic settlement. They had no desire for territorial acquisitions; they did not claim a share of the reparations.

³³Ibid., II, p. 471.

³⁴Ibid., II, p. 474.

"But in this comparatively minor, but really most important matter of cable control . . . America did have a direct, immediate interest."³⁵ A share of the ex-German cables would not place America in a competitive position. The German cables would have to be internationalized in order for the United States to be able to use all of them.

The sponsors of the new program were the communications experts who were the most familiar with the subject. Such men as Postmaster General Albert S. Burleson and the Communications Advisor of the American Delegation, Walter S. Rogers, were aware of the futility of any attempt to internationalize the cables while any significant proportion of the lines remained in private hands.³⁶ The United States had had difficulty adhering to the few international cable regulations because of the objections of the privately-owned companies. Any proposal for an international control would be received with something less than enthusiasm by the private businesses.

Negotiations for the governmental seizure of the submarine cables had been in progress with England and the other nations because the United States did not have control of the foreign ends of the cables. "The negotiations were concluded so that the government might have absolute control

³⁵Ibid., II, p. 467.

³⁶Ibid.

of the cables during the peace negotiations."³⁷ The government of the United States also planned to take control of all the land systems in the United States.

President Wilson did not find an enthusiastic Congress when he had made his proposal at a luncheon on July 22, 1918.³⁸ He proclaimed that the telephone and telegraph systems of the country would be taken over at midnight on July 31, 1918, and would be under the direction of Postmaster Burleson.³⁹ Congress was not anxious to act upon Wilson's proposal. The war was almost over when Wilson signed a proclamation on November 2, 1918;⁴⁰ and the hostilities had definitely ended when the Executive order was made public on November 16, 1918.⁴¹

It is possible that Wilson desired governmental control of the cables in order to transmit correspondence during the Peace Conference between Paris and the United States.⁴² Such a control would have given his government top priority and also would have aided in the dissemination of the proper kind of news. However, one may not discount the possibility that

³⁷New York Times, November 17, 1918, p. 1.

³⁸For a typical response to Wilson's proposal, see the Congressional Record, Senate, 65th Congress, 2nd Session (Washington, 1918), pp. 11602-11603.

³⁹Ray Stannard Baker, Woodrow Wilson, Life and Letters, 8 vols. (Garden City, 1927-1939), VIII, p. 289.

⁴⁰Ibid., VIII, p. 543.

⁴¹New York Times, November 17, 1918, p. 3.

⁴²An editorial of the Times (London) stated that the American President had seized the cables in order to have control of the lines for the communication of the news. November 29, 1918, p. 8.

the seizure of the cables was a part of Wilson's overall plan for the international control of all cables--provided that the plan had originated before Wilson had arrived at Paris. It is extremely doubtful that Wilson had the time to study fully the problem in all its complexity. Wilson was probably following the advice of his communications experts. Even after the Peace Conference had ended, Wilson still expressed difficulty recalling the name of Yap, much less its general location in the Pacific.

Although the United States had not cut any of the German cables and was not responsible for the creation of the problem, the American government would play a vital role in the negotiations aimed at a settlement of the dispute. At the Paris Peace Conference, the American delegates would first argue on a basis of international law that the cutting and diverting of the German cables had not been justified. Because the cables could not be returned to Germany, the Americans then proposed an internationalization of the cables. A share of the German cables through an international control would be better than nothing at all.

CHAPTER IV

CABLES AND THE PARIS PEACE CONFERENCE--

THE FIRST STAGE

The arguments and proceedings regarding the German submarine cables were similar to the many problems--both major and minor--which confronted the delegates at the Paris Peace Conference. Although the cables were only a small part of the total agenda at the various meetings, a remarkable amount of time was required before the Allies adjourned with a tentative agreement. The delay was caused, primarily, by the inability of the Americans to agree with the British and the French. Neither side was willing to modify its position or abandon its extreme demands.

At the Paris Peace Conference, first there was the "unimaginative, legalistic, negative position of Secretary, Lansing"--according to a bitter critic of this man.¹ The United States argued that international law demanded a return to the prewar status quo. Lansing, therefore, supported the restoration of the cables to Germany. Second,

¹Ray Stannard Baker, Woodrow Wilson and World Settlement, 3 vols. (New York, 1922), II, p. 5475.

there was the program of those Americans who saw the realities of the cable situation in the light of the New World situation, who had vision, and a new and constructive policy of action. They saw that the Old World and the old rivalries, which Lansing was feebly seeking to restore, were gone forever. There must be either a new and gigantic war of communications, chiefly between Great Britain and America, or else a world cooperative arrangement.²

The United States would hopefully base its position on a "world cooperative arrangement." The Allies would not be so willing.

Aside from Great Britain, the most formidable opposition to the United States came from the French delegates. Their country had been ravaged by the German invaders, and the Germans would pay dearly for the damage they had caused. Although the value of the German cables would be only a fraction of the total bill of reparations, any item which could be added to the list would be admissible. Not only would the German cables improve the system of France, but a cableless Germany could not compete as effectively in the post-war market. The British were satisfied with the situation. Any change in the status of the German cables would have been to the detriment of Great Britain.

The Italian Government was also interested in the German cables. Like the Americans--but unlike Great Britain, France and Japan--the Italians had no German cables in their

²Ibid., pp. 475-476.

possession. France, Great Britain and Japan were unwilling to share the spoils. If the Americans should decide that they wanted a share of the cables, the best alternative for the Italians would be to support the position of the United States. Consequently, when the various nations assembled at Paris, the Americans and the Italians found themselves in opposition to the British, French and Japanese.

The Japanese inactivity during the Paris Peace Conference did not mean that their desire for the cable facilities was less than that of the British or the French. The people of Japan were aware that they were the most powerful country in the Far East, and the cables were a vital commodity for any plans for expansion that the Japanese possessed. Even if the cables in the Northern Pacific had not been so extremely vital for both the Japanese and Americans, the Japanese delegates believed that they would appear to be a second rate power if they surrendered their demands.

All of the five Principal Allied and Associated Powers had been affected in some way by the cutting of the German cables. All of them would participate in the cable discussions at the Paris Peace Conference. At the beginning, the instruments of inter-nation communication were only an incidental part of the total agenda. As the meetings progressed, the vital interests of the five Principal Allied and Associated Powers became more apparent.

The subject of the German cables appeared first at a meeting of the Naval Peace Terms Committee. The representatives of this committee were Admiral Benson of the United States, Admiral Wemyss of Great Britain, Vice-Admiral de Bon of France and Rear-Admiral Grassi of Italy. Admiral Takeshita represented Japan.³ The mention of the cables was incidental; it was only one of the many items which the Naval Committee considered. Admirals Wemyss, Benson and de Bon met on January 31, 1919, and by a vote of two to one--Benson voting in the negative--had agreed that "the following ex-German cables should not be returned to Germany":

Emden-Brest
 Emden-Azores
 Emden-Vigo
 Emden-Teneriffe
 Monrovia-Pernambuco
 Monrovia-Duala
 Lome-Duala.⁴

The cables were to be taken without compensation, and Admiral Benson had opposed such a procedure because he believed that such an action would be "contrary to international law and contrary to American interests."⁵ The two lines from the Azores to New York were not on the list. Possibly, the

³Council of Ten, March 6, 1919, 3 p. m. U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919 . . . Paris Peace Conference, 13 vols. (Washington, 1942-1947), IV, 242.

⁴Meeting at the French Admiralty on January 31, 1919, of Admiral de Bon, Admiral Wemyss, and Admiral Benson, William S. Benson Papers, Box 40, Manuscript Division, Library of Congress.

⁵Ibid.

British and French representatives believed that there was no question concerning their ownership. Because the Japanese representative had not been at the meeting, the cables in the Northern Pacific were not mentioned.

At a meeting of the Council of Ten on February 1, 1919, the attending representatives decided that the Naval Peace Terms Committee should meet to draft the Naval Clauses to be introduced into the Peace Treaty with Germany.⁶ The committee convened on February 7. The naval experts had to decide what was to be done with the cables. Some of the German cables, such as the Pernambuco-Monrovia, had been cut and remained unused under the sea. Others, such as the Yap system, had been merely seized. Some lines, such as the Emden-Azores-New York cable which the British had changed to the Pensance-Azores-Halifax line, had been lifted from the water and diverted.

As soon as the meeting of the Naval Committee began on February 7, Admiral Takeshita proposed that the Che Foo-Tsingtao-Shanghai cable be added to the list. Admiral Benson opposed the Japanese addition. He stated although the cables which had been taken up and utilized would not be returned, "all other cables that are in position should be

⁶Council of Ten, February 1, 1919, 3 p.m. Paris Peace Conference, III, 855.

returned to Germany."⁷ Benson reminded the three other Admirals that the cables down the west coast of Africa (Monrovia to Duala), one cable between the Azores and New York, one cable from Emden to Brest and the newly-added Tsingtao to Shanghai line had not been lifted from the bed of the ocean and diverted.⁸ Consequently, they should not be taken from Germany. At the commencement of the Peace Conference, it had been possible to cable a message from New York to the Azores, down the coast of Africa and along the West Coast of Brazil.

I want that situation to remain. I am basing my contention on sound international principles . . . and there is another principle involved that may be selfish . . . these lines should be left open for free communication.⁹

Benson was already proposing the international control of the cables.

Admiral Wemyss of Great Britain did not agree with Benson's proposal that the question should be judged on the basis of international law. "I want put down here . . . all these cables shall not be returned to German companies."

⁷Report of the Proceedings of a Conference held at the French Ministry of Marine, February 7, 1919, 9:30 a.m. William S. Benson Papers.

⁸Admiral Benson was referring only to the cables on the list.

⁹Benson Papers.

Compensation could be made, especially if the cables were private property. Yet the British Admiral would not consent to the return of the cables to Germany. "I want to see all these cables taken away from Germany for manipulation and I do not know whether what we got here is sufficient."¹⁰ Indeed, Admiral Wemyss wanted some other cables added to the list. Before the meeting adjourned, all of the Naval Representatives except Benson agreed to a proposed article by de Bon: "The cables form a part of the military organization in Germany and therefore, the council was justified in reducing this means of communication in German hands."¹¹

When the Council of Ten met on February 8, the Committee on Naval Peace Terms issued its report on the naval clauses which were to be inserted into the draft of the Preliminary Peace Terms With Germany. Article IX dealt with submarine cables:

The German cables enumerated below shall not be returned to their previous owners. The final allocation of these cables will be determined by the decisions of the Prize Courts of the Allies concerned.

Emden-Vigo.
 Emden-Brest.
 Emden-Teneriffe.
 Emden-Azores. (two cables)
 Azores-New York. (two cables)
 Teneriffe-Monrovia.
 Monrovia-Pernambuco.

¹⁰Ibid.

¹¹Ibid.

Monrovia-Lome.
 Lome-Duala.
 Constantinople-Constanza.
 Che Foo-Tsingtao-Shanghai.
 Yap-Shanghai.
 Yap-Guan.
 Yap-Menado. (Celebes).¹²

The members of the Council received the report, but they did not discuss the proposals on this day. The list was no longer identical to that discussed by the Naval Committee on January 30. To the list had been added the Che Foo-Tsingtao-Shanghai cable, acquired by the Japanese when they occupied the Shantung peninsula of China, and the Constantinople-Constanza system which none of the major powers had cut or altered.¹³

When the naval and military representatives again submitted their report on March 3, the Council of Ten was not satisfied with the result. There was too much discrepancy between the conclusions of the various committees. The Council ordered the Military and Naval Committee to meet together and co-ordinate their reports.¹⁴

¹²Council of Ten, February 8, 1919, 3 p. m. Paris Peace Conference, III, 941-942.

¹³No record of the reasons for the change has been found either in the minutes of the Peace Conference or in the Benson Papers. When the entire Naval Conditions for Peace with Germany were presented to the Council of Ten on March 6, a note attached to the list of cables simply stated that "Admiral Benson disagrees." Paris Peace Conference, IV, 250.

¹⁴Council of Ten, March 3, 1919, 3 p.m. Paris Peace Conference, IV, 190.

On March 6, the naval and military representatives once more issued a report. The Cables as they had been itemized on February 8 remained identical, but the second sentence-- "The final allocation of these cables will be determined by the decisions of the Prize Courts concerned"--was omitted.¹⁵

Apparently, the Americans had not been aware that the proposal had been deleted. Admiral Benson and Secretary of State Robert Lansing¹⁶ attacked the omission of the provision immediately. Once Germany lost title to the cables, it would pass to the powers which had obtained control of them. Lansing inquired if the cables were to be taken as indemnity due by Germany, or whether their seizure would be based on some other grounds. Wemyss, the British Admiral, replied that

capture of enemy submarine cables was a legitimate application of the use of sea power, and could be secured by no other agency. Submarine cables must be considered as instruments of warfare and therefore subject to such action as might be taken in case of naval, military, and aerial armaments.¹⁷

The British Admiral justified the alteration of the pre-war status of the cables on the grounds that the enemy would have

¹⁵Council of Ten, March 6, 1919, 3 p. m. Paris Peace Conference, IV, 250.

¹⁶President Wilson had left Paris for the United States on February 15, 1919, and had not returned to France until March 13, 1919.

¹⁷Paris Peace Conference, IV, 226.

used them as a means to offset the efforts of the economic blockade.

Admiral Benson reminded Wessyss that only a certain number of the cables had been actually captured during the war. Ships of war might be subject to permanent retention, but not communication instruments. Benson then insisted that the question be referred to a Prize Court because the question of submarine cables had never been decided by international law.¹⁸

Admiral de Bon would not agree to the necessity of a Prize Court. To him the subject of submarine cables entailed no questions or problems. Cables were instruments of war because they had transmitted the messages of the enemy. The naval ships of the Allies had encountered risks in the cutting of the lines. This had been demonstrated, de Bon stated, by the one French boat which had been sunk in the process.¹⁹

Speaking for the French, de Bon emphatically stated that cables were war material and fair prize which resulted from war operations. France had as much right to keep the cables as telegraph wires captured on the battlefield. According

¹⁸Ibid., 226-227.

¹⁹Ibid. The French gunboat, Surprise, was sunk by a German Submarine which had come to bombard the cable station at Funchal, Madeira. New York Times, December 7, 1916, p. 3. No record of a ship being sunk in the process of cutting a cable--other than the German Emden--had been found.

to military rights, the Allies could seize the cables, use them, and be justified in their retention.²⁰

To Secretary Lansing, the issue resembled not only a question of international law, but also one of policy. The seizure of the cables had clearly violated the American conception of the freedom of the seas.²¹ "Had anyone the right to take enemy property lying on highways open to all nations?" Cables could be taken from the ocean and destroyed, but not kept in situ and confiscated as the British had asserted. "They could be taken as indemnity by agreement, but not as capture of war. In his opinion, the very fact that the naval authorities had found it necessary to include these clauses showed that they were not sure of their ground."²² But Lansing had only managed to confuse Admiral de Bon.

It seemed to the French representative that Lansing's conception of capture at sea was identical to the French position. Apparently, de Bon agreed with Lansing that the cables could be taken from the ocean, and "they could be taken as indemnity by agreement."²³ Although the French and the British had taken the cables by "agreement," Lansing

²⁰Paris Peace Conference, IV, 226.

²¹Perhaps, Lansing was knowingly basing his argument in conjunction with one of Wilson's favorite war-time and Peace Conference projects--freedom of the seas.

²²Paris Peace Conference, IV, 226. Lansing was referring to the draft proposal of February 8-- "The final allocation of these cables will be determined by the decisions of the Prize Courts of the Allies concerned."

²³Ibid.

would not justify the seizure. De Bon had failed to consider and distinguish between Lansing's concept of indemnity and confiscation.

Admiral Benson suggested that the question be referred to a Prize Court--a procedure for which he had argued in the Naval Committee.²⁴ The British and the French representatives consented to have the question of the right to seize cables during a war studied by a judicial committee. It might have been wrong to seize the cables, but no illegality existed as to their retention. The judicial committee, according to the British and the French, would not decide the legality of retention. They would only answer the question of the legality of the seizure. No matter what the decision, the cables would be retained.

Seeing that the discussion was proceeding nowhere, Arthur J. Balfour, the British Foreign Secretary, offered to sum up the whole question in two concise propositions: Was it in accordance with international law that all the submarine cables should, or should not be taken from Germany? This was a purely legal question. If it were answered in the affirmative that Germany should be deprived of all or some of them, then what should be done with them? If the question were analogous to one of the disposal of money or ships taken from

²⁴Ibid., p. 229.

Germany, then it could be referred to some commission. The discussion should be terminated until these two questions had been reported upon.²⁵

Lansing agreed with the British representative; however, he also desired to know, in relation to question one, whether any international right existed to seize the cables either as prizes of war or as indemnities. Balfour countered by proposing that Lansing be asked to draft the terms of the pertinent reference. Lansing also wanted the creation of a committee to report on international law and the cutting of the cables. Each of the "Big Five" would have one representative.²⁶ The Council adopted both proposals unanimously, and the meeting was adjourned.

It was agreed that,

In consideration of Clause 6 of Part II of the Naval conditions for peace with Germany, the following questions should be submitted to a Committee composed of five Members, one to be named by each of the five Powers:

Is it (legally) right under the rules or principles of international law to treat as capture or prize submarine telegraph cables of an enemy cut or taken possession of by naval operations?

Is it (legally) right under the rules or principles of international law for a Government whose naval forces have cut or taken possession of a submarine telegraph cable of an enemy to retain such cable by way of separation?

²⁵ Ibid.

²⁶ Ibid.

In the event that the cut or captured cable of an enemy is landed on the territory of another nation, what right and authority does such nation possess under contracts or permits granted to the enemy to cancel the same or to control the use of cables?²⁷

Balfour immediately questioned the word "legally" because, he said, no point of law existed concerning the question. This was the only part of the proposal that he challenged. When Lansing agreed to the suppression of the word "legally" in parts one and two,²⁸ he destroyed all hope of a ruling by any judicial committee. If a Prize Court or any committee were to study the proposal from a "non-legal" point of view, it could only speculate or render some decision based on morality.

The Japanese delegation also decided to raise an objection. They noticed that Lansing's proposed text specifically related to cables either cut during the war or taken possession of by means of naval operations. He knew that enemy-owned cables existed which were not covered by any of the categories. Lansing's reply was that the question had not arisen, "as unless they had been taken from the enemy they would not be returned."²⁹ According to this evasive reply, cables which had not been seized would not form a part

²⁷Council of Ten, March 7, 1919, 3 p. m. Paris Peace Conference, IV, 254.

²⁸Ibid.

²⁹Ibid.

of the discussion. Not all of Germany's submarine cables would be taken if this distinction were maintained.

After Lansing had refused to permit the Japanese to add some unseized German cables to the list, the Council adopted his resolution with the omission of the word "legally" in second and third paragraphs. Five nominees were then accepted for the legal committee.³⁰ Two weeks would pass before the Council of Ten again considered the question of the cables.

On March 24, Clemenceau called upon the French chairman of the special committee appointed in accordance with Lansing's resolution--the Committee on Submarine Cables--to give a summary of the report. The committee answered Lansing's proposition and questions formulated on March 7. All of the members had agreed that military necessity could justify the elimination of cable communication.

On the question as to whether the enemy cables can or cannot be the subject of capture or prize the Delegates of the British Empire, France and Japan think that capture and confiscation of enemy cables are legally justified by the general principle of the right of capture of enemy property at sea.³¹

The American and Italian representatives had agreed that no definite statute in international law permitted such capture.

³⁰Ibid., p. 255. The members of this committee were Scott of the United States, Higgins of Great Britain, Fromageot of France, Tosti of Italy and Yamakawa of Japan.

³¹Council of Ten, March 24, 1919, 4 p.m. Paris Peace Conference, IV, 460.

On the third question the Committee was unanimous in considering that

the answer depends upon the terms of contracts entered into between the owner of the cable and the third Power on whose territory such cable is landed, and that, in all cases, these contracts are, as regards the belligerents who have cut or seized the cable, a res inter alios acta.³²

So the question of the submarine cables was at the stage where the discussions had begun.

Balfour was not satisfied with the decision. As a result, the question would have to be discussed in full council, and two points would have to be clearly distinguished. The first question was relevant to the peace with Germany; the second question--"Ought world-arrangements to be made for the regulation of submarine cables?"--would have to be settled after peace had been made with the enemy.³³

The first question, and according to Balfour, the one which concerned the Conference, was this: "Had Germany any right to complain and, if so, what principle should be asserted?" Germany had no cause and right of complaint. "The Allied and Associated Governments had a right to appropriate cables in exactly the same manner as ships captured at sea." Although this view had been rejected by the American and

³²Ibid., IV, 461. The phrase "res inter alios acta" pertains in legal proceedings to the transactions among others--acts of persons who are strangers to the matter under adjudication. Thus, according to the above provision, individuals whose cables may have been cut by one of the belligerents had no grounds for complaints.

³³Ibid.

Italian representatives, it had been accepted by the French, Japanese and British.³⁴ The British representative implied that majority rule should be accepted.

Balfour did not claim to be a member of the legal profession, but he emphatically stated that the legality of the question under study had been settled when the United States had decreed, during the Spanish-American War, "that belligerents had no claims in regard to cables cut during the war." Using that incident as a precedent, the Germans had no basis for complaint because the Allies had seized their cables, which, "though constructed by private enterprise, had been heavily subventioned by enemy Governments and used by them for strategic and warlike purposes, until destroyed."³⁵ If a nation was justified in any manner to confiscate any property, "the right to appropriate cables undoubtedly existed."³⁶

³⁴Ibid.

³⁵Ibid. The German cables received less subsidy from their government than did those of Britain and France. George Abel Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States (Boston, 1924), pp. 260-263. The Germans could not have used their cables for warlike purposes because the lines had been severed immediately after the war erupted.

³⁶Paris Peace Conference, IV, 461.

Balfour had been correct in stating that the Americans had argued in 1898 that neutral cables may suffer from the actions of belligerents. Yet the United States also had argued that the cables could only be severed within the territorial limit of a belligerent, not a neutral. The Hague Convention of 1907 to which the British had given an affirmative approval provided that compensation must be fixed when the hostilities end. Confiscating the German cables, such as the neutral Pernambuco-Monrovia line, was not a method of compensation for the damages inflicted to that cable. The concluding statement of the article in the Hague Convention clearly stated that the cables "shall likewise be restored and compensation fixed when peace is made."³⁷

Admiral de Bon agreed with Balfour. The views of the minority were not based on any established principles, and consequently, they were not based on international law. The conference should have accepted the views of the military experts because the legal commission had been unable to produce any ruling against such procedure. "In other words, the Allied and Associated Governments should decide to keep the cables in question."³⁸ De Bon added that the international regulation of the cables through the world should form the basis of a separate study. Balfour had already expressed a similar view.

³⁷Green Haywood Hackworth, Digest of International Law, 8 vols., (Washington, 1944), IV, p. 244.

³⁸Paris Peace Conference, IV, 462.

In Lansing's opinion, there was a great difference between capture of ships at sea and the seizure of cables. It was permissible to dismantle the cables, but a nation could not retain them legally after the war if they had been diverted. "To divert such cables to other uses and to deprive their use to former owners would constitute a dangerous precedent." A ship could be captured on the high seas because such vessel could be brought within the jurisdiction of the captor where the ownership of the vessel could be deduced. This was not possible with submarine cables.³⁹

Answering Lansing's question of sparing private property during the war, Balfour called attention to the fact that the United States had placed a claim for acquiring 600 miles of German cables and the British Government had given its consent. He did not know if the United States had used the cable.⁴⁰ "But, at any rate, the American Government had not driven to its extreme logical conclusion the principle which Mr. Lansing had laid down, the justice of which he himself fully recognised."⁴¹ If Lansing had pursued his argument to

³⁹ Ibid.

⁴⁰ No record of this request has been found. The 600 miles of cable must have been the section remaining from the line which the British had diverted to Halifax. But the American delegation made no counter charges or denials when Balfour had made the accusation.

⁴¹ Paris Peace Conference, IV, 464.

its "extreme logical conclusion," then he would have admitted that the Allies had been justified in the retention of the German cables.

After Balfour had ended his argument with the statement that the perplexity of international communication would have to be dealt with at a future time, President Wilson decided to speak. Because no legal precedent had been established, Wilson believed that he was warranted in the expression of an opinion. The problem constituted two questions: Was Germany to be deprived of cables that belonged to her?⁴² "What was to be done with them in regard to their use as indispensable means of communication"?⁴³

So far the discussion had only concerned itself with the question of appropriating the cables from Germany as a result of war. Yet the question, according to Wilson, affected the whole commercial world. For this reason, Wilson could not agree with Admiral de Bon that the cables could be taken solely on the condition that Germany had used them as a means of war. The cables were a means of commerce and as such were indispensable.⁴⁴

Because the cables were indispensable for the trans-oceanic intercourse of all nations, Wilson believed that "the cables must be regarded as property from the point of view

⁴²Wilson did not believe at this stage of the Conference that the cables had belonged to Germany.

⁴³Paris Peace Conference, IV, 464.

⁴⁴Ibid.

of habitual use, that is to say from a peace point of view." Consequently, one could not even contemplate disrupting the function of the cables as ordinary courses and processes of trade, to which the commercial world had become accustomed in times of peace.⁴⁵

Because the Allied and Associated Governments expected Germany to pay heavy sums as reparations, Germany would need a favorable balance of payments. "It followed . . . that the question of the ownership of cables must be looked at from the german point of view."⁴⁶ Cables existed which had one end in Germany: Emden-Brest, Emden-Vigo, Emden-Teneriffe, and Emden-Azores. They had been the basis of Germany's communication with the commercial world, and in Wilson's opinion, "it would be agreed that it made a great difference whether they were administered by one instrument or various."⁴⁷

Wilson believed that it was necessary to correct the viewpoint that some delegates had regarding the position of the United States concerning the capture of private property at sea.⁴⁸ He stated that people who were familiar with the international conferences which had met to discuss the

⁴⁵ Ibid., IV, 465.

⁴⁶ Ibid.

⁴⁷ Ibid. Although John Maynard Keynes had argued that Germany would need a favorable balance of payments, he did not mention the cables in his work. Economic Consequences of the Peace (London, 1920).

⁴⁸ Wilson was probably referring to Balfour, who had just concluded an argument on the capture of private property on the high seas.

maritime laws maintained that the "United States never willingly assented to the principle of the capture of private property at sea."⁴⁹ As a consequence, Wilson hesitated to conform to any appropriation of the cables, even though Britain and France considered the lines as private property captured at sea. His viewpoint coincided with that of the other American representatives. There was no similarity between ships and cables.⁵⁰

The cables would have to be considered as property of the enemy, unless the Allies could prove that the German Government was the sole owner. Consequently, the question of the cables was one which could only be dealt with in the connection of the disposal of the other enemy property, because all of the countries had assumed "temporary" possession of the property belonging to alien enemy within their borders. Wilson told the Council that he wanted the question considered from that point of view. The Conference should proceed carefully in the formation of a decision because the basis of the question had never been discussed in peacetime, "When a careful and unbiased decision could have been reached."⁵¹ In his opinion, it would be extremely unwise to establish a principle of law as a war measure.

⁴⁹Paris Peace Conference, IV, 465.

⁵⁰Ibid.

⁵¹Ibid.

Balfour replied to Wilson's lengthy discussion with the rebuttal that when the Conference had discussed the question of restoring the cables to Germany in order that she might resume her economic existence, that discussion had been useless because the belligerents had cut and diverted the cables. It would be possible to replace the lines at the expense of the Allies, but "it would not be possible to hand over the cables as they were before the war."⁵² Pressures had compelled France and England to cut the cables. If Wilson desired to revert to the system as it had existed prior to the conflict, the Allies would have to repair the cables.⁵³

Wilson inquired if diversion merely meant that one end was cut and then attached to a new cable which went in the desired direction. Balfour explained that in the process of the diversion, and for the purpose of diverting, whole sections had been removed and placed in a completely different position or location.⁵⁴

Orlando of Italy joined in the conversation and stated that it would be necessary to determine whether the diversion of the cables was permitted under the rules of war. Either an indemnity to Germany or the placing of the cables in their original positions would have to be performed because the cables in their altered position could not be returned to

⁵²Ibid., IV, 466

⁵³Ibid.

⁵⁴Ibid., p. 467.

Germany, If such a procedure were adopted, then the Allies would admit that the action of removing the cables had not been justified. Orlando supported the Americans on the legal aspect of the case. If the accomplished act were in accordance with the regulations of war, then there was no need to discuss the question of the diversion of the cables.⁵⁵

Wilson replied that a legal right had been established to cut the cables, but expressed a doubt that an identical justification existed for their subsequent diversion. He would be pleased if someone gave him an expert ruling.⁵⁶

Balfour nominated himself as the authority requested by Wilson. The right to cut a cable had only been established because the United States had created the precedent. The actions of the Allies had been justified on this basis. The British statesman reminded the Americans that the cables in the Spanish-American War had been neutral; the cables during the World War were the property of the enemy.⁵⁷

After some further unavailing discussion, Balfour offered another possible solution which he believed would meet the approval of all concerned:

The Treaty of Peace should not debar Germany from repairing at her own expense the submarine cables cut by Allied and Associated Powers during the war, nor from replacing at her expense any

⁵⁵Ibid., p. 468.

⁵⁶Ibid.

⁵⁷Ibid., p. 469.

parts which may have been cut out from such cables, which without having been cut are not in use by any of those Powers.⁵⁸

The only cables which the Germans would retain would be the parts unused beneath the ocean. But Balfour may have committed a blunder. The resolution did not consider explicitly the governmental cables, and the British statesman admitted that Japan might lose some of their war-time acquisitions. The Japanese also were concerned that the possibility existed that the resolution as drafted might be interpreted to mean that all of the cables might be returned to Germany. It was then formally agreed to refer the Balfour resolution to the drafting committee, which would make an early draft clause to be included in the Treaty of Peace.⁵⁹

The representatives of the United States had arrived at the Paris Peace Conference with the belief that cutting of the cables had been justified according to international law. They did not deny their associates the right to eliminate the German communications. However, when the Allies announced that certain cables were not to be returned to Germany, the American delegates emphatically insisted that the diversion of the cables had been illegal. Consequently, the cables should be returned to Germany. Yet the majority of the commission which had been appointed to study the question of diversion had not supported the American and Italian position.

⁵⁸Ibid., pp. 469-470.

⁵⁹Ibid.

The Americans must not have understood the full implication of Balfour's resolution on Germany's repairing its cables which was to be prepared as a draft to be inserted into the Peace Treaty. The delegates of the United States believed that Germany could repair her cable system with any of the parts of her former lines. According to Balfour, Germany only could utilize the bits of cable which remained unused under the ocean. Two months of debate had not been sufficient to resolve the dispute. Balfour's draft proposal only added to the confusion and provided fuel for further disagreement.

CHAPTER V

CABLES AND THE PARIS PEACE CONFERENCE--

THE SECOND STAGE

The second phase of the arguments concerning the question of the submarine cables began on April 30, 1919, in the Council of Foreign Ministers.¹ The representatives of the five Principal Allied and Associated Governments were each aware of the others' positions. Each understood, at least in basic form, what the others desired. None of the delegates were willing to compromise, and the arguments continued from the previous meeting. The Americans contented that the Allies did not have the right to divert the German cables. The British and the French maintained that the seizure of the cables had been identical to other enemy property captured at sea; the cables would not be returned to Germany.

Balfour's resolution, which had been introduced in the Council of Ten on March 24, was embedded in the draft of Article 38 of the Military, Naval and Air Clauses:

¹Council of Foreign Ministers, April 30, 1919, 2 p.m. U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919 . . . Paris Peace Conference, 13 vols. (Washington, 1942-1947), IV, 645.

Submarine Cables. Germany will be at liberty to repair at her own expense the German submarine cables which have been merely cut during the war by the Allied and Associated Powers and are not being utilized.

She will similarly be at liberty to replace at her own expense all portions of cables which, after having been removed, are at present being utilized by any one of the Allied and Associated Powers. In such cases the cables or portions of cables which have been removed or utilized remain the property of the Allied and Associated Powers.

Consequently, the German cables or portions thereof mentioned below, which have been removed or utilized by the Allied and Associated Powers, will not be restored.

Enden-Vigo: from the Straits of Dover off Vigo.

Enden-Brest: from off Cherbourg to Brest.

Enden Teneriffe: from off Dunkerque to off Teneriffe.

Enden-Azores (1): from the Straits of Dover to Fayal.

Enden-Azores (2): from the Straits of Dover to Fayal.

Azores-New York (1): from Fayal to New York.

Azores-New York (2): from Fayal to the longitude of Halifax.

Teneriffe-Monrovia: from off Teneriffe to off Monrovia.

Teneriffe-Monrovia: from off Teneriffe to off Monrovia.

Monrovia-Lome:

from about	Lat. : 2°30' N.:
	long. : 7°40' W. of Greenwich:
to about	lat. : 2°20' N.:
	long. : 5°30' W. of Greenwich:
and from about . .	lat. : 3°48' N.:
to Lome.	long. : 0°00'.

Lome-Duala: from Lome to Duala.

Monrovia-Pernambuco: from off Monrovia to
Pernambuco.
Constantinople-Constantza: from Constantinople to
Constantza.
Chefoo-Tsingtao-Shanghai: from Tsingtao to Chefoo
and from Tsingtao to
Shanghai.
Yap-Shanghai, Yap-Guam and Yap Menado (Celebes):
Yap Island to Shanghai, from Yap
Island to Guam Island and from
Yap Island to Menado.

These provisions do not affect the rights of the
German owners of other cables or portions of cables.
In no case can the landing rights of any cable
which remains German be reinstated on the territory
under the authority of an Allied and Associated
Power without a new license.²

Although the article included provisions which may have seem-
ed beneficial to the Germans, none of the cables which had
been tampered with in any way by the Allies would be returned.
The exact location of the cables was given in order to prevent
any future complications.

After reading the provisions, Lansing informed the other
Foreign Ministers that Article 38 was not satisfactory be-
cause it did not conform with the purpose of Balfour's reso-
lution which had been approved on March 24. The resolution
had only been adopted to reconcile the two sides of the con-
troversy. The American Secretary had interpreted the resolution
as meaning that the cables would be returned to Germany.³
The Japanese had expressed a similar fear when Balfour had
introduced the article.

²Ibid., pp. 245-246.

³Ibid., pp. 645-646.

Lansing stated that Germany "could clearly not be expected to spend money on repairing cables for the exclusive benefit of other parties." He could not understand how Germany could "repair at her own expense the German submarine cables which had been merely cut" because all of these cables had been appropriated. It was apparent that none of the cables would be returned except those between Germany and Great Britain and such countries as Norway.⁴ Lansing asked Balfour if the third paragraph was in accord with his resolution of March 24.⁵

Balfour replied somewhat evasively. He would not compare the third paragraph of Article 38 with his proposal which he had introduced on March 24. Yet Balfour did attempt to clarify some of the issues under discussion. If any of the cables had been merely cut, Germany could repair those cables at her own expense, but Germany could not claim any cable that had been diverted. She could restore at her expense the section of the cable that had been removed. The Allies were not to be held responsible for any damage; nor could Germany claim control of any Allied lines composed of sections from German lines.⁶

⁴Such cables totaled approximately 2000 miles. George Abel Schreiner, Cables and Wireless and Their Role in the Foreign Relations of the United States (Boston, 1924), p. 259.

⁵Paris Peace Conference, IV, 646-647.

⁶Ibid.

Lansing interrupted Balfour and added more confusion to the issue. He stated that he agreed with Balfour. Consequently, the list of cables given in Article 38 should be eliminated, including the paragraph immediately preceding. Lansing expressed two reasons for his proposal:

America was not prepared to yield the cable line from New York to the Azores merely because the Allies had diverted it. America would prefer to see the line between Monrovia and Pernambuco in German hands than cede it to any of the Allied Powers.⁷

The Americans had encountered difficulty in the landing of cables on the eastern coast of South America because the British possessed an almost exclusive monopoly of the landing concessions. Apparently, the American businessmen would have rather cabled a message over the German system through the Azores than over a British line.

Admiral de Bon would not permit Lansing to introduce any definite proposal. He offered a suggestion which was completely opposed to Article 53 of the Hague Convention of 1907. If the right to cut the cables did not exist, then the Germans should be compelled to pay reparation for the cost and risk involved in the cutting of the cables--especially the Pernambuco-Monrovia line. There was no legal argument against this point of view. If the Americans were unwilling

⁷Ibid.

for the French to keep the cable, then the case should constitute a special study. "It appeared clear to him that Germany could not be given cables on which any of the Allies had spent money,"⁸

it was a fair legal question whether the cutting of the cable between two neutral countries was a legitimate act of war. An act of war was not just because it cost money, and did not ipso facto give title to recompense.⁹

The French admiral would not agree with Lansing. The cable had not been neutral and had been of such interest to the Germans that they had sent a submarine to bombard the cable station at Monrovia after the cable had been captured. The French had not used or diverted the line because the Americans had not granted the necessary permission.¹⁰ As a result, the case was a special one, and needed to be

⁸Ibid.

⁹Ibid., p. 648. The cutting of the Monrovia-Pernambuco cable had been a violation of "accepted" international law because the line had journeyed between two neutral countries. The line had never been diverted. The Pernambuco end remained intact, and the Monrovia terminal lay ten miles from the coast of Liberia where the French had cut the cable.

¹⁰The United States would not permit the Liberian Government to grant permission to the French Government to relay the cable at Monrovia. The causes of the Liberian allegiance to the United States are studied in a subsequent chapter.

studied separately. De Bon believed that all of the cables listed in Article 38 were disposed of except the Pernambuco-Monrovia cable. The Allies would keep all of the cables, and if the Germans desired, they could rebuild their own system. Lansing replied that this right was denied to the Germans by the last paragraph of Article 38.¹¹

Before the war, de Bon added, the Germans could not have laid a cable in the ocean and landed it on the territory of some power without the permission of that nation. The war should not give rights to the Germans which they were not entitled to before. The meaning of the last paragraph of Article 38 was that the "rights enjoyed by Germany before the war had been terminated by the war." Balfour agreed with de Bon. If all of the German rights had been terminated by the war, then they could only be renewed by a new license.¹²

Lansing argued that if the last paragraph were omitted, then the old landing concessions could be revived without the necessity of a new license. Citing an example of the Azores, Lansing stated that Britain had acquired exclusive rights on that island. If Portugal had the right to review previous grants, then the United States was entitled to a cable on that island.¹³

¹¹Paris Peace Conference, IV, 648.

¹²Ibid., p. 649.

¹³Ibid.

Balfour would not agree with Lansing's analogy. He was willing to accept the first and the second paragraphs of Article 38 and the penultimate paragraph. The remainder should be suppressed. "A decision of this matter was urgent, and he was prepared to do this without waiting to consult the jurists."¹⁴ Lansing would not agree to the draft until the first two paragraphs were amended.

The American Secretary wanted the elimination of the word "merely" in the first paragraph and the phrase "not being utilized" at the end of the same paragraph. The amended paragraph would then have destroyed any hope that the French entertained for the retention of the Pernambuco-Monrovia cable. Yet according to de Bon, the first paragraph, whether it remained unchanged or was amended, did not control the fate of the cable. The Pernambuco-Monrovia line was "being utilized by reason of the operations performed on it by the French Navy." Disagreeing, Lansing inquired if de Bon would agree to the suppression of the last words of paragraph one. De Bon replied in the negative. "The paragraph would then give Germany the right to re-establish all her cables."¹⁵

¹⁴ Ibid. Balfour's proposal would have simply provided-- without much ado--that any cable which had been cut or taken possession of by the Allies would not be returned to Germany.

¹⁵ Paris Peace Conference, IV, 648.

Balfour reminded de Bon that Germany already possessed the rights--provided that the expense was borne by the Germans. The French admiral stated that "it must be clearly understood that Germany was not entitled to use any portion of the old cables, except any portion directly on the bed of the ocean. In a word, the old German system no longer existed, as the Allies had captured it." De Bon added that Germany would be given permission to create a new system if she so desired.¹⁶ The Germans could create a new system of cable communications if they desired to begin in an elementary form.

Lansing argued that the question concerned itself with the control of cables, not property rights. Germany did have a title of ownership to the cables. "This was the point of view of the American Delegation, and the point of view he was instructed by the President to maintain." De Bon countered by stating that if one mentioned the right of Germany to retain cables, it implied that Germany possessed cables when she actually had none. Lansing's theory would give too much importance to private interests in Germany. Consequently, the Allies would be compelled to repair German property and make compensation for the damage to cables during the war. "This would be the consequence of the theory advocated by Mr. Lansing." The American Secretary sarcastically

¹⁶Ibid., p. 650.

informed de Bon that reparation for acts of war could only be demanded by the victor, not by Germany. De Bon wisely agreed and added that it was for this reason that the Allies had maintained that they owed nothing to Germany.¹⁷

Aware that he was unable to make any progress with an amendment to the first paragraph, Lansing then attempted to alter the second paragraph--

She will similarly be at liberty to replace at her own expense all portions of cables which, after having been cut, have been removed or diverted by any one of the Allied and Associated Powers. In such case the portions of the cables which had been removed or, from the point of cutting, have been newly laid remain the property of the Allied and Associated Powers.¹⁸

Although the amended paragraph had barely changed the phraseology of, the draft, Lansing's proposal would have altered the plans of the British and the French. His proposal was received with a noticeable lack of enthusiasm.

De Bon insisted that the Treaty should simply state that the cables would not be returned to Germany and that the Powers would decide their fate. If the amended paragraph was accepted, then the Fernambuco-Monrovia cable would be returned to Germany.¹⁹ The French had no intention of losing this cable.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid., p. 651.

Lansing could be just as recalcitrant as the French representative. The two "points of view were diametrically diverse." The position of the United States emphasized that these cables were German property which should revert to their owners. The Treaty of Peace should permit the Germans to resume control if they made the necessary repairs. Yet the matter should be referred to the Council of Four²⁰ because the Council of Foreign Ministers was unable to reach a decision. The question of the Pernambuco-Monrovia cable should be decided solely between the United States and France. The cable could not be taken from Germany to the advantage of France.²¹

Balfour replied that if the amendment suggested by Lansing was adopted, parts of the cables in use by the Allies would revert to their German ownership. Germany could reestablish her lines if she did not destroy the British system which was partly accomplished with German cables.²² Thus, the three statesmen could not reconcile their views. Seeing that the useless debate was leading nowhere, Admiral Benson of the United States decided to give the French and the British a specific example in order to explain the position of the United States.

²⁰The Council of Four replaced the Council of Ten at the Paris Peace Conference.

²¹Paris Peace Conference, IV, 651.

²²Ibid.

Two German cables had crossed the Atlantic between the Azores and the United States. One of them had been cut 600 miles from New York and the other end had been diverted from Emden to Brest. The British had then connected a line from Halifax to the point where the cable had been cut 600 miles off New York. The American representatives insisted that Germany could replace the removed portions; as a result, the Germans would resume possession of the entire line.²³

The only portion that remained British was that portion connecting Nova Scotia and the point at which the cable had been cut in the Atlantic. The same would apply to the cable from Emden to the Azores which had been cut and diverted to Brest. All the Germans had to do was reconnect. They were not bound to make a new cable from the Azores to Emden, or from the Azores to New York.²⁴

Balfour would not accept this argument. The same number of lines existed as before the war--some were cut; some were diverted. Old cable lines could be restored, but not at the expense of the new ones. If the British accepted Benson's theory, a piece of cable would exist in their possession from Halifax to the point of junction with the German line in the Atlantic. This section would be of no service to anyone after the Germans had reconstructed their line.

²³ Ibid., p. 652.

²⁴ Ibid.

If any portion of the world's cables were to be made derelict, it should be the German portion and not the British. . . . As a result of the war Britain and France were richer in cables, but the world was no worse off. If German cables were to be restored, it must be at Germany's expense.²⁵

The statement that "France and Britain were richer in cables" did not appeal to Secretary Lansing. The United States had the same number of cables after the war as she had before the conflict began. If Balfour's argument was adopted, asserted Lansing, the United States would not have direct contact with Europe through the Azores. The British and the French would control the line. Lansing's theory provided that "the equivalent of the piece removed had been destroyed in war." He pointed out to Balfour that "When the Azores line had been diverted, the United States, then neutral, was deprived of the use of the cable; no compensations for this deprivation were offered."²⁶

Seeing that the dispute could not be settled by the Council of Foreign Ministers, Lansing once more proposed that the matter be referred to the Heads of State. He also suggested that his amendment should be submitted to that Council at the same time. Both proposals were accepted.²⁷

²⁵Ibid., pp. 652-654.

²⁶Ibid., p. 653.

²⁷The French and British delegates probably accepted Lansing's proposal because the Council was unable to resolve the problem. They were also aware that Clemenceau and Lloyd George would reject the proposal.

Makino, the Japanese representative, asked if he could also be present at the meeting so that he could state the position of Japan. Aware that Makino probably had some strategy and plan, Lansing decided to inform the Japanese delegate that an American plan existed which would not be favorable to the Japanese interests.²⁸

A question remained which the American Secretary said he wanted to discuss on some further occasion. In the interest of cable communication, it might be desirable to internationalize the Island of Yap. The island would be administered by an international commission which would oversee the control of the cables. Makino replied that he and his representatives would have to discuss this subject extensively because the island was occupied by Japan. Agreements relating to the status of the North Pacific Islands had been made. Makino regarded the suggestion as a very grave matter, and the question of the status of the island needed to be settled before the problem of cable communications was discussed.²⁹

Lansing replied that he had only raised the question because he wanted to give warning that the proposal would be considered at a later time. "He would suggest that it was

²⁸Paris Peace Conference, IV, 654.

²⁹Ibid.

not necessary to maintain that all the Islands must have the same status. The Island of Yap might constitute a special case."³⁰ Apparently, certain American interests also could constitute a special case. Lansing also may have been attempting to strengthen his bargaining power. A treaty of some loss to the Japanese could have brought more support for the American position in the Atlantic. When Makino had stated that Japan had made "agreements" regarding the status of certain islands, one of the representatives of the parties concerned came to his support.

Balfour agreed that the status of the islands would have to be settled before any agreement concerning the cables could be made. Germany could be required to relinquish any title to the island, and then the status of the cables could be decided among the Allies.³¹ The Council of Foreign Ministers having failed, the Council of Ten would continue the same arguments.

The Americans had charged that the provisions in Article 38 did not conform to Balfour's resolution of March 24 which they had adopted. The representatives of the United States claimed that they had interpreted the resolution as meaning that the cables would be restored. Realizing that the Allies had no intention of returning any of the cables whatsoever

³⁰Ibid.

³¹Ibid.

to Germany, the Americans attempted to alter the draft. The Allies would not adopt the amendments. If the British and French had agreed to Lansing's proposal, they would have lost the German cables in their possession. The United States had made public its concern for the Azores-New York cable and the line from Fernambuco to Monrovia. The American representatives also gave notice that they were interested in the Island of Yap. Realizing that they could not reconcile their differences, the Foreign Ministers decided to return the problem to the Council of Ten.

CHAPTER VI

THE FINAL PROCEEDINGS AND SOLUTION AT THE PARIS PEACE CONFERENCE

When the Council of Ten met on May 1, Clemenceau called upon Pichon, the French Foreign Minister, to relate the development of the cable discussions. Pichon first read Balfour's proposal of March 24. The Drafting Committee had then prepared a text, but it had only been accepted by Lansing whose decision was subject to the approval of his government. When the text in question had again come under discussion on April 30, Lansing, had been unable to accept the provisions prepared by the Drafting Committee and had proposed certain amendments to which Balfour and Admiral de Bon had refused to give their approval. It had been decided to refer the entire question to the Council of Ten for a final decision.¹

Because the American representatives, Wilson and Lansing, had not comprehended his resolution, Balfour said that he could clarify the issue. "He, himself, interpreted the clause to mean that all acts taken by the Allies in connection with enemy submarine cables should stand, and Germany

¹Council of Ten, May 1, 1919, 4 p. m. U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919. . . . Paris Peace Conference, 13 vols. (Washington, 1942-1947), IV, 484.

should have no claim to compensation. . . . The new system so established should stand."² Germany would have a right to restore her system as it had existed prior to the war.

Balfour gave the following example:³



The German line went from "A" to "C" through "B." During the war, the cable had been cut at "B" and with a new line from "B" had been connected to "D." Lansing now held that the piece of "A-B" should be returned to Germany, and the French, British, and Japanese representatives contended that the cable "A-B" was a vital part of the line "A-B-D," and it could not be returned to Germany; she could join piece "B-C" with a new line to be laid by Germany from "A-B."⁴

Lloyd George asked Balfour if the Germans would have the right to use jointly the line "A-B." Balfour replied that it would not be practical for two nations with individual systems to use the same cable line. "Consequently, the part 'A-B' would have to be owned by the country that had laid down the line 'B-C.'" If the British interpretation

²Ibid.

³Balfour's example coincided with the Emden-Azores-New York cable which the British had diverted into the Land's End-Azores-Halifax line.

⁴Paris Peace Conference, IV, 484-485.

were not accepted, the Allies and not the Germans would have to spend enormous sums of money in order to make new cable lines effective. The number of cables should not be diminished, but Germany should be made to pay for the reconstruction of her cables.⁵

When Balfour had finished his lecture, the American President decided to speak. Prior to this meeting, he had sat silently through most of the cable discussion which he had attended. Ray Stannard Baker wrote that after the meeting of March 24, the whole issue of the cables had become so confused that Wilson decided to go to the bottom of the conflict. He had consulted with his communications experts, Albert S. Burleson and Walter S. Rogers, considered Burleson's recommendation, and "came to the meeting . . . on May 1 with a new, strong, clear policy, very different from that of Lansing."⁶ Wilson did have the opportunity to study, prior to May 1, two different papers, each written independently by Rogers and Burleson.

Rogers had presented a memorandum of February 12, 1919. He had begun the paper with an emphasis on the importance of a proper dissemination of the world's news. Future conflicts

⁵Ibid.

⁶Ray Stannard Baker, Woodrow Wilson and World Settlement, 3 vols. (New York, 1922), II, p. 480.

could not be avoided unless every nation was aware of and understood all of the actions of the various powers. Thus, the world would need the necessary communication facilities for this understanding, and privately-owned cable systems would not serve this purpose. When the cable systems had been developed, no attempt had been made to lay the cables in a manner which would have permitted immediate contact with every part of the globe, and the important islands which could be used as a relay station were already occupied. "In any disposition of the German colonies, their possible availability as cable landing points and as sites for radio stations should not be overlooked."⁷

Rogers did not believe that the former German cables would serve entirely the interests of the United States and the other powers. Cable rates were excessive; no uniformity existed. An international control of the ex-German cables would reduce cable expenses because the private companies would have to lower their rates to a comparable basis in order to compete with the governmental lines. Also America had more to gain by an international control of the cables. "Cable communication between the Orient and America presents a distinct problem, and the internationalization of transpacific cables is recommended."⁸

⁷Ibid., III, 430-433.

⁸Ibid., p. 434.

Rogers was also aware that the internationalization of the former German cables would not be sufficient. Certain important landing places were already spoken for. "Existing exclusive landing rights should not be renewed." The United States should give permission to the British to land their long Pacific cable on the Hawaiian Islands. In exchange, the United States should insist that all of the diverted German cables be returned to their original positions, or else, they should be left in such a position in order that other lines could be laid between the United States and Continental Europe. "It is required that the exclusive landing rights for the Azores held by a British company should be cancelled."⁹

The Pacific area was vital for the American interests. The German cable from the Island of Yap should be placed under international control. "It is quite possible that Japanese eagerness for the German islands north of the equator is partially stimulated by a desire for control of the German cable system." Rogers recommended that the cables should be released to the Netherlands. If the Powers at the Peace Conference should decide to grant these lines to the Japanese, then Japan should be compelled to grant cable landings on her territory.¹⁰

⁹Ibid., pp. 434-436.

¹⁰Ibid., pp. 436-438.

Rogers made a recommendation that the necessary jurisdiction for international control should be given to the League of Nations. If this proved feasible, the disposition of the German cables should be undertaken in that manner.

If the four countries most immediately concerned work out a joint program for the cable development and operation in the Pacific, then the German cable system in that part of the world should be turned over to the the four countries for incorporation in a general system. The location of the German cables is such that their maximum use would come from such an arrangement.¹¹

Rogers also recommended that the laying and repair ships should be turned over to Great Britain and the United States because these two countries could most profit by their use.¹² The United States had been lacking in cable facilities, and necessary islands for the relaying of cables, and was faced with exclusive landing rights. Rogers had proposed the international control of those troublesome aspects which could not be eliminated by private agreement. He favored private agreements when internationalisation would prove to be a detriment to the United States.

The other memorandum prepared for Wilson's study had been prepared by Postmaster General Burleson. The Postmaster was mostly concerned with the British censorship and control

¹¹Ibid., p. 440.

¹²Ibid., p. 438.

of cable communication. International regulation and control would provide an opportunity for the United States to compensate for its handicap in cable development which had occurred because of its inactivity during the previous half-century.¹³

At the meeting of the Council of Ten on May 1, Wilson informed all of the representatives of the various nations that the interest of the United States in the German submarine cables could not be denied.¹⁴ The delegates of the United States would give a formal notice at this meeting that their nation would claim a share of the cables either through an international arrangement, or else through an equitable distribution among the victorious nations. Wilson informed the representatives at the meeting that

in a war in which many nations had participated and expended their share of blood and treasure, these indispensable instruments of international communication should not pass into hands of only three of the parties in war. He had no desire to re-establish the German cable system, but he had a very decided interest in ensuring the means of obtaining quick cable communication.¹⁵

Now that Wilson had informed delegates of the true position of the United States, he decided to carry the announcement

¹³Ibid.

¹⁴Council of Ten, May 1, 1919, 4 p.m. Paris Peace Conference, IV, 486.

¹⁵Ibid.

a little further. He realized that the United States could not obtain the Island of Yap if the American representatives continued to speak vaguely about "certain" Pacific Islands.

The Island of Yap should not fall into the possession of any one power because the island was a general distributing center for the lines of communication of the North Pacific. The subject had assumed a new aspect since Wilson had heard the interpretation given to Balfour's resolution. The British and French representatives had proposed that the German lines should be turned directly over to those who had cut them during the war, "even though one particular line, Pernambuco to Monrovia, actually terminated at both ends in neutral countries."¹⁶ Wilson then mentioned his favorite topic.

If any method could be devised to put the cable systems under international control he would be quite satisfied. . . . A satisfactory solution would be reached if the enemy cables could be turned over to the Allied and Associated Governments as trustees, and managed under the terms of an International Convention.¹⁷

Yet none of the delegates applauded Wilson's proposal. The representatives reverted to their accustomed arguments and procedure.

¹⁶Ibid.

¹⁷Ibid.

When Balfour, Wilson, and Lansing entered into an argument about who owned and controlled the Atlantic cables, Admiral de Bon interrupted by stating that two definite questions had to be decided by the Council: "firstly, the use to which the captured German cables should be put, and secondly, the regulations which the Allies and especially the United States of America, wished to apply to the use of cables crossing the high seas."¹⁸ A third question existed as to the Pernambuco-Monrovia cable which had been cut by the French, diverted and been prepared for use. Because of a request of the United States which had been based on political reasons, the French had agreed not to use this cable.¹⁹

Admiral de Bon believed that complete agreement existed as to the first point. The second question was debatable. The third point constituted a special case. As for the second question--American desire for international control, it did not appertain to the Treaty of Peace. It could be studied at a future date on a basis drawn by President Wilson. The Conference should only inform Germany which cables had been cut and utilized and that they would not be returned. "It would be unnecessary to make any statement in the Peace Treaty in regard to the future policy of the Allied and

¹⁸ Ibid., p. 487.

¹⁹ Ibid.

Associated Governments on the subject of the control of the cables."²⁰ The French and the British stated that they were willing to place the cables under international control; but they would not discuss the subject at the Paris Peace Conference.

Wilson's idea of the problem before the Council was different from de Bon's. The American president expressed the view that the Council only had to make a decision on two definite principles:

- (i) Are submarine cables proper objects of appropriation and can they be retained without reckoning them in the total bill of reparations?
- (ii) Can any means be devised to place the cable lines under international control?²¹

Lloyd George immediately replied with a reiteration of what Admiral de Bon had stated previously, namely, that the international control of cables should not be settled until peace had been established. "The only point . . . now to be decided was whether these particular cables should be restored to Germany or not. . . . If such steps were now taken very bitter feeling would be raised."²²

Wilson replied that there was one question to which Lloyd George had not referred. The solution to this question would be simple and negative if the proposition merely asked whether

²⁰Ibid.

²¹Ibid., pp. 488-489.

²²Ibid.

or not the cables should be returned to Germany. If the Council decided that the cables should be retained by those who had taken them over, the Treaty of Peace should leave the question open as to what would ultimately be done with them.²³

Wilson then suggested that the "Peace Terms should require the cables in question to be transferred to the Allied and Associated Powers as Trustees, who would be authorized to determine the future working of the cables in the interests of the Powers concerned."²⁴ Lloyd George asked if the trustees would have the power of diverting the cables to other locations. Wilson explained that the trustees could only perform such an action if the agreement was unanimous and if the diversion would benefit all of the Powers concerned.²⁵ If the cables were to be used for the benefit of all nations, then Britain, France and Japan would not be able to use exclusively the ex-German cables in their possession. Baron Makino of Japan was the first to realize the full implication of Wilson's proposal.

Sensing that the discussion was proceeding in the direction which Wilson desired, Makino stated, rather belatedly, that he would accept Balfour's proposal which had been introduced on March 24,²⁶ but Makino also offered a new proposal

²³Ibid., p. 490.

²⁵Ibid.

²⁴Ibid.

²⁶Ibid.

which could be used as a basis for the solution of the problem. The "solution" was the first proposition which truly expressed the opinions of all concerned.

A certain number of questions (Makino did not specify which) had been resolved whose decisions were not in strict accordance with international law. As for the confiscation of private property, Article 13 of the Financial Clauses authorized the seizure of public utilities. As a result, the Allied and Associated Governments had gone further than ever before in the process of disregarding the rights of the Germans. "In his opinion, the same procedure could therefore be followed in regard to cables."²⁷ Although Makino had been evasive in the expression of his viewpoint, he had stated in reality that the Allies should not concern themselves about the possible illegality of the confiscation of the German cables. The actions of the Allies in taking certain other German property were illegal according to international law. Why should the Allies concern themselves about the possible illegality of the seizure of the German cables?

Wilson pursued his proposal after Makino and Lloyd George suggested that the question should be postponed. An explanation of his proposal might modify the position of his Allies. Primarily, it was based on the principle of right. The possible solution would be in the general interests of

²⁷ Ibid., p. 491.

all the powers and would create a solidarity between them. Successful international control would allay the fears of such nations as Canada, which was concerned over monopolies and excessive rates.²⁸

The other representatives realized that Wilson was not about to relent in his position, so they agreed to a new proposal.

It was agreed that President Wilson should formulate a draft resolution for discussion at the next meeting of the Council of Ten to the effect that all German Cables seized during the war should be transferred to the Allied and Associated Powers as trustees, who would determine the future working of the cables in the interests of the Powers concerned.²⁹

The meeting was adjourned. The French, British and Japanese delegates had agreed that Wilson should draft the proposal. It did not necessarily follow that they would also accept the finished product.

Because the meeting on May 2 was to revolve around the new proposal by Wilson, his communications expert, Rogers, prepared on the same day an extensive memorandum for his study. Rogers still expressed doubt as to the Allies' justification in the seizure of the cables; but he advised

²⁸ Ibid., pp. 491-492. The Canadians hoped that competition with the private companies through means of the new government cable to Halifax would force the private companies to reduce their rates.

²⁹ Paris Peace Conference, IV, 491-492.

Wilson to forget any hope of returning the cables to their pre-war status. Some of Roger's proposals were later adopted by the Americans--both at the Conference and in the post-war negotiations. In order to have better world communications, Rogers suggested that Wilson continue the argument for a trusteeship composed of representatives from the "Big Five" who would have the power to operate the cables, or if they desired, to dispose of them. In such an arrangement, the United States would have to insist upon a guarantee that everyone would be served uniformly.³⁰

Rogers also warned Wilson, correctly, that in a suggestion for the control of the German cables by trustees, the British would insist on the retention of the Penzance-Azores-Halifax cable. The French would argue that they could not give up the Pernambuco-Monrovia line until they had been compensated. The Japanese would claim that Yap was theirs and the cable should not be included. "It is entirely clear that no trust arrangement can be satisfactory unless all the German cables and such cables as have resulted from the division of German cables are included." But whatever happened, Rogers advised Wilson to hold an international conference on communications aimed at providing all nations with adequate cable facilities.³¹

³⁰Baker, Woodrow Wilson and World Settlement, III, 443-445.

³¹Ibid.

The meeting of the Council of Ten on May 2, 1919, began with the reading of a draft resolution prepared by Wilson. The text was based on the proposal made on the previous day.

It is agreed:

(1) That an article shall be inserted in the Treaty of Peace whereby Germany shall renounce in favour of the Allied and Associated Powers jointly all rights, titles and privileges of whatsoever nature possessed by her or her nationals in the submarine cables or portion thereof mentioned below:--

The enumeration of the cables remained identical to that of April 30. The concluding paragraphs contained the following provisions:

(2) That the Five Allied and Associated Powers shall jointly hold these cables together with any rights and privileges pertaining thereto for common agreement as to the best system of administration and control; and

(3) That the Five Allied and Associated Powers shall call as soon as possible an International Congress to consider and report on all international aspects of telegraph, cable and radio communication, with a view to providing the entire world with adequate communication facilities on a fair, equitable basis.³²

Balfour began the discussion. He had only been notified after the meeting of the previous day that "all cables running between Great Britain and America were either owned or leased by American companies."³³ Balfour, if he were

³²Council of Ten, May 2, 1919, 5 p.m. Paris Peace Conference, IV, 493-494.

³³Ibid.

seeking to destroy any attempt at international control, subtly mentioned the one aspect of the cables about which Wilson would not want to be reminded. If the Great Powers decided to assume control as had been suggested by Wilson and entered into a quarrel with the controlling American companies, the Powers would be just as helpless as the British companies had been in trying to establish cables to the United States. As a result, Balfour reminded Wilson that the American government would have to modify its policy and assume control over its land telegraph system.³⁴ Lloyd George added that the strongest argument against Wilson's international proposal was that cables could not be cut in wartime.³⁵

Wilson replied that Balfour and Lloyd George needed correction. All that he had attempted to do was to provide arrangements for the cables in question so that they could be placed under the best administration and control. He recalled how Baron Makino had stated at the previous day's meeting that the Allied and Associated Governments had taken certain liberties with international law in the Peace Treaty. In Wilson's opinion, the delegates were creating a new precedent in international law on the subject of assuming possession of

³⁴ President Wilson had been forced to relinquish governmental control of the cables because of the opposition of the private companies.

³⁵ Paris Peace Conference, IV, 495-496.

cables which lay at the bottom of the sea and the incorporation of these lines into new systems. He realized that no basis for such an action existed in international law, and "such action could only be justified by analogies such as the seizure of private property."³⁶

Wilson's proposal had not been an attempt to give two or more partners in war control of the cables during a conflict. All of the Allies in a war should have a voice in the administration and control which would be adopted in the future.

The five Allied and Associated Powers who would hold these cables as trustees in accordance with this draft resolution were the very Powers upon whom the whole system of peace and international understanding would henceforth rest. . . . These results could not be reached by conversations which would be held after the property in question had been definitely assigned to particular Powers.³⁷

When Lloyd George replied that he was in favor of accepting de Bon's proposal that Germany be simply informed that her cables would not be returned, Wilson came back with the rejoinder which would destroy all hope of internationalization. Wilson added that the only difference between his proposal and that of Admiral de Bon was that the cables would be under trusteeship during the intermediate period. "With this exception, his proposal did not differ in principle

³⁶ Ibid., pp 495-496.

³⁷ Ibid., p. 497.

from Admiral de Bon's.³⁸ Neither Wilson nor de Bon specified what would be the duration of the "trusteeship." Wilson must not have realized that the subsequent discussions and agreements would exclude all possibility of future internationalization.

Balfour proposed the following amendments to Wilson's draft proposal: "Para. I. The word 'jointly' to be omitted." Paragraph two would also be amended: "These cables shall continue to work as at present without prejudice to any decision as to their future status which may be reached by the five Allied and Associated Powers."³⁹ When Wilson agreed to Balfour's amendments, he destroyed any possibility of the international control of the cables--"These cables shall continue to be worked as at present." France, Britain and Japan could agree to meet at any time in the future; the provision did not name the date. If the Powers should agree to hold a Conference, the possible meetings would not necessarily alter the status of the cables. Balfour had included an appropriate phrase in his amendment--"which may be reached."

The Council then agreed that the following draft resolution, as amended, would be considered at a meeting to be held on the following day:

³⁸Ibid., p. 499.

³⁹Ibid.

Germany renounces, on her own behalf and on behalf of her nationals, in favour of the Principal Allied and Associated Powers, all rights, titles and privileges of whatever nature in the submarine cables set out below, or in any portions thereof.⁴⁰

The Chefoo-Tsingtao-Shanghai cable was not included with the other cables. Viscount Chinda of Japan had made the request because the Council of Four had already agreed that these cables were to be renounced by Germany in favour of Japan.⁴¹ The remainder of the draft carried the following provisions:

-2-

Such of the above-mentioned cables as are now in use, shall continue to be worked in the conditions at present existing; but such working shall not prejudice the right of the Principal Allied and Associated Powers to decide the future status of these cables in such way as they may think fit.

The Principal Allied and Associated Powers may make such arrangements as they may think fit for bringing into operation any of the said cables which are not at present in use.

-3-

The Principal Allied and Associated Powers shall as soon as possible arrange for the convoking of an International Congress to consider all international aspects of communication by land telegraphs, cables or wireless telegraphy, and to make recommendations to the Powers concerned with a view to providing the entire world with adequate facilities of this nature on a fair and equitable basis.⁴²

The meeting called for by Wilson was held on the following

⁴⁰Ibid., p. 500.

⁴¹Ibid., p. 499. The Japanese interest in this line was safely protected by Article 156 of the section entitled German Rights and Interests Outside of Germany. Ibid., XIII, 299.

⁴²Ibid., p. 500.

day, May 3, 1919, by the Council of Four.⁴³ The draft resolution which had been adopted on the previous day was before the meeting. After some discussion (which is not included in the minutes), it was decided to accept the first paragraph for the inclusion in the Treaty of Peace and to add to it a second paragraph:⁴⁴

The value of the above-mentioned cables or portions thereof, in so far as they are privately-owned, calculated on the basis of the original cost, less a suitable allowance for depreciation shall be credited to Germany in the reparation account.⁴⁵

It was further decided that paragraphs two and three of the draft should form the subject of a separate protocol

⁴³Council of Four, May 3, 1919, 11:30 a.m. Paris Peace Conference, V. 438.

⁴⁴The American president was probably responsible for this provision, although Lloyd George had mentioned compensation at one stage of the proceedings. The private interests in Germany who owned the cables would not realize a true compensation for their losses. In the first place, the value of the cables which would be used to "reduce" the amount of reparations would not be an honest appraisal. The private companies would never see the compensation. At the meeting of the Second Subcommittee which met on February 21, 1919, to decide how much Germany could and was to pay for reparation, the French representative suggested that Germany pay twenty to twenty-five billions of francs immediately through the medium of property. The English minutes of the meeting stated that the French representative assessed the cables as worth 1,000 billion francs. The French minutes represented the total as 100 million francs. Philip Mason Burnett, Reparation At The Paris Peace Conference, 2 vols. (New York, 1940), II, 623.

⁴⁵Paris Peace Conference, V, 438.

between the five Principal Allied and Associated Powers. Instead of the term "powers concerned," the phrase "principal Allied and Associated Powers" was substituted.⁴⁶ The meeting was adjourned. The representatives at Paris were finished with the question of submarine cables at the Peace Conference.⁴⁷

The meeting of the Council of Ten on May 1, 1919, had begun with the same arguments which had been used at the previous sessions. After an extensive discussion of the process of diversion, Wilson made an explicit proposal for the international control of the cables and the first definite proposal to compensate the Germans for their losses in the reparation account. Britain and France asked Wilson to prepare a draft of his proposal which would be studied on the following day.

On May 2, Wilson placed his proposal before the Council of Ten. The cables would not be returned to Germany. Great Britain and France agreed to hold a conference on communications after Germany had ratified the Peace Treaty--provided that they could retain the German cables in their possession during the intermediate period. On May 3, the Council of

⁴⁶Ibid.

⁴⁷In Section VIII--Shantung--which was included under Part IV of the section entitled German Rights and Interests Outside of Germany, Article 156 also carried a provision regarding the ex-German cables: "The German State submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances." Paris Peace Conference, XIII, 229.

Four ended the discussions about the German cables. The value of the cables--none would be returned--would be credited to Germany in the reparations account. It was also agreed that the paragraphs providing for the convocation of the communications conference would form the basis of a separate protocol.

The copy which the Germans received for study had the cables listed under the general title of reparations. The provisions included in the final text had not been altered.⁴⁸ The German representatives submitted their observations and objections to the Principal Allied and Associated Governments to the Conditions of Peace on May 29, 1919. The Germans made the accusation that "the intention of eliminating Germany from world commerce is also displayed in the confiscation of her property in German cables."⁴⁹ When the representatives of Germany discovered that the cables were to be taken as reparations, they received the news with something less than enthusiasm:

This means an altogether inequitable and therefore unacceptable limitation of the necessary German foreign news service, both as regards commerce and navigation. . .and also the direct diplomatic exchange with the country's own official establishments in foreign ports.⁵⁰

⁴⁸Senate Executive Documents, 66th Congress, 1st Session, No. 49, Treaty of Peace with Germany (Washington, 1919), p. 110.

⁴⁹Paris Peace Conference, VI, 814.

⁵⁰Ibid., pp. 846-847

The German appraisal of the problem was not dissimilar to some of the discussions which had occurred at the Peace Conference. All of the major powers were aware that the solution of the cable problem entailed possible repercussions. The United States had even expressed this anxiety in the many arguments before the various councils. But circumstances had not permitted an alternate course.

The subject of submarine cables had been introduced incidentally into the Peace Terms by the Naval Committee. Gradually, all of the German cables which had been altered in any way during the World War were included on the list. At the beginning, the delegates of the United States were determined that the German cables should not be taken as spoils of war, but instead should be returned to Germany. The United States protested on to no avail. Arguments based on supposed legal principles and on national interests could not move the other representatives. The diverted German cables were a vital link in the communication systems of Great Britain, France and Japan. These three nations had no intention of returning the cables to Germany. So the delegates of the United States began to compromise. At the same time, the United States announced that it had a material interest in the German cables.

Lansing and Wilson moved towards a demand for internationalization. They said that the interests of the world would be served more equitably if the German cables were placed

under an international control. In order to compensate the private companies of Germany for their losses, the cables would be credited to the reparations account. France and Great Britain agreed, but they did not want the question of international control studied at the Paris Peace Conference. The Americans had to make further concessions. The Allies could hold as trustees the German cables in their possession until the convening of a conference which would study all aspects of international electrical communications. The subsequent agreement was omitted from the Peace Treaty and was to be the basis of a separate protocol. Wilson had not specified the duration of this trusteeship; the Allies had not offered a specific period. Whether the Allies planned for Wilson's program to be adopted in the future is uncertain, but it seems that they made the agreement in order to retain the German cables in their possession.

As had been the case in many problems at the Paris Peace Conference, it was the Council of Four which made the final decision concerning the problem of the cables. Wilson either believed that the subject would be resolved to his satisfaction in the near future, or else, he may have used the demand for an international conference in order to give up the project. He could state later that he had not compromised, and if the communications conference failed, he could blame the Allies. But Lloyd George, Clemenceau and Makine had a definite position. They had arrived at the

Paris Peace Conference with a certain number of German cables in their possession; they returned home with the same number. Their title to the ownership of the cables had not increased and become definite at the Paris Peace Conference; but it had not diminished.

Wilson therefore ratified the Allied seizure of the German cables; this was necessary in order to justify the plan for international control. Compensation would be made to the German companies by the German Government for the privately-owned cables. The value of the submarine cables would be credited to the charges assessed for reparations. The German Government, however, never indemnified the cable companies; the owners of the cables would never recover their losses. Wilson must have suspected what the true meaning of this provision would be.

The Germans probably found some consolation in the post-war years when the Allies continued to struggle for the ownership of the cables. The Peace Conference had not solved the problem. The Germans no longer had their cables, but the Allies would not utilize all of them. The "Big Five," after the Peace Conference, would use the same arguments which had been unsuccessful at Paris, and the same arguments would produce identical results. The French, British and Japanese would not relinquish their demands. The United States then demanded that the Island of Yap be internationalized and wanted a partial ownership of one of the German cables crossing

the Atlantic to New York and joint operation of the Pernambuco-Monrovia cable. None of the five Principal Allied and Associated Powers would be willing to compromise.

CHAPTER VII

THE WASHINGTON COMMUNICATIONS CONFERENCE

OF 1920

At the Paris Peace Conference, it had been decided that trustees of the "Big Five" would control the German cables until the Conference on Communications could meet. The Conference would consider all aspects of electrical communications and would also decide the ultimate fate of the German cables. Great Britain, France and Japan were aware that the intermediate period of trusteeship could become indefinite. Before the Conference convened, France made desperate attempts to secure a title to the Pernambuco-Monrovia cable. If the French were to obtain this line before the Conference convened, they would probably still have the Pernambuco-Monrovia cable when the Conference adjourned.¹

The United States had only come to realize after the delegates had left Paris that her former associates were not interested in any kind of a communications conference. Great Britain, France and Japan might lose the German cables in

¹The bi-lateral negotiations between France and the United States had begun even before the Allied Delegates had assembled at Paris. The Chargé in Liberia (Bundy) to the Secretary of State, November 18, 1919. U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919, 2 vols. (Washington, 1934), II, 504-505.

their possession. The clause in the Peace Treaty which provided that the five Powers should meet at the earliest convenient time had been eliminated; a separate protocol proposed to serve as a substitute had not been ratified.

The United States, nevertheless, continued earnestly in its attempts to bring the Five Powers to Washington. The Americans firmly insisted that the status of the German cables could not be regarded as final until the Conference had met and issued a decision. The interest of the United States in the German cables had not diminished.

The delegates of the United States realized that they had committed a serious error when they agreed to the period of trusteeship. Meanwhile, the Americans forgot the idealism and principles that had partly governed their actions at Paris and struck out for the Island of Yap in an independent negotiation. The American Government made stern overtures to the Japanese Government in order to acquire the Island of Yap while refusing to grant permission to the French to assume control of the Pernambuco-Monrovia cable. The United States was sincerely devoted to the convoking of a conference which would consider all aspects of international communications. But when the United States decided to obtain Yap by means of a bi-lateral agreement and refused to grant permission to the French to use the Pernambuco-Monrovia cable, all hope of a successful conference was destroyed.

After the Principal Allied and Associated Powers had agreed at Paris to hold the Conference on Communications at the earliest possible date, the United States suggested October, 1919. The other Powers claimed that the few months interval would not be sufficient to prepare themselves sufficiently for the trip to Washington. In extending the invitations to Britain, France, Japan and Italy, the United States explained the purpose of the proposed conference:

It is the understanding of this Government that the Conference between the five Principal Powers shall constitute a preliminary conference, whose functions shall be to consider and recommend to the five governments any matters which may come before them for decision, and to prepare a program for the general International Conference to be held later.²

The United States had hoped that the World Conference would be able to pursue the agreement reached in Paris during the Peace Conference. The disposition of the German cables was to be decided and such a settlement would set the precedent for future actions of belligerents concerning the submarine cables. The United States desired to establish some international regulations to be used in world communications. Such laws, it was hoped, would prevent any future monopoly by "any one nation or group of nations."³

²The Secretary of State to the Ambassador in Great Britain (Davis), February 10, 1920. U. S. Department of State, Papers Relating to the Foreign Relations of the United States, 1920, 2 vols. (Washington, 1935), I, 111.

³The Secretary of State to the Ambassador in Brazil (Morgan), December 22, 1919, FRUS, 1920, I, 110.

The granting of the cables to the Allies as trustees for the "intermediate" period proved to be a chief source of delay. The various governments were conspicuously prolonging the deliberations. The American Ambassador in London notified the State Department that

representatives of the League of Nations inform me that conversations regarding the conference are now taking place between the British and the French authorities and that the latter are demurring on the grounds that the question of the disposal of the German cable lines should not be settled or influenced by non-members of the League.⁴

The British Government had replied that they would be pleased to attend the Preliminary Conference if a specific list of proposals were placed and announced for the agenda. Even if the specific proposals were to reach London immediately, the British Government would not have time to consult with the Governments of the Dominions. Consequently, it would be necessary to postpone the Conference.⁵

The Japanese were of the same opinion as the British, or else, they adopted the same tactics. The American Ambassador in Japan informed Secretary of State Lansing on March 24, 1920, that the Japanese Government desired to have

⁴The Acting Secretary of State to the Ambassador in France (Wallace), February 17, 1920, FRUS, 1920, I, 114.

⁵Ibid.

the Conference postponed for at least two months. The Ambassador was of the opinion that the failure of the United States to join the League of Nations and lack of interest in the Internationnal Labor Conference had led the Japanese officials to doubt the "sincerity or practical value of international conferences called to meet in the United States for any purpose."⁶

The American Secretary of State informed all of the American diplomatic representatives on March 30, 1920, that the United States had decided that November 15, 1920, would be a suitable date for the World Conference.⁷ The British still insisted on some sort of agenda as a preliminary to the meeting.⁸ The French likewise were not very anxious to attend the Preliminary Conference.

The French Government questioned "whether such conference composed of representatives of the Principal Allied and Associated Powers and representatives of neutrals would

⁶The Ambassador in Japan (Morris) to the Secretary of State, March 24, 1920, FRUS, 1920, I, 115.

⁷The Secretary of State (Colby) to All American Diplomatic Representatives, March 30, 1920, FRUS, 1920, I, 116.

⁸Ibid.

⁹The British Ambassador (Geddes) to the Secretary of State, June 14, 1920, FRUS, 1920, I, 124.

really be qualified to settle the question of the allotment of the German cables."¹⁰ Because the United States had not ratified the Treaty, the French expressed doubts as to the possibility of holding a useful discussion on the question of the ex-German cables. The French Charge notified the Secretary of State that "under the circumstances, I am instructed by the Government of the Republic to express to you its regrets that it will not be able to send representatives to that Conference."¹¹

The United States would encounter great difficulty in persuading France to attend any successful communications conference. The French had previously attempted negotiations with the United States in order to settle certain questions regarding the German cables. One of the cables, Pernambuco to Monrovia, had occupied the attention of the two countries even before the convening of the Paris Peace conference.

After the Pernambuco-Monrovia cable had been cut, the Superintendent of the Monrovia station of the French Cable Company of South America requested permission in 1915 from President Howard of Liberia to connect and use this same line. The Liberian Government refused. Liberia would take

¹⁰The French Chargé (Bern) to the Secretary of State, August 9, 1920, FRUS, 1920, I, 125.

¹¹Ibid.

the German cables landing on her territory as a compensation for the damage done by a German submarine upon Monrovia in April, 1918. The Liberian officials brought attention to the fact that the French already operated one cable between Monrovia and Pernambuco. But if the Liberian Government would not or could not operate the German cable, the Liberians desired that the cable be seized and operated by the American government or some of its citizens.¹²

The French had laid a short cable from their office at Monrovia to the beach. They then wanted permission to connect this section with the ex-German Monrovia-Pernambuco line, which had been cut about ten miles at sea. The French Government had made the necessary advances to the Liberian Government, but it had not been the government of President Howard which was responsible for the Liberian refusal.¹³

Richard C. Bundy, the American Charge in Liberia, had written to Lansing on November 29, 1918, that the

Liberian Government earnestly requests the Government of the United States to support the position taken by the Republic in this matter with a view to an adjudgment after it had been definitely ascertained

¹²The Charge in Liberia (Bundy) to the Secretary of State, November 18, 1919. FRUS, 1919, II, 504-505.

¹³The Government of Liberia was seeking a loan of \$5,000,000 from the Government of the United States. Resolution of January 22, 1919, Authorizing the President of Liberia to Accept a Loan from the Government of the United States, January 22, 1919. FRUS, 1919, II, 466.

by consulting the Department, if not otherwise, what action Liberia may take without prejudice to her national as well international obligations.¹⁴

The French Government could not comprehend the reasons behind the refusal of the United States. After all, permission had been granted to the French to land the other German cable at New York.¹⁵ Apparently, the French had been aware that it was the United States who controlled the Liberian Government. The Americans wanted the cable between Monrovia and Pernambuco. This cable was useless unless the Liberian Government granted a license to relay the line on its shores. And the United States remained consistently adamant that the cable would not go to the French.

Ambassador Sharp in France could have readily answered the inquiry of the French if he had had in his possession the instructions forwarded by Lansing to the Charge in Liberia:

You may suggest orally to the Liberian Government that it might be wise to withhold the conclusion of any agreement with any nation or the granting of any concession while this Government is in the course of negotiating with the British and the French Governments regarding the refunding of the loan of 1912.¹⁶

¹⁴Ibid., pp. 506-507.

¹⁵The Ambassador in France (Sharp) to the Acting Secretary of State, February 15, 1919. FRUS, 1919, II, 524.

¹⁶The Secretary of State (Lansing) to the Charge in Liberia (Bundy), November 29, 1918. FRUS, 1919, II, 506.

Apparently, the Liberian Government was interested in further loans from the United States, but the refusal of the Liberians to grant permission to the French was not necessarily based on pressure exerted by the United States.

Nevertheless, the French persisted in their efforts. The Acting Secretary of State notified Lansing, who was attending the Paris Peace Conference, that if the French could not acquire the cable in question through the legal machinery of the Conference, other means were at their disposal.

Yesterday the French Chargé d'Affaires advised the Department that he was in receipt of a telegram to the effect that if Liberia did not act immediately on the request of the French Cable Company, a French ship would be sent to Liberia with instructions to carry out the work.¹⁷

Bliss, the American Chargé d'Affaires in France, was to inform the French that the United States could not accede to their demands in Liberia.¹⁸ The French Government then decided to adopt a new tactic.

Because the Liberian Government would not grant permission to the French Government to connect the German cable

¹⁷The Acting Secretary of State to the Commission to Negotiate Peace, January 8, 1919. FRUS, 1919, II, 511.

¹⁸Ibid., p. 512.

to the French station at Monrovia, the French proposed to join the unused line running to the beach to the cable arriving from Konarky. They would then join the section to the Pernambuco-Monrovia cable. If this were accomplished, all cable communication with Liberia would be eliminated.¹⁹ The French no longer threatened to send the ship to Monrovia. The threat of an isolated Liberia might have produced the desired result.²⁰ The Liberian president replied to this new French tactic by stating that he would not object to this new procedure; but he would not grant permission to land the cable in Liberia.²¹ When all of these endeavors failed, the French could only continue their tedious arguments at the Paris Peace Conference.²²

The French Government had failed in its efforts to acquire the cable. They had hoped to have the line in their

¹⁹The Charge in France (Eliss) to the Acting Secretary of State, January 14, 1919. FRUS, 1919, II, 515.

²⁰The Ambassador in Great Britain (Davis) to the Acting Secretary of State, February 20, 1919. FRUS, 1919, II, 525.

²¹The Chargé in Liberia (Bundy) to the Secretary of State, November 18, 1918. FRUS, 1919, II, 505.

²²The Pernambuco end of the cable had remained in the possession of the German company after the line had been cut, even though the Brazilian Government had declared the concession null and void. FRUS, 1919, II, 521. The United States had insisted that the control of the cable within the three-mile limit and the landing station at Monrovia were under the jurisdiction of the Liberian Government. The cut cable beyond the three-mile limit, the United States believed, should be determined by the Paris Peace Conference. FRUS, 1919, II, 525-526.

possession before the convening of the Peace Conference. Arriving at Paris empty-handed, they continued the negotiations with the United States while the Conference was proceeding. They returned from the Conference with the Pernambuco-Monrovia cable still unused at the bottom of the sea. They had not acquired title to the cable during the period before the convening of the Communications Conference. The United States wanted to discuss the final settlement of the German cables. In any settlement, the French would have to acquire a clear title to one of the German cables crossing the Atlantic to New York and the Pernambuco-Monrovia cable. The United States had not made any such promises when they extended the invitation to France to attend the Communications Conference. The French were not anxious to hold any conference unless the United States made the necessary concessions. The United States, nevertheless, extended further invitations.

The Preliminary Conference was postponed from August 1 to September 15, 1920. The French, Italian, British and Japanese Governments were asked to send representatives. The United States invited no other nations. After more delays caused by the British, the Preliminary Conference convened in Washington on October 8, 1920.²³

As the Preliminary Conference proceeded, the United States expressed no doubts as to the reasons for the discussions.

²³FRUS, 1920, I, 132. A note in FRUS, 1920, I, 132, states that "minutes of the Conference and of its subcommittees are not printed."

"The settlement of the disposition of the cables was the purpose of the Principal Allied and Associated Powers in attending the Preliminary Communications Conference."²⁴ The meetings were held at the State Department,²⁵ and in order to assure full discussion of opinion, no news was issued.²⁶ From the beginning, the Italians proposed that the conference "should be clothed with powers to determine the final status of the former German cables."²⁷ The United States had no intention of postponing the decision. "The American Delegation has likewise clearly asserted that after the termination of this Conference the United States would not give its consent to any continuation of the present operation of all the cables."²⁸

The United States--at least as it had stated in the correspondence with its diplomatic representatives--had a much broader purpose in calling for the conference. The American plans were not limited to a simple eradication of monopolies.

²⁴The Secretary of State to the Chargé in Great Britain (Wright), November 4, 1920. FRUS, 1920, I, 136.

²⁵New York Times, October 9, 1920, p. 17.

²⁶New York Times, October 27, 1920, p. 25

²⁷The Commission to Negotiate Peace to Secretary of State, August 28, 1919, FRUS, 1921, I, 108-109.

²⁸The Secretary of State to the Chargé in Great Britain, November 5, 1920, FRUS, 1920, I, 137.

This is not merely a question of the disposal of ex-German cables. Our position is much broader. Our Government is compelled to insist that direct service by cable between United States and Germany be restored as a matter of principle. Our associates have temporarily deprived us of this service we enjoyed before the war. . . . Thus, not only would our part in the war bring us nothing under the treaty, but we would be distinctly injured by the action of our associates. That the five Principal Allied and Associated Powers have title to the German cables acquired under the treaty is fully admitted.²⁹

Although the United States did not question the ownership of the cables, she reverted to certain arguments she had used at the Paris Peace Conference.

As the Preliminary Conference proceeded, sub-committees were formed to consider the various questions. At the first meeting of the committee appointed to study the condition of the regulations governing the issue of cable licenses, the American representatives presented a memorandum for consideration. Sections two and three contained the following provisions:

2. Submarine cables between two neutral countries shall be held inviolable and free from interruption.
3. Submarine cables connecting the territories of two belligerents may be interrupted but not diverted anywhere except within the waters of a neutral state.³⁰

²⁹The Secretary of State to the Chargé in Great Britain, November 4, 1920, FRUS, 1920, I, 136.

³⁰The British Embassy to the Department of State, November 10, 1920, FRUS, 1920, I, 139.

The first paragraph would govern the decision regarding the Pernambuco-Monrovia cable and the second paragraph applied to the German lines which had crossed the Atlantic to the United States. The Americans were interested in these systems.

The Japanese expressed a willingness to discuss the rights of neutrals and belligerents after the question of the disposition of the ex-German cables had been decided. The British would not discuss these topics at all.³¹ Although the British and the Japanese provided obstacles to a suitable agreement, it was the French representatives who caused the most difficulty to the plans of the United States. The British supported the position of the French. The Senior British Delegate told Norman H. Davis that the British delegation "felt at least a moral obligation to support the French claims" because of the agreement which had been made before the United States had entered the war.³²

Rumors were circulated within the State Department that the French delegation intended to walk out from the conference unless some agreement was made on the German cables. The French representatives themselves realized that no agreement could be made as long as they adhered to their "impossible

³¹The Department of State to the British Embassy, December 13, 1920, FRUS, 1920, I, 146.

³²The Acting Secretary of State to the British Senior Delegate (Brown) to the Washington Conference on Communications, December 8, 1920, FRUS, 1920, I, 144.

demand for half of the German cables."³³ Great Britain, Japan and France knew that a negative settlement would prevent the intrusion of the United States and Italy into the allotment of the cables.

After two months of negotiations and discussions, the delegates to the Preliminary International Conference on Electrical Communications unanimously adopted a resolution-- a resolution was all--on December 12, 1920. The agreement mentioned several important aspects of the question, but no definite agreement for the disposition of the cables was made. The Department of State stated that "there appears a general recognition of the necessity and expediency of working out an equitable and practical solution of the problem."³⁴

The delegates had agreed that the respective Ambassadors would continue the negotiations at Washington. The status of the cables would remain the same, but the profits from the operation of the cables would be divided among the Five Powers after January 1, 1921. If the dispute were not settled by February 15, 1921, the delegates would meet again to arrange for a new disposition of the cables which would

³³The Secretary of State to the Chargé in Great Britain, (Wright), November 5, 1920, FRUS, I, 138.

³⁴Ibid., p. 148.

operative not later than March 15, 1921.³⁵ But most important, "no agreement was reached for the distribution of the former German cables."³⁶

The Preliminary Conference on Communications had failed for various reasons. One of the impediments to a successful negotiation had been the Japanese insistence for the Yap-Shanghai cable whose Shanghai terminus they had diverted to Tokyo.³⁷ Another reason for the unsuccessful communications conference was that the delegates could not agree because the United States insisted that France could not keep the Brest-New York line.³⁸ The Americans also wanted a joint operation with the French of the Pernambuco-Monrovia line.³⁹ The French replied that they would consent to a joint operation of the Brest-New York cable. The Italians demanded the same line before they consented to anything else.⁴⁰ So the United States suggested that the Brest terminus of the cable

³⁵Green Haywood Hackworth, Digest of International Law, 8 vols. (Washington, 1944), IV, 272.

³⁶Walter S. Rogers, "International Electrical Communications," Foreign Affairs, I (December 15, 1922), 153.

³⁷New York Times, December 13, 1920, p. 1.

³⁸New York Times, December 5, 1920, p. 1.

³⁹New York Times, December 11, 1920, p. 6.

⁴⁰New York Times, December 25, 1920, p. 5.

be moved to Genoa. The line would then be operated jointly by the United States and Italy.⁴¹ This plan was not acceptable to the French.

Probably, the major part of the responsibility for the failure of the conference belonged to the negotiators of the United States. While asking the other nations to compromise their demands, they refused to alter their own position. The United States had not given permission to the French to acquire a full title to the Pernambuco-Monrovia cable. At the same time, the representatives of the United States entered into bi-lateral negotiations with the Japanese for the control of the Island of Yap. This question was one of the main contentions at the Communications Conference. Unless all of the five Principal Allied and Associated Powers were satisfied with any allocation of the cables, none of the Powers involved could obtain a permanent title to any of the cables. The Paris Peace Conference had provided that any alteration in the status of the German cables would have to be approved unanimously.

The controversy surrounding Yap erupted again when Secretary of State Colby instructed Ambassador Davis in London to clarify with the British the official status of that island. Apparently, the Americans had made a request for the island at the Communications Conference. The British

⁴¹New York Times, December 11, 1920, p. 6.

informed the United States that a decision had been made and approved on May 7, 1919, that Japan would receive all of the former islands north of the equator. Wilson had been present; he had not made any reservations at that time, but had--and it had been recorded--made a reservation at a former meeting.⁴²

At the meeting of the Council of Four on April 21, 1919, Wilson offered a proposal, which Lansing had already made in the Council of Foreign Ministers on March 24, that all claims in the Pacific should be deeded to the Allied and Associated Powers as trustees who would produce a just and equitable disposition.⁴³ Makino and Chinda, the Japanese delegates had been present when Wilson made his proposal.

He had, at the same time, reminded the Japanese Delegates that it had been understood that Japan was to have a mandate for the islands in the north Pacific although he had made a reserve in the case of the island of Yap, which he himself considered should be international.⁴⁴

⁴²The Ambassador in Great Britain (Davis) to the Secretary of State, November 17, 1920. U. S. Department of State, Papers Relating to the Foreign Relations of the United States, 1921, 2 vols. (Washington, 1936), II, 263-264.

⁴³Council of Four, April 21, 1919, 4 p.m. U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919. . . Paris Peace Conference, 13 vols. (Washington, 1942-1947), V, 109. The Americans were not aware that Wilson had also made a reservation for the Island of Yap in the Council of Four on April 15, 1919. He told the Council that Yap should be internationalized so that the Japanese could not eliminate the cable between the United States and the Philippines which traveled over this island. Paul Mantoux, Les Deliberations Du Conseil Des Quatre, 2 vols. (Paris, 1955), I, 249.

⁴⁴Council of Four, April 21, 1919, 4 p.m. Paris Peace Conference, V, 109.

But the British and the French governments considered the decision of May 7, 1919, as definite and not open to further discussion.⁴⁵ And the Japanese would naturally interpret the decision as providing that the Island of Yap had been assigned to them.

A debate between the various governments then ensued as to the validity of the two positions.

Whether this allocation to Japan of the islands north of the equator included the Island of Yap has recently been the subject of some controversy. It seems quite clear that an American reservation was made as to this island, on account of its importance as a cable station, but this reserve may have been misunderstood and perhaps vaguely recorded.⁴⁶

At a meeting at the White House on August 19, 1919, Senator Lodge asked Wilson if any recommendations had been made by the United States naval authorities in regard to the importance of having one island, not for territorial purposes, but for naval purposes. The President replied that a paper had been published laying out the necessities of having some base for communication. He had not heard of the place before. The island was Yap, one of the bases and centers of cable and radio communication in the Pacific.⁴⁷

⁴⁵The Ambassador in Great Britain (Davis) to the Secretary of State, November 11, 1920. FRUS, 1921, II, 264.

⁴⁶Manley O. Hudson, "The Protection of Minorities and Natives in Transferred Territories," What Really Happened at Paris, edited by Edward Mandell House and Charles Seymour (New York, 1921), pp. 226-227.

⁴⁷Henry Cabot Lodge, The Senate and the League of Nations (New York, 1925), pp. 307-308.

When Wilson appeared before the Senate Foreign Relations Committee on August 20, 1919, Senator Lodge once more inquired about the naval recommendations. Wilson again mentioned the memorandum. "It was a paper laying out. . .the necessity of some base for communication on those islands just mentioned. But let me say this, there is a little island which I must admit I had not heard of before."⁴⁸ Wilson could not recall the name. Was it the island of Yap inquired Senator Lodge?

Yap. It is one of the bases and centers of cable and radio communication on the Pacific. . . disposition of that island should be reserved for general conference.⁴⁹

Wilson did not believe that the secret treaty between England and Japan would interfere with the future communications of the United States on Yap Island.⁵⁰

After the United States had undertaken the initiative in opening the discussions on Yap, the British and French both informed that nation that a mandate had been given to Japan over Yap on May 7, 1919, and that this action had since been approved by the League of Nations.⁵¹ The Japanese insisted

⁴⁸U. S., Congress, Senate, 66th Congress, 1st Session, Doc. No. 106. Hearings before the Committee on Foreign Relations, Treaty of Peace with Germany (Washington, 1919), p. 505.

⁴⁹Ibid., p. 506.

⁵⁰Ibid.

⁵¹The Ambassador in France (Wallace) to the Secretary of State, November 17, 1920. FRUS, 1921, II, 271-272.

that the island of Yap was their property.⁵² But Secretary Colby would not accept the British, French and Japanese contention. He reviewed for Ambassador Davis in London the proceedings at Paris which he was to relay to the British Government.

On April 30, 1919, Secretary Lansing had stated that he would desire to discuss the question of Yap at some future occasion. The island constituted a special case and should be internationalized. The question had not been studied at that time because the Japanese had insisted that the question of the status of the island had to be decided before there could be any discussion of the international control of the cables. But Balfour, the British Foreign Secretary, had not permitted the deferment of the question of the cables. On May 6, Lloyd George expressed the opinion that Japan should be given a mandate for "certain islands" north of the equator.⁵³

An appendix to the meeting at the Paris Peace Conference on May 7, 1919, which was a codification of the agreement reached on May 6 about the various mandates, provided for the assignment of Yap to Japan.⁵⁴ More than a year later, Secretary Colby rejected the mandate provisions.

⁵²The Charge in Japan (Bell) to the Secretary of State, November 19, 1920, FRUS, 1921, II, 264.

⁵³The Acting Secretary of State to the Ambassador in Great Britain (Davis), December 4, 1920. FRUS, 1921, II, 366-266.

⁵⁴Ibid.

In view of the President's reiterated objections to the inclusion of Yap in the mandate territories to be assigned to Japan, it is rather striking that the minutes of May 7th do not include any discussion whatever regarding Yap which would have been most natural had the President been prevailed upon to recede from his previous firm position. It is most logical that the withdrawal of previously recorded objection would have been noted.⁵⁵

Secretary Colby wrote to Ambassador Davis that he had been directed by President Wilson to inform him that the "Government of the United States cannot agree that the island of Yap was included in the decision of May 7th or in any other agreement of the Supreme Council."⁵⁶

But the British Ambassador to Washington, Geddes, informed Secretary Colby that his Government's answer probably would be that the British were "bound by its agreement with Japan in 1916 to favor the awarding of the islands in the north Pacific to Japan."⁵⁷ The British Ambassador claimed that Balfour had given Wilson a copy of the secret arrangement, and that Wilson knew of the arrangement before he had gone to Paris.⁵⁸

In reply to Colby's assertion that the United States had made a reservation for the island of Yap, the French

⁵⁵Ibid.

⁵⁶Ibid., p. 267.

⁵⁷Memorandum of a Conversation between the Secretary of State and the British Ambassador (Geddes), March 12, 1921.

⁵⁸Ibid.

Government did admit that Wilson had requested on May 1, 1919, a desire that the island should be placed under special control. But this request had not been repeated at the subsequent meetings. No reservations had been made on May 7 when the discussion of the mandates occurred. "Under these conditions, it seems that the mandate conferred upon Japan covers the Island of Yap as well as the other islands north of the Equator."⁵⁹ The Italian Government supported the position of Japan.⁶⁰

The Japanese, as usual, hesitated before replying. They first consulted with the other governments in order to determine the proper course. Their reply was made on February 27, 1921. The Japanese Foreign Office emphasized the fact that on April 21, May 6, and May 7 they were not present at the meetings at the Paris Peace Conference. As a result, they could not possess a knowledge of the proceedings. The Americans would have to prove that such reservations had been made on those days. The Japanese insisted that they had never expressed an agreement with the ideas of Wilson and Lansing for the control of Yap. "Furthermore. . . Makino announced distinctly his disagreement with them at the meeting of

⁵⁹The Ambassador in France (Wallace) to the Acting Secretary of State, December 6, 1920. FRUS, 1921, II, 269.

⁶⁰The Ambassador in Italy (Johnson) to the Acting Secretary of State, December 28, 1920. FRUS, 1921, II, 270-271.

Foreign Ministers held on April 30, 1919."⁶¹ And the Japanese asked the same question as had England and France: Why had not the United States protested when the decision of May 7 had been made public on May 8?⁶²

Wilson claimed that his first information of the contention that the island of Yap had been granted to Japan by a mandate had been conveyed to him in October, 1920, by Norman Davis.

I then informed him that I had never consented to the assignment of the Island of Yap to Japan. I had not previously given particular attention to the wording of the Council's minutes of May 7, 1919. . . . I had on several occasions prior to the date mentioned, made specific reservations regarding the Island of Yap. . . . I assumed that this position would be duly considered in connection with the settlement of the cable question and that it therefore was no longer a matter for consideration in connection with the peace negotiations. I never abandoned or modified this position in respect to the Island of Yap, and I did not agree on May 7, 1919, or at any other time, that the Island of Yap should be included in the assignment of mandates to Japan. . . . All agreements arrived at regarding the assignment of mandates were conditional upon subsequent agreement being reached as to the specific terms of the

⁶¹The Chargé in Japan (Bell) to the Secretary of State, February 27, 1921. FRUS, 1921, II, 273. At the meeting of the Foreign Ministers on April 30, 1919, Makino had not stated any "distinct disagreement." He only reminded Lansing that certain agreements had been made for the Pacific islands north of the equator. Wilson had not been present. U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919. . . Paris Peace Conference, 13 vols. (Washington, 1942-1947), IV, 654.

⁶²FRUS, 1921, 275.

mandates, and further, upon their acceptance by each of the Principal Allied and Associated Powers. The consent of the United States is essential. The consent of the United States . . . has never been given either point, as to the Island of Yap.⁶³

The American President had not spoken so explicitly about the Island of Yap either before, during, or immediately after the Peace Conference.

The Under Secretary of State, Norman H. Davis, next attempted negotiations with the Japanese through Ambassador Shidehara at Washington on March 17, 1921. Davis had suggested to Shidehara that

(1) the ownership of the cable from Guam to Yap should be ceded to the United States; (2) that the cable from Yap to Menado be ceded to Holland in settlement of all Dutch interests in the three cables; and (3) that the Yap-Naba-Shanghai cable be ceded to Japan.⁶⁴

The three countries could control their cables at each end. The settlement of the cable dispute would not lessen the American demand that the Island of Yap be placed under international control. Shidehara then inquired if Japan were to

⁶³Memorandum by Wilson to the State Department, March 3, 1921. FRUS, 1921, II, 281.

⁶⁴Memorandum by Norman H. Davis of a Conversation with the Japanese Ambassador (Shidehara), March 17, 1921. FRUS, 1921, II, 277.

satisfy the desires of the United States, could she have a mandate over all the other islands for which mandates were claimed?⁶⁵

Davis replied that Japan could have a nominal mandate over Yap, but the island could not be fortified and there could be no interference with the cable communications. Shidehara then suggested that if the Americans were to consent to a Japanese landing of cables on some American island--in order to "save face" in Japan--the proposal could be feasible.⁶⁶ Davis did not find the proposal possible because the situation would seem as if the United States were conceding something to Japan when it had no need to make any concessions--meaning the Island of Yap.⁶⁷

A further conversation was held between the Secretary of State and Shidehara on June 3, 1921.

The Secretary said he did not see upon what grounds it could be maintained, after we had entered the war and participated in obtaining victory, that those associated with us should attempt to deprive us of equal privileges in what were German possessions wherever we had interests to safeguard.⁶⁸

⁶⁵Ibid.

⁶⁶The attempt by the Japanese delegates at the Paris Peace Conference to placate the public opinion at home had been one of their most important arguments and had also been used as a strategy for other concessions.

⁶⁷Memorandum by Norman H. Davis of a Conversation with the Japanese Ambassador (Shidehara), March 3, 1921. FRUS, 1921, 278.

⁶⁸Memorandum of a Conversation between the Secretary of State and the Japanese Ambassador (Shidehara), June 3, 1921. FRUS, 1921, II, 288.

prolonged discussions, that the United States had not protested until a year later, and that it would be unfair to take the island from Japan. The Secretary came back with the rebuttal that "Japan had recognized the fact that the United States had not asked for an acre of land as a result of the war."⁶⁹

Ambassador Shidehara began another method of arguing. "The people of Japan had been led to believe that the Island was theirs and they could not take a contrary view." Shidehara suggested that the cable from Yap to Guam could go to the United States, and the other lines could be divided in an equitable manner. When he made an inquiry whether or not the United States would be satisfied if it possessed rights for existing and future cables on Yap, the American Secretary demanded equal privileges in all matters.⁷⁰

Shidehara then suggested that the island be internationalized (a proposal which the Americans had made at Paris), and it was agreed that the Japanese Ambassador would prepare a memorandum expressing his government's desires and demands.⁷¹ Shidehara presented his proposal on June 18, 1921:

It is agreed that the United States shall have free access to the Island of Yap on the footing of entire

⁶⁹Ibid.

⁷⁰Ibid., p. 289.

⁷¹Ibid., p. 290.

equality with Japan or any other nation, in all that relates to the landing and operation of the existing Yap-Guam cable or of any cable which may hereafter be laid by the United States.

(1) The Yap-Shanghai cable to be assigned to and owned by Japan; the value of said cable to be credited to Germany in the reparation account conformably with the provisions in Part VIII, Section I, Annex VII of the Treaty of Versailles.⁷²

The remaining provisions of the tentative draft proposed that the United States would own the Yap-Guam cable. The Yap-Menado line would be retained by the Netherlands. Each nation would operate both ends of its cables. Japan would lay a cable from Naha to Shanghai which would be joined with the Yap-Naha section. And the United States and the Netherlands could operate its cables without taxation or control by the local authorities on Yap.⁷³

After the Japanese Government had accepted a few insignificant amendments to the draft by Secretary Colby, they proposed that a convention be drawn upon this basis. The United States would not have to recognize the right of the Japanese to mandates for Yap or any island in the North Pacific.⁷⁴ The Japanese would have to agree to apply all existing treaties

⁷²The Japanese Embassy to the Department of State, June 18, 1921. FRUS, 1921, II, 291.

⁷³Ibid., pp. 291-292.

⁷⁴The Japanese Embassy to the Department of State, September 8, 1921, FRUS, 1921, II, 296.

to the mandated islands north of the Equator. As a final provision, the Japanese would have to supply a duplicate record of the annual report made to the League of Nations.⁷⁵

On December 12, 1921, the State Department issued a press release stating that the United States and Japan had reached an agreement with respect to the island of Yap and the other mandated islands in the Pacific Ocean, north of the equator. The agreement did not vary extensively from Shidehara's tentative draft on June 18, 1921--there was only one noticeable change. The United States consented to the administration by Japan of all the mandated islands.⁷⁶

It is difficult to ascertain precisely why the Japanese so willingly consented to all of the demands of the United States in the negotiations. The Japanese had nothing to gain materially; only the United States could profit by the transaction. Perhaps, Japan was only attempting to placate the Americans. The agreement could not go into effect unless it received the approval of the other "Big Five" Powers. They would only grant the necessary approval if the United States made a reciprocal concession--the permanent retention by Britain, and France of the German cables. The five Principal

⁷⁵The Japanese Ambassador (Shidehara) to the Secretary of State, December 12, 1921. FRUS, 1921, II, 306-307.

⁷⁶U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1922, 2 vols. (Washington, 1938), I, 31-32.

Allied and Associated Powers had agreed at Paris that any alteration of the German cables would have to be accompanied by an unanimous agreement. Italy did not have any of the cables; she would not consent to any allocation unless her Allies decided to share their spoils.

The United States was not a member of the League of Nations. The Japanese may have been waiting for an allotment by this body. But other possible reasons could have existed for the apparent Japanese generosity. The Washington Naval Conference was already in its early stages. The Japanese needed a more powerful navy in order to aid in the expansion of her nation and the United States could prove to be a formidable companion against the British objections at the Naval Conference. The Japanese also had plans for the Far East. Their most formidable opponent in this area was the United States. But whatever the causes, the question of the island of Yap and the problem of the German submarine cables had not yet been settled. All of the Japanese-American negotiations had occurred while the United States was urging her former Associates to settle the problem of communications. The negotiations would continue.

CHAPTER VIII

THE FINAL POST-WAR NEGOTIATIONS

The delegates to the Preliminary Communications Conference in Washington had agreed unanimously to the resolution which was made public on December 12, 1920. The Ambassadors of the various nations would continue the negotiations at Washington had agreed unanimously to the resolution which was made public on December 12, 1920. The Ambassadors of the various nations would continue the negotiations at Washington. If the various nations had not agreed to a final alteration of the cables by February 15, 1921, the five Principal Allied and Associated Powers would once more send their representatives to Washington. But the resolution of December 12, 1920, was not binding until it had been ratified by all of the five Powers; if they failed to ratify it, the German cables would retain the same status they had had when the Paris Peace Conference had adjourned. The resolution would have to be accepted before there was any change in the ownership of the German submarine cables. The right of the Ambassadors to continue the negotiations and the agreement to convene again in February, 1921, would have to be ratified by all of the five Powers.

The Italian Government refused to ratify the resolution of December 12, 1920, because the question of the division and disposal of the cables had not been settled. The Italians saw no need in reconvening the Preliminary Conference; her Allies had not given her any cables at the first Preliminary Conference in 1920. There was no reason to believe that her Allies would be more generous in 1921.¹ When the British, French and Japanese had refused to grant permission to the United States and Italy to divert the cable from Brest to Genoa, the Italians and the Americans sought permission from the British to lay a new cable between the two countries through the Azores. The British refused to grant this permission because the United States would not permit the British to land a cable at Miami, Florida. So the Italians refused to ratify the resolution of December 12, 1920.² The British also refused to ratify the proposal; they gave no reason.³ The Japanese and French Governments made no reply to the United States. The subject bristles with difficulties and certainly is not likely to be taken up until after Great

¹The Chargé in Italy (Gunther) to the Secretary of State, June 6, 1921. U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1922, 2 vols. (Washington, 1938), I, 542.

²The American Ambassador in Britain (Harvey) to the British Acting Secretary of State for Foreign Affairs (Balfour), July 24, 1922. FRUS, 1922, II, 370-372.

³The British Secretary of State for Foreign Affairs (Curzon) to the Ambassador in Great Britain (Harvey), May 16, 1921. FRUS, 1922, I, 542.

Britain, France, Japan, and America have reached an agreement regarding the former German cables," wrote one commentator in December of the following year.⁴ Great Britain, France, Italy and Japan could not agree to return to Washington in 1921 and continue the negotiations which had ended on December 12, 1920.

Although the Netherlands had not been a member of the five Principal Allies and Associated Governments, the Dutch also had been interested in the post-war negotiations. The Dutch argued that the lines of the German-Netherlands Telegraph Company could not be classified and claimed with the other German cables because the company was jointly owned. A clause in the original agreement had stated that none of the two countries could transfer the rights of the company to a third party without the consent of other nation. "The conclusion must come to that, since the company can not do this, neither can the German Government acting alone do so."⁵ The Dutch did not see why they had to pay a part of the German reparation bill. They had even filed a protest to the German Government for agreeing to Article 244, Annex VII of the Peace Treaty. But, the Dutch admitted, the Germans could do

⁴Walter S. Rogers, "International Electrical Communications," Foreign Affairs, I (December 15, 1922), p. 153.

⁵Netherland Legation to the Department of State, April 28, 1920. U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1920, 3 vols. (Washington, 1935), I, 118-119.

nothing against signing the Treaty. Therefore, special arrangements would have to be made for this one cable. The Yap-Shanghai, Yap-Guam and Yap-Menado cables had all been a part of the system of the German-Netherlands Company. The Dutch themselves had owned sixty-three per cent of the Yap-Shanghai cable.⁶

Although the Allied nations had been able to justify to themselves the taking of German property as a means of compensation for damages inflicted during the war, the task of allocating to the Dutch as reparation a piece of property they already owned was not an easy task. When the United States and Japan had made the agreement concerning the Island of Yap in December, 1921, it had been decided that the Yap-Menado cable should be allotted to the Netherlands "as final and complete compensation for all claims of the Dutch Government and of Dutch subjects as regards their interests in the German Dutch Telegraph Company."⁷ No immediate action for the final settlement was taken.

An informal and unofficial meeting was held in Washington on March 3, 1922, with representatives of the United States, Great Britain, France, Italy, Japan and the Netherlands.

⁶Memorandum by the Assistant Chief of the Division of Far Eastern Affairs, Department of State (Lockhart), August 9, 1920. PRUSS, 1920, I, 127.

⁷The German Ambassador (Maltzan) to the Secretary of State, November 13, 1925. U. S. Department of State, Papers Relating to the Foreign Relations of the United States, 1926, 2 vols. (Washington, 1941), II, 772.

Secretary of State Hughes announced that negotiations had taken place between the United States and Japan regarding mandate rights and cables in the Pacific. A tentative agreement had been reached concerning the cables radiating from Yap.⁸ This was the agreement which had originated from the negotiations between Under-Secretary of State Normah H. Davis and the Japanese Ambassador Shidehara in 1921.

Although the State Department had made public the tentative agreement on December 21, 1921, the representatives at the meeting on March 3, 1922, acted as if they had just been notified. Balfour immediately expressed congratulations for the arrangements. The French delegate stated that the agreement was satisfactory to him; but it would be subject to the approval of his government.⁹ The Netherlands also gave their approval on the same day that Secretary Hughes announced that the negotiations had been in progress.¹⁰ The Italian representative stated that he had to refer the agreement to his government for approval. Italy was to receive, according to the provisions of the Peace Treaty, a fifth of the ex-German cables. At the time of the announcement, she had none. Italy "could not consent to a partial allocation

⁸Memorandum by Under Secretary of State (Phillips), March 25, 1922. FRUS, 1922, II, 762-764.

⁹Ibid., 762-765.

of the cables in the Pacific without a corresponding consideration in the Atlantic."¹¹ And the subsequent negotiations would not satisfy the desires of Italy.

On March 6, 1922, Henry P. Fletcher, Under-Secretary of State for the United States and Chairman of Subcommittee I of the Preliminary Communications Conference held in Washington in 1920, submitted a tentative plan for the allocation of the ex-German cables.¹² The plan was based upon the principle of "approximately equal values" which had been suggested by the British Ambassador. The Atlantic cables would be equally divided among the United States, Great Britain, France and Italy. The total value of the cables had been ascertained, and each country was to receive a one-fourth share of the total value in cables or in money.¹³ Although the Fletcher Plan did not include the Pacific cables, the Japanese would not be satisfied with the proposal. By the agreement of December 21, 1921, the United States was to obtain a share of the German cables in the Pacific. The Fletcher Plan had not excluded the United States from a share of the Atlantic cables. The Japanese believed that they were entitled to a share; they found needed support in the French Government.

¹⁰Ibid.

¹¹Ibid.

¹²"Electrical communications in the Pacific formed an item on the agenda of the Washington Conference on the Limitation of Armament. For various reasons the subject was not taken up." Rogers, "International Electrical Communications," pp. 150-151.

¹³Green Haywood Hackworth, Digest of International Law, 8 vols. (Washington, 1944), IV, 273.

The French Government did not agree with the value attached to the cables by Fletcher. The French were of the opinion that the agreement reached by Japan and the United States regarding the Yap-Shanghai and Yap-Menado cables should have been included on Fletcher's list. The Netherlands should not have any right to any of the ex-German cables because the Netherlands were not a part of the five Principal Allied and associated Powers. The French still believed that the ex-German cable, Brest to New York, should have been retained by France because the United States had control of thirteen cables crossing the Atlantic. So the French Government announced that it would have to have the Brest-New York cable before any other arrangement could be made.¹⁴ The United States became interested in this cable after it had become apparent that the Allies would not return the cables to Germany. The United States had hoped to use this German line as a basis for a new cable to the European Continent. At the Preliminary Conference, in 1920, it had even been suggested that the Brest-Azores-New York line be made into a Genoa-Azores-New York cable.

Even though the Yap-Menado cable had been tentatively assigned to the Netherlands on March 25, 1922, no formal agreement had been reached by November 13, 1925. On this day,

¹⁴The French Chargé (De Laboulaye) to the Secretary of State, September 10, 1923. FRUS, 1926, II, 765-770.

the German Ambassador to the United States sent a memorandum to the Secretary of State requesting action on the 1922 proposal. The German Government desired that the cable be transferred to the Dutch Government as soon as possible.¹⁵

Germany had cause for urging that the Yap-Menado cable be granted to the Netherlands. Negotiations had been in progress between the Dutch and the Germans for a renewal of the agreement which had initiated the company. No definite action could be taken until the cable had been permanently allocated. So Germany renounced all claims to this cable in order to facilitate the transfer of the cable to the Dutch.¹⁶ The Germans would also benefit by the transfer of the cable to the Netherlands because the two countries were in the process of renewing the original contract. If the cable were to pass into the hands of some other country, the Germans stood to lose everything. The Germans also had claimed that immediate action was needed because the company was in financial danger.¹⁷

Secretary of State Olds requested permission from the German Ambassador to forward a copy of proposal to those governments who would have to decide the outcome of the Yap-Menado cable. The German Government gave the necessary

¹⁵German Ambassador (Maltzan) to the Secretary of State, November 13, 1925. FRUS, 1926, II, 771-773.

¹⁶Ibid.

¹⁷Ibid.

¹⁸The Secretary of State to the German Ambassador (Maltzan), December 2, 1925. FRUS, 1926, II, 773-774.

permission.¹⁸ The French Government was the first to reply; they had already informed the State Department, the French Ambassador relayed, that France no longer had any reservations about the Yap-Menado cable being allocated to the Netherlands because Germany had renounced the value of that cable. "This point having been settled, the French Government wishes to say that it would decline to take part in any further conference regarding the allotment of former German cables unless it was understood that France will keep the Brest-Azores-New York cable."¹⁹

The British stated that they had no desire to raise objection to the transfer of the cable. However, the British once more provided themselves with an escape from a definite commitment. They had no objection--provided that the French, Italian, Japanese and United States gave their consent.²⁰ And for once, the Japanese were not the last party to reply to a specific proposal. Both the Italians and the Japanese forwarded their positions on January 8, 1926.

¹⁹The French Ambassador (Daeschner) to the Secretary of State, December 28, 1925. FRUS, 1926, II, 775. The negotiations attempting to reconvene the First Committee of the Preliminary Conference which had first met in Washington in October, 1920, had continued. Secretary Kellogg wanted this committee to continue discussion of the final allocation of the ex-German cables, and suggested that the next meeting be held on November 2, 1925. Secretary of State to the French Ambassador (Daeschner), September 15, 1925. FRUS, 1926, II, 770.

²⁰The British Chargé (Chilton) to the Secretary of State, December 29, 1925. FRUS, 1926, 775-776.

The Japanese Government had no objection to the granting of the Yap-Menado cable to the Netherlands as had been tentatively decided in Washington in 1921. At that meeting, it had been stated that the cables would be allocated by lines to the five Powers. Japan informed the United States that she had at that time requested the three cables centering on Yap Island. Japan then waived her claim to the three in the subsequent agreement with the United States and was satisfied with the one Yap-Shanghai line. However, after the agreement with the United States, the Fletcher Plan had been proposed, providing that the cables should be divided equally among Italy, United States, England and France. The Fletcher Plan had not justified the claims of Japan.²¹

The Japanese argued that the Treaty of Versailles had promised that the cables would be equally divided among the five allied and Associated Powers. The Japanese wanted a share (1926), but could make no proposal to the First Committee of the Preliminary Conference because no conference or meeting had been held since (March 6, 1922) when Fletcher had made his proposal. If any further meeting were held, the Japanese would bring forth a claim for a share. During the interval before the First Committee could meet, the Japanese would be satisfied with the one Yap-Shanghai cable. Japan desired the final settlement of the Yap-Menado line; the Netherlands could have this cable.²²

²¹The Japanese Ambassador (Matsudaira) to the Secretary of State, January 8, 1926. FRUS, 1926, II, 775-776.

The Italian Government replied that it had always desired a settlement of the cable question and it had agreed to the Fletcher Plan of 1922. When the Italians had accepted Fletcher's proposal, they had also agreed to the assignment of the Yap-Menado cable to the Netherlands.²³ Although France, Great Britain, Italy and Japan all agreed that the Yap-Menado cable could be assigned to the Netherlands, the United States was forced to inform the Netherlands Minister that the negotiations had ended in failure.²⁴ The Yap-Menado cable was a part of the agreement concerning the Island of Yap between the United States and Japan. The United States was willing to grant the Yap-Menado cable to the Netherlands, but the Americans wanted a ratification of the entire Yap agreement. The powers concerned did not consent to the Yap assignment; they only agreed to the part which concerned the Yap-Menado cable. Such an approval would not have granted rights on the Island of Yap to the Americans.

The Dutch waited a year for further developments, and then they decided that they no longer desired the possession of the cable. The Reparations Commission had decided that the Yap-

²³The Italian Ambassador (Martino) to the Secretary of State, February 13, 1926. FRUS, II, 778.

²⁴Memorandum by the Assistant Secretary of State (Harrison) of a Conversation with the Netherlands Minister (De Graeff), March 18, 1926. FRUS, II, 778-779.

Menado cable was worth 2,388,671 gold marks, and the Dutch demanded this amount, plus 5 per cent interest beginning from the first of February, 1922.²⁵ The five Powers concerned were not so willing. The British Ambassador informed the Secretary of State that the British Government refused to grant any concession to the Dutch in the form of money for the Yap-Menado cable. They once more asserted that they had given their support to the proposal made in Washington in 1922 to grant the cable to the Netherlands.²⁶

The French Government stated to the State Department that it was impossible to support the Dutch claims. The French insisted that they had given permission for the cable to be given to the Dutch.²⁷ The Italian Ambassador likewise informed the United States that the Italian point of view concerning the Yap-Menado cable had been contained in his note dated February 13, 1926: The Italian Government adhered to the main provisions of the Fletcher Plan and was not against the granting of the Yap-Menado cable to the Netherlands.²⁸ The Fletcher Plan was the last hope of the Italians in their desire to obtain some of the ex-German cables.

²⁵The Secretary of State to the British Ambassador (Howard), November 2, 1927. U.S., Department of State, Papers Relating to the Foreign Relations of the United States, 1927, 3 vols. (Washington, 1942), III, 283.

²⁶The British Ambassador (Howard) to the Secretary of State, May 2, 1927. FRUS, 1927, III, 280.

²⁷The Secretary of State to the British Ambassador (Howard), November 2, 1927. FRUS, 1927, III, 283.

²⁸Ibid., p. 284.

The Secretary of State, Kellogg, continued the negotiations with the Japanese Government in order to obtain a more definite statement concerning the position regarding the Yap-Menado cable. He wrote to the British Ambassador that after favorable replies had been received from the French and Japanese Governments, "the necessary steps will be taken to bring about the formal transfer of the Yap-Menado cable and also to convene a meeting to discuss the question of the allocation of all former German cables."²⁹

After the Fletcher Plan, which had eliminated the Japanese from a share of the Atlantic cables, had been announced, Japan wavered in her commitment to give the Yap-Menado cable to the Netherlands. After repeated attempts by Secretary Kellogg, the Japanese Ambassador informed the Department of State on November 11, 1927, that his Government would consent to a temporary operation of the Yap-Menado cable by the Dutch.³⁰ Once the problem with the Dutch had been settled, the United States could have turned its attention to the ex-German cables in the Atlantic. They would attempt to bring the five Powers together in Washington to discuss the ultimate fate of the cables. But no meetings were ever held. "In view of the failure of some of the

²⁹The Secretary of State to the British Ambassador (Howard), November 2, 1927. FRUS, 1927, III, 283.

³⁰Ibid.

Governments concerned to reach an agreement on points of difference, neither the proposal for the allocation of the Yap-Menado cable to the Netherlands nor any other proposal was ever adopted."³¹ Great Britain, France, Italy and Japan were not interested in holding any communications conference if their demands for certain parts of the German cables were not fulfilled.

The United States had destroyed any hope for a reconvening of the Communications Conference when it had entered into bi-lateral negotiations with Japan for the control of Yap. Even though the United States had been surprisingly successful, any agreement between Japan and the United States would have to be ratified by Great Britain, France and Japan. Great Britain was satisfied with the German cables in her possession. France wanted a clear title to the Brest-Azores-New York line and the cables from Pernambuco to Monrovia. Japan had shared her spoils with the United States; but she did not see the justification of her elimination from the Fletcher Plan. Italy had no German cables; she would not ratify any agreement which did not include the interests of Italy. A Communications Conference was useless because none of the five Powers was willing to compromise its interests.

After almost ten years of unavailing debate and negotiations, the five Principal Allied and Associated Governments

³¹A note in FRUS, 1927, III, 284.

again met in Washington on November 17, 1927. A partial agreement ratified by the necessary parties was made. France was assigned the Brest-Azores-New York cable which she had insisted upon before the reconvening of the Communications Conference of 1920. The other cable, Pernambuco-Monrovia, which also had caused a dispute between the United States and France and which the United States insisted would not be given to France, was "not repaired and reopened by France."³²

The cables which had radiated from the Island of Yap were not assigned. After all of the controversy and debate, the United States did not use the Yap-Guam cable. The Yap-Shanghai line which had been diverted by Japan was not utilized. The Netherlands had lost claim to the Yap-Menado cable when its Government had demanded monetary compensation.³³ The British were satisfied with the German cables they already had. Italy did not obtain any of the German cables, but she had a new cable to the United States by way of the Azores.

The final text of the Paris Peace Treaty had listed fourteen cables. Of this number, Great Britain retained the Emden-Vigo, Emden-Azores, Azores-New York, Monrovia-Lome and Lome-Duala cables. These were the cables Great Britain had obtained during the war. France retained the Emden-Brest

³²U. S., Department of State, Papers Relating to the Foreign Relations of the United States, 1919. . . Paris Peace Conference, 13 vols. (Washington, 1942-47), XIII, 521-522.

³³Ibid.

Emden-Teneriffe and Teneriffe-Monrovia cables. She had received a clear title to the Azores-New York cable in 1927. Roumania had obtained the Constantinopole-Constanza cable at the Paris Peace Conference. The Pernambuco-Monrovia cable was not given to the French. Although the Japanese were not assigned any cables, none of the five Powers had made explicit demands in 1927 that the cables radiating from Yap could not continue to be used by the Japanese. The actual status of the cables had not changed since the meeting of the Council of Four on May 3, 1919. The United States had not obtained any of the cables; the cables were not placed under international control.

The partial success of the final negotiations hinged around the Brest-Azores-New York cable. If the United States had granted a clear title to France for that cable in 1920, the French probably would have consented to return to Germany the Pernambuco-Monrovia cable and ratified the agreement relating to Yap between the United States and Japan. If the French were satisfied, so were the British. Italy's demands for a share of the cables at the Peace Conference had been ignored; her demands in the post-war years were partially fulfilled by means of the new cable to the United States. Great Britain and France could have ratified the United States-Japanese agreement relating to Yap, and Japan could not have used effectively her objections to the Fletcher Plan. If the United States had been willing to compromise at the

Preliminary Communications Conference in 1920, a more successful Conference might have been the result. The United States refused; they had done their share of the compromising at the Paris Peace Conference.

CHAPTER IX

CONCLUSION

Although the delegates of the United States at the beginning of the Paris Peace Conference of 1919 gave the impression that their position and arguments against the Allied retention of the German cables were based on principles and international law, national interests dominated the American debates. The submarine cables were a part of a competitive ownership and control which had its foundation in the successful laying of a cable across the Atlantic in 1866. The United States had handicapped itself in the acquisition of cable facilities.

When the Americans finally realized that the long submarine cables were necessary for their security and business interests, they were far surpassed by their principal rival-- Great Britain. The islands needed as relay stations for the long oceanic cables were no longer available, and the materials necessary for the construction of the cables were controlled by Great Britain. Many foreign nations had granted exclusive landing licenses to countries other than the United States. Although the United States had become the second ranking owner in the total mileage of cables by 1914, she did not own any lines which crossed the Atlantic to England and the European Continent, although the British controlled cables were leased to American corporations.

When the Allies cut and seized the German cables immediately after the World War erupted, the United States did not know that Great Britain, France and Japan had no intention of returning the strategic cables to Germany after the hostilities had ended. The retention of the submarine cables by the Allies would have further handicapped the United States and added to the monopoly of Great Britain. And when the United States had entered the war in 1917, no German cables were available which could be seized or diverted. Wilson may have had a plan for the German cables prior to the end of the hostilities. The Executive Order which placed the communications systems of the United States under the control of the government may have been a part of his plan for the internationalization of all the world's communications.

The future of the German submarine cables became an issue at the Paris Peace Conference. The German submarine cables, although insignificant when compared to the total bill of reparations, became only one of the many items extorted from Germany by the Allies as compensation for damages inflicted during the World War. Great Britain and France also wanted to eliminate some of their competition from the world's markets. Although the British, French and Japanese insisted that the cables would not be returned to Germany, the delegates of the United States argued that the seizure had been illegal. Therefore, the Americans claimed that the cables

would have to be returned to Germany. The United States had rightfully maintained that the cutting of such cables as the Pernambuco-Monrovia cable had been a violation of neutrality. The American representatives argued that the submarine cables were not comparable to other enemy property captured at sea. The application of legal principles did not move the Allies; Great Britain, France and Japan were aware that the United States had a vital interest in the German cables.

When the Americans realized that arguments based on supposed legal arguments and principles could not move the Allies, Lansing and Wilson proposed that the nations of the world would be served more equitably if the cables were placed under international control. The United States would also benefit by an adoption of the proposal. At the same time, the American representatives made known their true position and interests regarding the German cables--the Island of Yap should be placed under international control. This apparently insignificant piece of land in the Northern Pacific was vital for a successful communication between the United States and the Far East.

The other Powers agreed that the cables could be placed under international control if the subject were not considered until German had ratified the Peace Treaty. When Wilson compromised and agreed that the status of the cables would not be altered during this intermediate period, he destroyed all hope of a successful conference which would consider the

international control of the world's communications. The German cables were only one of the many problems which had confronted Wilson at the Peace Conference. He may have given his final consent to the clauses relating to the cables because he became aware that his plan for international control was hopeless.

The German submarine cables were the only material commodity in which the United States expressed an interest at the Paris Peace Conference. The German cables also caused a reversal of the British and American policy of international control. Unlike any other items, the British did not want the cables placed under an international control. Both nations wanted one of the German cables crossing the Atlantic. A government-owned cable could have forced the private companies to reduce their rates. Neither of the two countries wanted a German cable added to the system of the other. The plan for international control of the cables had failed at the Paris Peace Conference.

Nevertheless, the United States did not wait when the Peace Conference ended and immediately began the negotiations for the convening of the Communications Conference which would decide the final status of the German cables. The United States did not have any of the cables in her possession; the cables were still retained by France, Great Britain and Japan. These three nations were aware that if a Conference were not held, the German cables would remain in their possession. After protracted negotiations, the Allies sent

delegates to Washington; any agreement made by the representatives would have to be ratified by their respective Governments.

The United States had learned from her mistakes at the Peace Conference. Although the Americans were sincerely interested in a successful Conference which would benefit all nations, including the United States, the American officials entered into bi-lateral negotiations with Japan in order to protect and strengthen the interests of the United States. Insisting that the status of the Pernambuco-Monrovia cable and the Brest-Azores-New York line would have to be decided by the Communications Conference, the United States demanded their their interests in the Island of Yap be recognized by Japan. Surprisingly, the Americans were successful; but their very success destroyed all hope of a successful conference.

Nevertheless, the United States continued the negotiations for a final settlement of the status of the German cables after the Preliminary Conference of 1920 had ended in failure. The other Powers insisted that they could not attend any conference until they were given a clear title to the German cables in their possession. It had been agreed at the Paris Peace Conference that any alteration in the status of the German cables would need an unanimous consent of the five Powers. No plan for the allocation of the cables was proposed which would have satisfied all the Powers concerned. In 1927, the United States brought representatives of the five Principal Allied and Associated Powers to Washington; the

the Governments finally agreed to a partial allocation of the German cables. The ten years of negotiations had not altered the status of the German cables which had been seized during the World War. The United States had used various arguments and procedures in order to obtain a share of the German cables; all of the efforts of the American negotiators beginning with the Paris Peace Conference and ending with the allocation in 1927 had failed to obtain a share of the cables for the United States.

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