

**AFRICAN QUESTIONS AT THE  
PARIS PEACE CONFERENCE**

*WITH PAPERS ON EGYPT, MESOPOTAMIA,  
AND THE COLONIAL SETTLEMENT*



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**AFRICAN QUESTIONS**  
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*WITH PAPERS ON EGYPT, MESOPOTAMIA,  
AND THE COLONIAL SETTLEMENT*

**BY**

**GEORGE LOUIS BEER**

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TO NEGOTIATE PEACE, AND ALTERNATE MEMBER OF  
THE COMMISSION ON MANDATES**

**EDITED WITH INTRODUCTION, ANNEXES,  
AND ADDITIONAL NOTES**

**BY**

**LOUIS HERBERT GRAY**

**SECRETARY TO THE COLONIAL DIVISION**

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## EDITOR'S PREFACE

THE studies prepared for the American Commission of Inquiry by Mr. George Louis Beer, Colonial Expert to The Inquiry and subsequently Chief of the Colonial Section of the American Commission to Negotiate Peace, possess an importance which is not measured merely by the conditions which evoked them. They are a permanent contribution towards an understanding of the Colonial Problem, not only in Africa, but throughout the world, not simply for some one Power, but for all Powers. They are based on a minute, impartial, and scientific investigation of every factor involved; each point of view is given due consideration; and from the data thus gathered, certain conclusions are drawn for action henceforth advisable in guidance of those portions of the world which are as yet incapable of wisely directing their own destinies. If the essays are perfect by the canons of technical scholarship, they are also perfect in their applicability to practical statesmanship.

It was my privilege to be closely associated with Mr. Beer both in New York and in Paris; and it was, perhaps, for this reason that, shortly after his death, Mrs. Beer and Mr. James Shotwell suggested that I prepare for press the monographs which he had written for The Inquiry. The copy was almost ready for printing as Mr. Beer had left it, but it seemed advisable to do what he himself would doubtless have done, and to bring the entire volume, which had been finished

early in 1918, up to the present time. The material which I have thus added is enclosed in brackets that it may clearly be distinguished from Mr. Beer's own work; and I have availed myself of this opportunity to indicate how closely the settlements actually made at Paris coincided with the recommendations which he had formulated before the Conference assembled. I am also responsible for the entire body of Annexes and for the Commercial Chart, which my friend, Mr. Craighill, kindly prepared for me while we were both attached to the United States Embassy at Paris.

I have not felt myself justified in excising any passage in the manuscript which Mr. Beer had not marked for deletion; and the reader may, consequently, observe a number of repetitions. In studies written at different times on kindred problems, occasional traversing of the same ground is almost inevitable; but each passage so repeated appeared to have its own justification, and reiteration seemed preferable to cross-reference.

In an Introduction to this volume, I have sought to give some account of Mr. Beer's work in Paris, taking care not to duplicate what will more fittingly be set forth in a Memorial Volume soon to appear.

My task has not been wholly easy. It is no small matter even to attempt to complete worthily the work of a true scholar and a dear friend when his counsel and his guidance may no more be sought. My debt to him and my affection for him were very great; the one I can never adequately repay, and the other I can never sufficiently express. But I have been helped by others who also knew

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and admired him, and though I may not yet record their names, they will be well aware of my gratitude to them.

May the volume aid in furthering the welfare of mankind whom George Louis Beer loved so well; and may it help to show that we who could only stand and wait through the dread years of war at least tried to serve!

LOUIS H. GRAY.

University of Nebraska, June 25, 1923.

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## **INTRODUCTION**

## EDITOR'S INTRODUCTION

THE magnitude of the World War, and the principles and reasons underlying the conflict, made it obvious, almost from the beginning, that the termination of hostilities must be followed by political and economic changes of corresponding degree. Preparation for peace was as essential as preparation for war. Each belligerent Power realized this fact; and in the autumn of 1917, when it became evident that the Allies would win victory in the field, President Wilson requested Colonel House to create an American Commission of Inquiry to gather data—geographical, ethnological, political, legal, commercial, economic—regarding every problem that could possibly be discussed at the Peace Conference, and to study and report on each of these questions in all its bearings.

Among these matters, the Colonial Problem was recognized as one of the most important. It was only too clear that Germany's procedure in her colonies had been open to grave criticism, and that on moral grounds, as well as for political reasons, her retention of them could scarcely be justified. The question of their future was, therefore, urgent. Under such conditions, it was peculiarly fitting that George Louis Beer should be chosen as Colonial Expert on the Commission, of which he was one of the first members, both in time and in eminence.

For this work Mr. Beer possessed intellectual and tech-

nical abilities of very marked degree. He had studied minutely the history of the British colonial system, on which he had already written five volumes recognized as authoritative: "The Commercial Policy of England Toward the American Colonies" (1893); "Cromwell's Policy in Its Economic Aspects" (1902); "Origins of the British Colonial System, 1578-1660" (1908); and "The Old Colonial System, 1660-1754," Part I (2 volumes, 1912). His method throughout had been that which marks the true scholar in every line: unprejudiced, patient, and minute examination of every source of information; synthesis of the results of this examination into an ordered whole; deduction of principles and conclusions from that whole; and harmonization of the judgments thus reached with the complex of the *omne scibile*. All this Mr. Beer regarded, not as a counsel of perfection, but as a mere matter of course. Others might, for example, consider the Colonial Problem merely from the point of view of the individual Colony or individual Power possessing it; or from the relation of that Colony and Power to other Colonies and Powers; or in their historical and economic connections; or as pawns and knights on the diplomatic chess-board. He was wiser. To all these factors he assigned true value; but he also remembered that the Colonial Problem was only a part of the settlement which must be made, realizing that if the past lays the foundations of the present, the present, in conjunction with the past, conditions the future; and that the settlement, to be of real worth, must prepare the way for a practicable future better than past or present.

It was precisely here that Mr. Beer escaped a peril which often overwhelms one who is only a scholar, and against which he had consciously guarded himself. For ten years he had engaged in a business career, though for four years of this period he had also been a lecturer on European history at his *alma mater*, Columbia University. He thus received a practical training in addition to his scholastic education, so that he knew not only books, but men and conditions, not merely as they should be, but as they are.

These two aspects of Mr. Beer's character have been admirably summarized in a brief memoir in *The Round Table*:<sup>1</sup>

"A devouring reader of dry official documents, he possessed the extraordinary faculty of never forgetting the smallest details once read. His academic training had given him in a high degree the love of truth and scrupulous conscientiousness of a scholar. On the other hand, his ten years' business training enabled him to avoid the faults of a mere scholar when dealing with practical questions. He combined to an extraordinary degree the virtues of scholarship with those of a man of affairs."

From 1903 onwards, in the prosecution of his colonial studies, for which he was to receive, in 1913, the Loubat Prize from Columbia for the best works in English, during the preceding five years, on any subject of history, geography, or archæology relating to America, Mr. Beer spent much time in London, especially at the Record Office. Here he became acquainted with diplomatic procedure and with the group who were later to establish *The Round Table*, of which he was American correspondent, thus com-

<sup>1</sup> No. 40 (September, 1920), p. 934.

pleting the training which subsequently was to prove of such great value.

With this triple preparation in scholarship, practical life, and diplomacy, Mr. Beer entered in October, 1917, upon the work of The Inquiry, as the corps of experts, called together by Colonel House, was commonly termed. It was in connection with this committee that he prepared the studies which are collected in the present volume. These essays are of more than usual interest from several points of view. They are representative of the best type of the reports which the American Commission to Negotiate Peace had for their technical guidance; and they possess a further historical value when Mr. Beer's conclusions and recommendations are compared with the settlements actually made. In every matter of principle, and in almost every detail, it will be observed that, in so far as the colonial settlement was concerned, what he thought best to be done, was done. Nor is this all. They also show—and this is of more than mere historic worth—how scholarship may serve Government, not only in the exact collection of data, but also in the reasoned and impartial presentation of recommendations for a course to be pursued.

The three essays on the African Colonies present a purely inductive study which leads up to one of the most thoughtful suggestions for a major element in the League of Nations—the germ of the concept of international control which was later to be embodied in the Mandate Article of the Covenant of the League; and in this connection a special historical importance attaches to the brief study on Mesopotamia (dated January 1, 1918), in that it con-

tains<sup>2</sup> the earliest use, so far as known either to Mr. Beer or to the writer, of the term "mandate" in which it is now technically employed. On this latter point, his colleague and close personal friend, Mr. James Shotwell, very pertinently remarks:<sup>3</sup>

"Yet it occurs in a most casual way in a sentence which bears no mark of special emphasis. For Mr. Beer had already matured the conception in his own mind, and developed it in discussion so that he did not stress the formula which expressed it. Subsequently he realized the importance of the formula, but it was typical of his scholarly approach to the problem that he himself was more interested in the content of the settlement than in the invention of a slogan for popular understanding even when he was the almost unconscious inventor. It was equally typical of his modesty that his associates on the Inquiry were for the most part ignorant of this and similar contributions."

An attentive reading of Mr. Beer's essays will reveal the principles which guided him in all his colonial studies. The first of these was that the colony must be administered primarily for the benefit of its native population; and that the material interests of the metropolitan Power must be given very minor consideration. The second was that the colonies which had been held by Germany must be placed under some system of international control. The former principle had long since received at least partial recognition, for the Signatories to the Berlin Act had declared themselves, in their Preamble, "concerned with the means of increasing the moral and material welfare of the

<sup>2</sup>P. 424.

<sup>3</sup>In his essay on the work of George Louis Beer at the Paris Peace Conference in the forthcoming Beer Memorial Volume.

native populations," and by Article 6 had undertaken "to watch over the preservation of the native populations and over the improvement of their moral and material conditions of existence"; while the various subsequent restrictions on slavery, arms, and liquor had been inspired by the same high motives. Nevertheless, Mr. Beer realized that this was only a beginning, and that, though the slave-trade was dead, the traffic in arms and liquor required more stringent measures. Further, there were the perils of forced labor, of expropriation of native land, and of unwarranted interference with native life and custom. Against these evils he sought to provide, and—whether independently or not—the Mandates follow in all essentials the lines which he had foreseen to be best.

The problem of international control was somewhat more difficult. The system of the *condominium* has proved open to grave objection, as is sufficiently shown by its record in all past history, notably in the case of the New Hebrides; the only successful surviving instance is Andorra. Direct internationalization is equally perilous. Its most effective application is undoubtedly that of the Commission of the Danube; but the Peace Conference admitted this régime only in the case of certain European rivers and the Dardanelles.<sup>4</sup> In some other instances internationalization was suggested, but failed of adoption. The best solution was plainly that which Mr. Beer advocated—a dual control whereby the direct administration should be exercised by the Powers immediately concerned in each particular territory, but with some system of international

<sup>4</sup>Treaty of Versailles, Articles 331-345; Treaty of Sèvres, Articles 33-61.



supervision by which the welfare of the native populations might be more effectively guarded and protection ensured against any possible abuse.<sup>5</sup> But with this dual control, Mr. Beer, strongly opposed to any course which might tend to make the League of Nations a "Super-State," whether in reality or in appearance, clearly saw, and in private conversation repeatedly stressed, the necessity of safeguarding the sovereignty of each Mandatory Power, as of every State, Member of the League. This requirement he had in mind throughout the Peace Conference; he expressed his convictions on the subject more than once during the sessions of the Commissions to which he was attached; and the Conventions which he helped draw up bear evidence of his firm, yet tactful, insistence on this vital point.

This brings us to a consideration of the somewhat brief study on the "Colonial Questions" (Part VI, pp. 429-458, of the present volume). Here two points are of immediate interest. In the first place, the memorandum is an excellent specimen of documents of its class, based on exhaustive preliminary research, but with its subject-matter condensed to the utmost practicable degree to serve as a basis for actual negotiation. In the second place, its recommendations may be compared, point by point, with the settlements *actually* made; and thus one may perceive how expert advice had a very real influence on the decisions

<sup>5</sup> For some account of discussions of the problem by the Council of Ten see R. S. Baker, "Woodrow Wilson and World Settlement," I, pp. 254-275, Garden City, N. Y., 1922; cf. also Ciioriceanu, "Les Mandats Internationaux," pp. 68-73; Antonelli, "L'Afrique et la Paix de Versailles," pp. 164-166, 176-178.

of the Plenipotentiaries. The charge has sometimes been made by opponents of the Conference that experts received insufficient consideration, but the writer feels himself to be in a position to state that the criticism lacks foundation.

Furthermore, the memorandum shows that Mr. Beer had by this time definitely adopted the mandate system, and that his recommendation was the one actually followed. So far as the territorial distribution was concerned, no prophetic gift had been needed. Any intelligent observer could foresee that the Powers and Dominions which had wrested the alien German and Turkish possessions from their former rulers would be extremely reluctant to part entirely with the lands for which they had been forced to pour forth blood and treasure. The arrangements made, during the war, for division of enemy territories, as in the Anglo-French Accords of August 30, 1914 and March 4, 1916, regarding Togo and the Cameroons, or in the Anglo-Japanese Treaty of 1916 regarding the Pacific islands north of the Equator, were eminently reasonable in the pre-mandate period. The new element, however, which radically changed the status of these regions, was the Mandate. Of the intrinsic rightness of this combination Mr. Beer was firmly convinced, and his influence is traceable in the final decision.

Precisely here one may perceive a cardinal characteristic of Mr. Beer's mind and method. If it be possible to define this aspect of him in a word, he may be described as a "practical idealist." With his academic training corrected and supplemented by contact with actualities, and

with realism held in its proper place by the refinement and breadth which deep study of the humanities brings, he could see at once the ideal and the real and, appreciating the viewpoints of others, bring them into harmony with his own. Perhaps, to take a concrete instance, he may have wished that Egypt might be a wholly sovereign State. Yet he clearly saw, as a reading of his "Egypt" (Part IV of this volume) will show, that this is as yet impossible in the best interests of the Egyptians themselves and for the protection of the foreign investor, if for no other reason; and he therefore advocated recognition of the British Protectorate.

But if Mr. Beer thus placed the welfare of the native populations of ex-German and ex-Turkish territories in the forefront, he did not forget the interests of the Powers, even of those who held no African possessions; he was a firm advocate, so far as local conditions would permit, of the policy of the "open door" and of equality of opportunity for the nationals of "all States, Members of the League of Nations." Another principle, brought out in his study on international control in Middle Africa, and introduced into the Arms Convention (Preamble, Paragraph 6) and into the Revision Convention (Article 15), was his strong belief in the necessity of conferences, restricted to definite subjects, at stated intervals for amendment, if necessary in the light of experience gained, of decisions and stipulations previously made.

With these views Mr. Beer was among those who accompanied President Wilson to the Peace Conference at Paris. There he was Chief of the Colonial Section of the American

Delegation, and sat, accordingly, on the Commissions for Morocco (March 31-April 5, 1919) and the German Colonies (April 24-25, 1919), the Convention for the Control of the Trade in Arms and Ammunition (July 8-25, 1919), the Convention relating to the Liquor Traffic in Africa (July 26-28, 1919), and the Convention revising the General Act of Berlin, February 26, 1885, and the General Act and Declaration of Brussels, July 2, 1890 (July 30-August 2, 1919), besides being an alternate to Colonel House on the Mandates Commission and aiding in the preparation of the Allied and Associated Reply to the German Observations on the Peace Conditions (Political Clauses relating to Countries outside Europe).

On the basis of the official *Procès-Verbaux* of the Commissions, in which all Mr. Beer's colleagues—British, French, Italian, Japanese, Belgian, and Portuguese—were, like him, animated with the single desire of furthering in every possible way the progress of backward peoples, it is now permissible to set forth in some detail his part in this work.

The first draft of the Morocco Clauses (Articles 141-146 of the Versailles Treaty) was prepared by French experts, and on March 28, 1919, the Supreme Council determined to create a Commission to examine these proposals, this work being performed in three sessions. In Article 141, the words, "Germany renounces all rights and privileges," are due to Mr. Beer; and, except for substitution of "The Sherifian Government" for "France," the first paragraph of the present Article 143 is the formula which was proposed by Mr. Beer to replace Article 5 of the French draft:

**"In Morocco the German Government renounces maintenance of a Legation, possession of any public or private establishment of general utility, such as post, telegraph and telephone offices, schools and hospitals, and exercise of protection there under any form whatever."**

The Commission on African Colonies, created by the Supreme Council on April 23, 1919, and holding two sessions, had before it a French and a British draft. In Article 126 (Article 10 of the French draft), already accepted in essentials by the Council of Ministers for Foreign Affairs, the words, "or some of them," were inserted as a result of Mr. Beer's criticism that otherwise Germany was bound to accept only stipulations unanimously adopted by the Allied and Associated Powers. The French draft had originally contained the following Article 6:

**"Within three months from the coming into force of the present Treaty the German Government will repatriate at its own expense those of its European nationals who are still actually resident in the German Colonies or who have sought refuge in the Spanish Colonies in the Gulf of Guinea. From the coming into force of the present Treaty natives of the German Colonies who are now refugees in the said Spanish Colonies will be free to return to their original country without being subjected to any restriction or hindrance in this respect by the German authorities."**

This was, however, withdrawn in consequence of objections of Mr. Beer, supported by his British colleagues, Mr. Payne and Sir Herbert Read, because of the danger of infringement of Spanish rights of sovereignty. In Article 121, the words, "whatever be the form of Government adopted for them," were substituted by Mr. Beer for the passage in the British draft which had originally read:

"The provisions of Section ,<sup>6</sup> Chapter I (Commercial relations) and Chapter IV (Property, rights and interests) shall apply in the case of a territory ceded by Germany to the Allied and Associated Powers, and the Government of which is entrusted by the latter to a mandatory, in the same way as in the case of a territory of an Allied or Associated Power."

In Article 120, Mr. Beer altered the original "mandatory" to "Government exercising authority," and he interchanged Articles 3 and 2 to their present sequence (Articles 120, 121). In Article 123, the opening words, "The provisions of Article 260 of Part IX (Financial Clauses) of the present Treaty shall apply," are due to his observation that this stipulation must be made to harmonize with the results reached by the other commissions; and in consequence he carried omission of the second paragraph of the original draft:

"The indemnities to be paid to German nationals in this connection shall be charged to the German Government after they have been fixed by local tribunals; the total sums thus disbursed by the State shall be deducted from the amount which Germany must pay in reparation of damage caused by the war."

In Article 124, Mr. Beer inserted the words, "and approved by the Reparation Commission"; and the present form of Article 125, except for editorial changes, was framed by him to replace Article 7 of the French draft:

"The Conventions governing the attribution of the territories formerly placed within the German zones of the African Continent being superseded by the stipulations of

\*The *Procès-Verbal* has a blank space for the section-number, which was unknown.

the present Treaty, the German Government recognises that claims which might have been presented on the basis of clauses of those instruments are henceforth void. Deposits, credits, advances, etc., which would have been effected by virtue of these instruments in favour of the German Government are transferred to the Mandatory Powers.

"These Powers shall, further, have the right to fix the amount of the indemnities claimed by their nationals in consequence of the application of the Conventions aforesaid. The sum total of these indemnities shall be charged to the German Government."

On June 25, 1919, the Council of Ministers for Foreign Affairs determined to create a Commission to examine three draft Conventions, drawn up by the British and French representatives, to replace the General Acts of Berlin and Brussels and to deal respectively with control of the trade in arms and ammunition, the liquor traffic in Africa, and such other matters in those Acts as were of continued importance, but found no place in the other two Conventions. For all three, Anglo-French drafts had previously been prepared, and the Commission sat fourteen times between July 8 and September 8, 1919. Mr. Beer was represented at the first and second sessions by Captain Hornbeck, and at the final session by Mr. Woolsey. Seven sittings (July 8-25) were devoted to the Arms Convention, two (July 26-28) to the Liquor Convention, and four (July 30-August 2) to the Revision Convention, the fourteenth session (September 8), held after Mr. Beer had returned to the United States, being given to the few details which were still to be settled before the signature, which took place two days later.

The Commission first considered the "Convention for the Control of the Trade in Arms and Ammunition" (Annex E). For this, Mr. Beer had prepared a careful memorandum covering the entire first draft. This contains the germ of the third paragraph of Article 1 in the words:

"In the case of small-bore firearms and ammunition adapted for utilisation both for war and also for other purposes, the High Contracting Parties reserve to themselves the right to determine for what use each cargo is intended and to decide whether it falls within the scope of the stipulations of this Article";

but, despite the arguments of Captain Hornbeck, M. de Peretti de la Rocca considered it unnecessary and possibly provocative of confusion. It was, accordingly, reserved. In this memorandum, Mr. Beer also expressed the opinion that the original list of arms and ammunition whose export was prohibited by the first paragraph of Article 1—"machine-guns, bombs, grenades, small-bore firearms of every kind, whether complete or in parts, as well as ammunition for use with such arms"—was too restricted, and that "artillery and cannon of all kinds" should fall within the same category. It was, however, only at the fifth session (July 18) that an amendment to this effect, prepared by the Italian military experts, was presented by Count Marazzi; and the text was not finally adopted until the last revision by the Commission on July 25.

In Article 4, "State" was replaced by "country" on the basis of this memorandum, and the last paragraph of Article 5 was drawn unchanged (except for its original



reading, "Each High Contracting Party agrees") from the same source. In like manner, the words, "or territory under mandate," were twice added in Article 7. In Article 10, where the final text reads, "Within the prohibited areas specified in Article 6, a State which is compelled to utilise," the original draft ran, "A State without access to the sea which, to reach it, is compelled to utilise." For this, Mr. Beer proposed, "A State within the prohibited area but without access to the sea which, to reach it, is compelled to utilise," the final phrasing being adopted, after further discussion, at the session of July 17.

When the third session of the Commission was held, on July 16, Mr. Beer was present. Strongly advocating the necessity of regular, periodical revisions "in the light of the experience gained," he now succeeded, after some debate, in incorporating a clause which he had already proposed in his memorandum and which is, in all essentials, the present sixth paragraph of the Preamble, its only noteworthy modifications being the extension of the revisional period from five to seven years, and its place in the Preamble instead of in Articles 1 and 25. In Article 6, the present form of the first paragraph is Mr. Beer's substitution for the original phrasing, "Importation and conveyance of the arms and ammunition specified in Articles 1 and 2 shall be prohibited in the following areas," which, after a long discussion, M. de Peretti de la Rocca had suggested should read, subject to the approval of the British and United States Delegates:

"The High Contracting Parties undertake, each as far as its own territory is concerned, to prohibit the importa-

tion and transportation of the arms and ammunition specified in Articles 1 and 2 into the following areas."

In the last paragraph of this Article, the concluding sentence reproduces essentially Mr. Beer's amendment of the original draft, which read, "In this case, the highest possible import duty shall be levied on the arms and ammunition imported." In connection with this same Article, Mr. Beer proposed, at the fourth session (July 17), an additional paragraph which he had already presented in germ in his memorandum, and which he now couched as follows:

"In granting special licences in territories under mandate and in territories in which commercial equality is guaranteed by international agreements, the local authorities shall make no distinction whatever between subjects and citizens of States, Members of the League of Nations, or between arms and ammunition manufactured or imported by a State, Member of the League of Nations."

The discussion which ensued was of unusual interest as revealing a notable aspect of Mr. Beer's breadth of view. He expressly declared his realization that this paragraph was not absolutely necessary if the Mandate Clauses regarding commercial equality were applicable to the arms traffic (as he knew they would be). Nevertheless, his proposed text would obviate all possibility of misunderstanding, and might exercise on public opinion a happy impression of no negligible degree. His colleagues were, however, unable to see the force of his argument, and he accordingly withdrew his proposal. At the following session, he presented a revised formula, concluded in these terms:

"In issuing these special licences, the local authorities shall make no distinction whatever between subjects and citizens of States, Members of the League of Nations, or between arms and ammunition manufactured or imported by nationals of any one of these States."

In this, he was supported by the Belgian and Italian Delegates, but M. Merlin (France) objected that it involved a question of national sovereignty, while Colonel Norton de Mattos (Portugal) repeated his opinion, which he had advanced the day previous, that the matter belonged more properly to the Mandate problem; finally, the British Delegates were without instructions. The addition was, therefore, reserved; and at the seventh session (July 25) the Portuguese Delegation definitely rejected it. Since it had already been opposed strenuously by the French Delegates, it was withdrawn.

At the sixth session (July 22), Mr. Beer proposed to add to the present Article 11 the words, "Subject to any contrary provisions in special agreements already existing, or in future agreements"; and the entire Article was revised into the form in which it now appears, except for the addition of, "provided that in all cases such agreements comply with the provisions of the present Convention."

As regards the "Convention relating to the Liquor Traffic in Africa" (Annex F), the words, "and of beverages mixed with these spirits," were added to Article 2 by Mr. Beer, though he failed to secure a similar addition after "Articles 2 and 3" in Article 4; and the first paragraph of Article 7 (corresponding to the first paragraph of Article 5 of the Arms Convention) was due to his suggestion, supported by M. de Peretti de la Rocca.

The Commission next devoted attention to the "Convention revising the General Act of Berlin, February 26, 1885, and the General Act and Declaration of Brussels, July 2, 1890" (Annex G). Here Mr. Beer, who later added to the title its reference to the Declaration, criticized the original phrasing of the second paragraph of the Preamble:

"Whereas by the Brussels Declaration of July 2, 1890, it was found necessary to modify the commercial system established for twenty years by Article 4 of the said Act, and this system is now barred by limitation (*périmé*), and since that date no agreement has been entered into, contrary to the provisions of the said Article."

This, he held, was in contradiction both of history and of the principles of international law, for the system in question applied only to free imports, while it was inexact to say that it was now barred by limitation. After some further discussion, the paragraph was recast in its present form, while, at his suggestion, "sovereignties" was replaced, in the third paragraph, by "authorities" to provide for regions placed under mandate.

In the first Article, as well as in Articles 2, 3, and 11, Mr. Beer introduced the words, "and those of States, Members of the League of Nations, which may become parties to the present Convention." By Article 126 of the Versailles Treaty,

"Germany undertakes to accept and observe the agreements made or to be made by the Allied and Associated Powers or some of them with any other Power with regard to the trade in arms and spirits, and to the matters dealt with in the General Act of Berlin of February 26,

1885, and the General Act of Brussels of July 2, 1890; and the conventions completing or modifying the same."

Without the proposed addition, Germany might immediately enjoy all the advantages of the new General Act; with it, this could be only after she had become a member of the League of Nations. In view of this argument, the amendment was accepted; while, likewise at Mr. Beer's suggestion, it was decided to omit, as involving two diplomatic instruments applying to different areas, the second paragraph of the original draft:

"This provision will remain in force until June 13, 1929, the date when the Anglo-French Convention and Declaration of June 14, 1898, and March 21, 1899,<sup>7</sup> expire. Nevertheless, the High Contracting Parties reserve the right to introduce into the present Convention, by common agreement, such modifications as may appear to them to be necessary to bring it into harmony with stipulations of a general nature which may have been adopted elsewhere regarding commerce between the mother countries and their colonies."

In its original form, the concluding sentence of the third Article—"Each Power will, however, remain free to dispose of its private domain according to the laws in force in this respect in its possessions"—was the subject of much debate. At the tenth session (July 30), Mr. Beer considered it ill-placed, and he was supported in his criticism by Mr. Strachey (Great Britain) and M. Anzilotti (Italy). On the following day, MM. Duchêne (France) and Louwers (Belgium) presented a new draft: "Each Power will, however, retain the right to dispose freely of the

<sup>7</sup>For these documents see "Trattati . . . relativi all'Africa," pp. 594-599, 613-614.

property which it possesses and which permit of private appropriation"; and finally the amendment was transformed, except for minor editorial changes, into the present Article 4.

The present Article 5 (originally Article 4), taken up at the eleventh session (July 31), gave rise to long discussion, like those immediately following it. The Anglo-French draft ran:

"Subject to the provisions of the present chapter, the navigation of the Congo and Niger, as well as of all their branches and outlets, shall remain entirely free for merchant vessels and for the transport of goods and passengers.

"Craft of every kind belonging to the nationals of the High Contracting Parties shall be treated in all respects on a footing of perfect equality, as well for direct navigation from the open sea to interior ports, and *vice versa*, as for great and small coastwise navigation, and for navigation on the said rivers. No exclusive privilege of navigation shall be conceded to societies, corporations or associations of any kind or to private persons, each of the High Contracting Parties retaining the right of reserving for itself such monopoly as may seem to it expedient regarding navigation and transport by land, water or railway."

To this, the Belgian Delegation felt unable to agree, and they proposed, instead, to replace the first paragraph by:

"The navigation of the Niger, of its branches and outlets, as well as of all the rivers, and of their branches and outlets, within the territories specified in Article 1, shall, in the portions of their course serving more than one riparian State, be subject to the following provisions."

Retaining the second paragraph and modifying Article 7 (originally Article 6) to harmonize with Article 5, they also desired to add a new Article, which should read as follows:

"Subject to the provisions of the present chapter, navigation shall be entirely free for merchant vessels and for the transport of goods and passengers."

The question at stake was more grave than is perhaps apparent at first sight. By the original draft, based on Articles 13 and 26 of the Berlin Act, it was possible, Baron de Gaiffier and M. Louwers pointed out, for foreign Powers to construct and charter vessels flying their flag within territorial waters without navigable communication with their own dominions. This had notably been done by the Germans on reaches of the Congo cut off by cataracts from a direct course to the sea. Baron de Gaiffier maintained, moreover, that the conditions making a river international and open to free navigation should be twofold: (1) it must provide natural access to the sea; and (2) it must serve more than one State; but, in addition, he considered that the special situation of certain riparian States of the Congo and Niger rendered it advisable to extend freedom of navigation to all parts of these rivers which provided means of communication common to several States, even though they did not give immediate access to the sea. The *crux* was, therefore, the words, "in the portions of their course serving more than one riparian State." This would mean, M. Louwers declared, internationalization of the Congo from the ocean to the Ubangi, and of the Ubangi and M'Bomu along the Franco-Belgian frontier. The remainder of the Congo and the other rivers of the Conventional Basin, as well as the Niger, should be governed by the general law, and the Matadi-Léopoldville railway should be international. France, Japan, and Portugal sup-

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ported the Belgian proposal; but the British, Italian, and United States Delegates felt obliged to consult their Governments, Mr. Beer expressing the conviction that the change marked a step backwards rather than forwards in the path of internationalization pursued by all the world, and adding that, in his judgment, Article 3 gave Belgium all requisite rights of control. No agreement could, however, be reached; and the first paragraph of Article 5 was reserved. At the following session (August 1), Mr. Beer stated that he was not authorized to accept the Belgian amendment; but on the next day, after a conference between him and M. Louwers, an agreement was happily reached which proved acceptable to all. Article 5 was now adopted (except for editorial changes) in its present form; Articles 6, 7, and 8 (originally 5, 6, 7) were changed to the reading which they now have; and a new Article (the present ninth) was inserted.

In presenting the formula which was incorporated in the final draft, M. Louwers pointed out that it would permit a Government exercising sole control over a portion of one of the rivers of the Conventional Basin to close that section if it were deemed advisable, as in time of scarcity or in case of excessive exploitation, or if maintenance of public order and security should seem to require it, the only limitation on governmental action being the stipulation that it be applied simultaneously to nationals of all the High Contracting Parties. The Belgian Delegation, he added, did not desire to establish measures restrictive to commercial equality, but sought only to place the Governments in a position to exercise, under the best condi-

tions, the authority for which they were responsible in the interests of their task of civilization.

The accord thus attained gave complete satisfaction to both sides and materially improved the whole Convention. Belgium gained the right for which she contended, and which Mr. Beer would have been the last to contest—sovereign control over her own colonies; and this was explicitly confirmed by the new Article 9, whereas the amendment proposed by M. Louwers had made no such direct affirmation, whatever might have been the implications that could have been derived from it. But, on the other hand, Mr. Beer gained precisely what he deemed necessary—an advance in the principle of internationalization except when and where special circumstance might render it inadvisable. The Belgian draft had been restrictive; the Article in its final form is inclusive, with limitations which might conceivably prove necessary appended as exceptions. Practically, perhaps, the result would have been the same whichever draft prevailed, but the underlying principles were radically divergent; and the principle for which Mr. Beer was here striving was that not merely of his Government, but of his own deep conviction.

Thus ended the only moments of tension during all the sessions of the Commission and the only conflict of principles which arose. It is not too much to say that it was solely Mr. Beer's tact which rendered possible the finding of a formula on which Belgians, French, Japanese, and Portuguese, on the one hand, and Americans, British, and Italians, on the other, could agree.

The opening paragraph of Article 14 (originally Article

11), taken almost verbally from Article 37 of the Berlin Act, was also the subject of considerable debate. In its first draft it ran: "The Powers who shall not have signed the present Convention may adhere to its dispositions by a separate Act"; but Mr. Strachey (Great Britain), at the twelfth session (August 1), called attention to the fact that, unlike the Arms and Liquor Conventions, this Convention could be enforced only by States holding territories in the Conventional Basin, whence there was no reason to expect adhesion of Powers which could undertake no counter-engagements. Mr. Beer then proposed two formulas, the first reading:

"The High Contracting Parties will endeavour to secure the accession of other States, Members of the League of Nations, which have interests involved in the Convention,"

and the second running:

"The High Contracting Parties will use their endeavours to secure the accession to the present Convention of other States, Members of the League of Nations, which were parties to the Act of Berlin or to the Act of Brussels or the Declaration annexed thereto, or which exercise their authority over African territories."

The latter phrasing, he felt, had the disadvantage that certain States, Members of the League of Nations, would not benefit from the Convention, while, on the other hand, it would permit the adhesion of interested States, such as Abyssinia, which were not Members of the League. He also suggested a new clause whereby all Members of the League might adhere, subject to the approval of the League

Council (thus providing, for example, for Czecho-Slovakia); and M. de Peretti de la Rocca accordingly proposed to add the words:

"All other States, Members of the League of Nations, may be admitted to the privileges of this Convention at their request and with the approval of the Council of the League of Nations."

Certain Delegates felt, however, that it was unnecessary to invite the adhesion of uninterested Powers and that some States might profit without giving benefits in return; while M. Louwers expressed the opinion that the first formula respected the actual conditions, leaving each State with African territories free to reach understandings with other Powers. Mr. Beer, therefore, withdrew his second proposal, and the first was adopted. At the next session, the discussion was resumed, the result being an amalgamation of Mr. Beer's second formula with the original draft, and the Article thus assumed its final form. States which do not adhere remain bound, in virtue of Article 13, by the Berlin and Brussels Acts; while new States, Members of the League but not signatory to those Acts (as Czecho-Slovakia), may enjoy the advantages of the Convention in consequence of treaties between them and Powers signatory to the Convention.

The question of a Revision Clause, which the original draft did not contain, was the last which evoked noteworthy debate. The matter was brought up by M. de Peretti de la Rocca at the twelfth session, when he and Mr. Beer proposed to insert the ninth Article of the Liquor Convention, which had doubtless been influenced by

Articles 14 (last paragraph) and 36 of the Berlin Act, as well as by Article 97 of the Brussels Act. The phrase, "by common agreement," would imply that failure to secure unanimity would prevent any change in the Convention; but M. Louwers observed that here, unlike the case of the other two Conventions, political and economic interests were involved, adding that, if the Powers could not reach an agreement, it would be evident that the Convention was gravely unsatisfactory to some one of them. Mr. Beer proposed to require revision after a period of ten years "in the light of the experience gained, if the Council of the League of Nations, acting if need be by a majority, so recommends" (the phrase used in the Preamble to the Arms Convention). To this, the Belgian and French Delegates objected as giving control of Africa to the Council rather than to the Powers holding territory there; and M. de Peretti de la Rocca suggested the following text, which was acceptable to the Belgian Delegation:

"The present Convention will remain in force for a period of ten years from the exchange of ratifications. The High Contracting Parties reserve the right of introducing into the present Convention by common agreement after that period such modifications as may prove to be necessary."

Failure to reach agreement would make the situation identical with that under the Berlin and Brussels Acts: each Power would remain free to declare that it no longer considered itself bound by the Convention. Mr. Beer urged the importance of stipulating that the Convention should remain in force if accord could not be attained, and M. de Peretti de la Rocca therefore proposed to add the words:

"If agreement cannot be reached, the present Convention shall remain in force provisionally unless each State exercising rights of sovereignty in the Conventional Basin of the Congo is opposed to it."

To this the Belgian Delegation felt unable to agree; but Baron de Gaiffier was willing to accept a formula requiring reassembly for revision of the Convention and proposed the phrasing which now appears as Article 15, except for drafting changes and the addition of the words, "from the coming into force of the present Convention."

The influence which Mr. Beer exercised on the settlement of problems concerning the ex-German and ex-Turkish territories was far wider than the written records show. At Paris he quickly gained a position of distinction among his colleagues, both American, European, and Colonial; his rare personal charm won him firm friends; and his opinion was gladly sought on many questions other than those in which he was immediately concerned.

Thus he devoted much time and thought to the Liberian problem. The unfortunate economic and political position of this country was well known; and in virtue of arrangements of 1911 and 1912, France, Germany, and Great Britain had shared with the United States in the administration of Liberia's finances. By the Treaty of Versailles (Article 138), Germany renounced every right and privilege arising from these arrangements, "and particularly the right to nominate a German Receiver of Customs in Liberia," besides surrendering all claim "to participate in any measures whatsoever which may be adopted for the rehabilitation of Liberia."

Nor was it with Africa and Mesopotamia alone that he was concerned. Through his sympathy with Italy and his understanding of her needs and well-founded claims,<sup>8</sup> he had framed a solution of the Fiume problem which would have done justice to the wishes both of Italy and of Yugo-Slavia, and which would have avoided one of the most unhappy incidents of the entire Peace Conference; while if the Chinese Delegation had listened to his counsel to await a more favorable opportunity for stating their wishes regarding Shantung, a settlement less disturbing to many might have been made.

Very jealous of his country's honor and seeking her highest interests, he hoped, almost to his last days, that the United States would enter the League of Nations, performing the duties, as well as enjoying the rights, of the World-Power that she is. He very clearly realized that America's time of isolation is past; and that what may have been expedient, even necessary, for the struggling Thirteen Colonies is impossible and uncommendable for the United States. In particular, he felt that America should herself become a Mandatory Power, as of the Cameroons or of Liberia; and in this connection it may be observed that she had already held what was, in all but name, a self-appointed Mandate of the "A" class for Cuba.<sup>9</sup>

In the light of all that has been said, it was especially appropriate that, when the Secretariat of the League of Nations was organized, Mr. Beer should be selected as head

<sup>8</sup> See pp. 391-396, 451-452.

<sup>9</sup> Cf. Articles 1, 16 of the Hispano-American Treaty of December 10, 1898, and the Preamble to the Treaty between the United States and Cuba, May 22, 1903; Malloy, "Treaties," pp. 1691, 1695, 362-363.



of the Mandate Division. It was only from a sense of duty, and against his personal inclinations, that he accepted, for he desired the quiet life of the scholar rather than prestige and high position. Nevertheless, putting his own wishes aside, he commenced to plan for his new duties. He was no lover of mere administrative routine, and bureaucracy was abhorrent to him. Indeed, had his advice been heard, the Covenant of the League might have been even more elastic than it is. But at the same time, with his keen sense of practicality, he sought to provide for every contingency. He realized, for example, that, in addition to the annual report to be submitted to the Council of the League by each Mandatory with reference to the territory entrusted to its charge, actual tours of inspection would probably be advisable, thus anticipating a criticism recently advanced.<sup>10</sup> The present writer, who was to have been his secretary on the Mandate Division, is in a position to state this with authority, for he was directly informed by Mr. Beer that a considerable part of his secretarial duties would consist of such tours.

Shortly after the African Commissions had concluded their sessions, Mr. Beer returned to the United States. For many years he had suffered from ill-health, and the unremitting strain of the Conference had told heavily upon him. To this was now added mental pain, for he was to realize that the real foes of all that he had labored to do for America and the world were not the ex-Enemy Powers, still less the Allied Powers, but his own countrymen, misguided by specious leaders of reaction. There

<sup>10</sup> Cioriceanu, "Les Mandats Internationaux," pp. 91-92.

can be little doubt that his death, on March 15, 1920, at the early age of forty-eight, was hastened by the same sorrow which was, a little later, to bring Mr. Wilson to the verge of the grave.

George Louis Beer closed his eyes fearing lest he had striven in vain. In a sense, he was right, for the earthly lives of perhaps the majority of the truly great of History end in seeming failure. But in reality, he was victorious. The foundations which he helped lay stand firm, built upon Right; and on them the perfect structure shall surely rise. The obscurantists have their little night, denying what they would fain not see. *E pur si muove!*

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