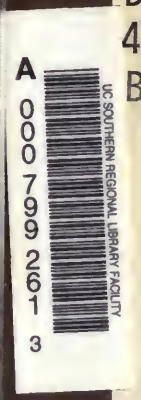

CAPITULATIONS

THE CAPITULATIONS

WHAT THEY ARE, AND WHAT EFFECT THEIR ABOLITION WILL HAVE UPON THE STATUS OF BRITISH SUBJECTS IN TURKEY, UPON THEIR INTERESTS, THEIR LIBERTIES AND UPON BRITISH TRADE GENERALLY.

MEMORANDUM

SUBMITTED ON BEHALF OF THE NON-OFFICIAL BRITISH COMMUNITY IN CONSTANTINOPLE.

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What are the Capitulations?

They are a body of treaties between Turkey and various Western States fixing the conditions under which the nationals of the latter are allowed to live in the Ottoman dominions. The conditions were, in general, regarded by the foreign residents in Turkey as privileges obtained from successive Sultans and afterwards jealously guarded as the only guarantee under which they could live in comfort and security. By the Sultans these privileges were, in the beginning, granted, or agreed to, with a large measure of indifference, as they did not care to be troubled with the internal affairs of the foreign communities resident in their midst.

The word "Capitulation" is misleading. It has nothing to do with the idea of surrender; it simply means a treaty with the conditions entered under minor heads (*Capitula*). The first agreement we had with Sultan Suleiman is not referred to as Capitulations, and not until the treaty of 1675 is the word brought into the text. The Turkish expressions *Hatti Cherif* and *Firman* do not convey the idea of surrender. Capitulations are in the words of Martens "acts the results of an agreement between two contracting parties, and for this reason possess the binding force of international treaties." They were throughout an agreement between two contracting parties, with conditions presumably favorable to both. Foreign communities were wanted chiefly for commercial reasons, and the Turkish Government agreed to allow them to govern themselves.

The treaty of 1871 signed by the Powers and Turkey acknowledges that the Capitulations cannot be revoked without consent of all contracting parties. The wording is:—

> "Recognize that it is an essential principle of international
> "law that no power can absolve itself from the obligations
> "of a treaty, nor modify its stipulations, except in pursuance
> "of the assent of the contracting parties in virtue of an
> "amicable agreement."

The treaty of Berlin of 1878 particularly mentions that the rights of consular juridiction and protection as established by the Capitulations shall remain in force so long as they shall not have been modified with the consent of the parties concerned.

The essential rights which the foreigner enjoys under the Capitulations are inviolability of person and domicile, freedom to trade, exemption from some taxes, and the jurisdiction of his own consular courts. The experience of nearly three centuries and a half has shown that without these rights he cannot live in Turkey. In the 16th. century English merchants came to this country to trade. They established trading stations at Aleppo, Beyrouth, Damascus, and later at Smyrna, Eski-Shehir, Konia, Angora and other places in the interior. By 1914 we had but one business house at Aleppo, only two or three at Beyrouth, none at Damascus, and none in any of the interior. THE BRITISH MERCHANT HAS BEEN ABLE TO SURVIVE ONLY IN THE LARGE SEA PORTS,— PRINCIPALY AT CONSTANTINOPLE AND SMYRNA— UNDER THE DIRECT PROTECTION AND WITHIN REACH OF HIS EMBASSY AND CONSULATE.

The danger to the foreigner lies: (1) in the fact that Turkish law and Turkish customs based on the religious law of the Sheriat are very different from those of Western civilization and cannot be applied to Western peoples, and (2) in the fact proved through all the centuries of Turkish rule that, without the treaty rights enjoyed by him under the direct enforcement and protection of his country's representatives, there can be no security or comfort for him in Turkey. The foreigner must have the protection of the Capitulations to safeguard himself and his family against unjust arrest and imprisonment, against violation of his home, against seizure of his property, and against unjust taxation.

Within our memory we have had in the Capital itself men high in position who used their influence to extort money from their own subjects. Many were taken from their homes and banished without trial. We refer to such men

as Gahni Pasha, Redvan Pasha, Fehim Pasha and others. The later was finally banished at the instigation of the German Ambassador, and after the fall of Abdul Hamid he was killed and chopped to pieces by the Turkish population at Broussa, who had suffered from his tyranny whilst he was there in exile. Without the protection which our Embassies gave us, no one would have been safe from the persecutions of such men. These occurrencies date back but to 1908, barely *fifteen* years ago. The Turkish population themselves had no redress.

In October 1914, soon after the outbreak of the Great War, the Turkish Government took advantage of the preoccupation of the Western Governments to declare the abrogation of the Capitulations. This abrogation was immediately protested against by all the Powers including Turkey's allies, Germany and Austria, and declared to be invalid on the ground that no treaty can be abrogated solely by the decision of one of the signatories.

Turkish rulers to-day are anxious to abolish the Capitulations as humiliating and unfair to their subjects. There is no doubt that we do occupy a favoured position and enjoy the protection of our Governments, but *this has been essential and even to-day is necessary*, for under Moslem law we still continue to be strangers and foreigners. In such matters as personal status, divorce, marriage, succession, etc. . . . . no Turkish law as it stands to-day could give us justice.

The real question is not the humiliating position the Turks are supposed to be in, it is the special privileged position we are in with regard to fiscal matters. We cannot be taxed without the consent of our own authorities, customs duties cannot be increased, foreign post offices hold to the position they have acquired. No opposition is raised to the reasonable desire to change such a condition of affairs providing all are treated alike, and we continue to have the protection of our Consulates and Embassies against extortion and persecution.

The attitude of the Nationalist Government since 1920

does not inspire us with any confidence. They have already seized the Aidin-Smyrna railway, although a British concern working under a concession.

British import and export trade is larger than that of any power. About 10% of the Turkish Foreign Debt of £150,000,000 is British. The TelephoneCompany is almost entirely British capital. Half the Quay and Docks are British. The National Bank of Turkey is entirely British capital. The Mining Concessions held by British firms are larger than those held by any other country. Forty six per cent. of the Shipping which passed through the Bosphorus before the war was British. British Shipping Companies claim to have almost the entire carrying trade of the country. Fire Assurance Companies do not publish figures, but it is generally understood that three quarters of the properties insured at the sea port towns are covered by British Offices. The Banking interests of the greater part of the export trade from the shipping ports of the Turkish Empire pass through London. These and other vested interests are such that they put our commercial interests higher than those of any other foreign State. We shall lose the greater part of this if we cannot hold to those clauses of our treaties which protect us, and which alone have enabled us to build up our trade. The following figures show the importance of the import and export trade with Great Britain:

EXPORTS AND IMPORTS BETWEEN ENGLAND AND TURKEY DURING THE YEARS 1913/1914, 1919, 1920, 1921, TAKEN FROM THE LAST ANNUAL REPORT OF THE OTTOMAN PUBLIC DEBT BY SIR ADAM BLOCK.

The Whole of Turkish Export.		**Constantinople alone.**	
1913/1914	1919	1920	1921
£T 4,761,680	£T 6,839,432 at 375	£T 4,084,390 at 430	£T 2,140,613 at 600
£ 4,385,512	£ 1,557,180	£ 950,000	£ 365,700
Imports.			
£T 7,922,627	£T 26,693,264 at 375	£T 48,685,407 at 430	£T 26,433,419 at 600
£ 7,130,365	£ 7,118,220	£ 11,322,000	£ 3,572,236

During 1919, 1920, and 1921, the Ottoman Public Debt has been cut off by the Nationalist Government from its organisation in Asia Minor, the returns therefore are for Constantinople only.

This question of Capitulations concerns not only those Englishmen who are living in the East, outposts of British trade, but also the workmen and the manufacturers in England. It concerns British Capital and British Shipping. We admit that the Englishman should not enjoy special privileges or exemption in fiscal matters to the financial detriment of the Turk. Certain exemptions may be surrendered provided proper safeguards are supplied against unjust and unequal application of taxation.

We cannot, however, surrender a single point affecting the inviolability of person or domicile. The Turk has not yet given any guarantee, nor shown any indication even, that the foreign resident could count on him for justice. When he treats his own subjects justly, then only should he be permitted to meet out justice to the foreigner. If the Englishman is to be left to the jurisdiction of the Turkish courts he will soon leave Constantinople just as he has left the inland towns. He has a right to expect the protection of his own government, so long as the country of his domicile cannot give him justice, and in his own mind he knows full well that the time has not yet come when he can trust in the latter.

With respect to educational establishments, Great Britain has not so large an interest as America, or indeed France, who will therefore be affected much more seriously than we shall be, if the laws the Nationalist Government have promulgated are put into force. By these laws nearly all foreign schools are likely to be closed, as they are only permitted in localities where there are a sufficient number of subjects of the same State to necessitate the opening of a school for the children of its Nationals. The propagation of English through American schools is, however, a distinct advantage to British trade, and any steps taken by the United States Government

to maintain them should receive full support of the British Government.

The British schools affected in Constantinople are three. The English High School for Boys, The English High School for Girls, and the British School; all three doing excellent work. The closing of these schools would be very harmful to the object in view.

The following information obtained from authoritative sources indicates the attitude of the Nationalist Government and the steps they propose taking to interfere with British trade, indeed with all kinds of foreign trade.

The National Bank of Turkey in Smyrna has been told that no Greeks or Armenians must be employed by them and that 75% of their staff must be Turkish. If all firms are to do the same there will not be a sufficient number of clerks to carry on the work. Few Turks are properly qualified to do the work required of them.

The suppression of the Public Debt and the inclusion of the revenues now collected by this institution, and reserved for the purpose of securing the obligations of the country with respect to certain loans in the general budget of the Government, is contemplated by the Angora Government.

The Angora Government have introduced a customs tariff of a prohibitive character for the area they have occupied during the last few years. The intention is to create industries. In fact, it will, however, act very harmfully on the cotton and woollen piece goods trade of Great Britain. While a certain freedom with respect to such matters as import duties is reasonable, care should be exercised and safeguards provided against any tariff which would destroy a very important market.

Accounts and books are to be kept in Turkish. It is doubtful if to-day 1% of the clerical staff employed by European or American firms is Turkish.

Attention is drawn here to the grave losses suffered by British subjects in Turkey during the war and lately again in Smyrna. The first losses amount to well over £ 15,000,000;

what the recent losses amount to it is impossible to say now. The loss of this capital means loss to British trader. The owners of this capital traded almost exclusively with Great Britain. What remains of the capital of these British communities will follow what they possessed before, if the privileges which protect their properties are weakened in the slightest degree.

Losses suffered by British subjects in Turkey are divided into two categories. Requisitions and damage done during the war are payable under the Treaty of Versailles by Germany. Pre-war debts arising out of contracts with the Government as well as all claims not covered by the Treaty of Versailles are recoverable under the defunct Treaty of Sèvres. They now are to be considered by the Conference at Lausanne. The Turks wish to pass all these claims on to Greece. Between the two the British subject gets nothing and continues to suffer from the losses he has sustained which again reacts on British trade and on unemployment in Great Britain.

A further question arises the importance of which should not be lost sight of. *Should the Capitulations be abrogated the children of British parents born in Turkey run the risk of becoming Turkish subjects.*

For centuries Europe has been struggling, very unsuccessfully alas, to protect minorities under Turkish rule and yet there are in Great Britain people who would add their own fellow subjects to these minorities by advocating the abrogation of the Capitulations.

The effect of the Abolition of the Capitulations upon Insurance in Turkey and the application of the law promulgated during the war and subsequent regulations issued by the Grand National Assembly would be:

1. Each Company wishing to continue business would be obliged to make the deposit required by the law.

2. The Law Courts, purely Turkish concerns, without the check and safeguards provided by the Capitulations, would be sole judges of any difference arising under an Insurance Policy between a Turk and a

British Company. The deposit would be seizable under the judgment of such Courts. What would be the verdict in a case between a Turkish Pasha and a British Company in a Court presided over by judges who are described by the French Chamber of Commerce in a document annexed to this memorandum as follows: "The judges not only do not know the law, are without legal experience, but are also scandalously open to bribery and corruption".

3. The keystone of insurance is indemnity for a loss sustained; under the law of 1914, the amount insured becomes payable irrespective of the value of the property destroyed.

4. The Companies no longer would be free agents in the selection of their representatives.

Note: See Annex number 9.

List of Annexes.

ANNEX No. 1.

The Abrogation of the Capitulations.

From the Journal of the British Chamber of Commerce of Turkey and the Balkan States, Inc., September, 1914.

Under the date of September 8th the Sublime Porte notified the Embassies of the Foreign Powers that the "Capitulations" had been abrogated. The Imperial Edict upon which this notification was based reads as follows :

(TRANSLATION.)

"In view of submitting foreigners resident in Turkey to the dispositions of International Law, it has been judged opportune, by decision of the Council of Ministers, to suppress for the future all the financial, economic, judicial and administrative privileges actually existing under the name of Capitulations, as also the accessory tolerances and privileges of these Capitulations and arising out of the same.

"The present Iradé will enter into force from September 18th, 1330 (October 1, 1914 n. s.) (Official Gazette No 1938.)"

With a view to explaining the origin and general effect of the Capitulations we venture to quote from a most valuable Memorandum on the subject drawn up some years ago by Sir Edwin Pears, and which appeared in the "Law Quarterly Review" of October, 1905 : —

"Very inaccurate notions seem to exist in England in regard to the Capitulations with Turkey. The word simply means *treaties* with the conditions given under small headings, but has come to be applied only to the Treaties with the Sublime Port. The Capitulations have been described, even in the House of Commons, in the wildest possible manner. They have been spoken of as due to the enlightened views of successive sultans who have granted them (for some of the earlier ones take the form of imperial grants) with the object of furthering commerce. On the other hand, they have been spoken of as wrung from the sultans by foreign nations. Each view is historically inaccurate. Indeed, the only method of arriving at an understanding of the meaning and effect of the Capitulations is to regard their history. They are really, as I shall endeavour to show, a survival into our own times of legal conceptions of the Later Roman, or as I prefer to call it, the Greek Empire.

"It is unnecessary for my purpose to enter at any length upon the question how foreigners were governed under Roman rule during the first thousand years of our era. It it sufficient to say that under the Greek Empire, and in Syria during the Crusades, foreigners formed colonies within the empire, which were governed by their own laws and administered by their own magistrates. The right to reside in the

territory held by the Saracens or in that of the empire was conceded by the Moslem or imperial ruler by Treaties, usually called Capitulations. Foreigners of the favoured nationality were allowed residence, but always on condition of being subject to the sovereign to whom they had owed allegiance when they came into the East, and under whose jurisdiction they were to remain while resident in such Moslem or Greek territory. The text of many of these Capitulations still exist. Possibly the earliest were those granted to the Russians in 905 and 945. From the latter date we have an unbroken series of Capitulations until the capture of Constantinople by the Turks. Many also had been granted by the Saracens in Syria.

"When the Turks captured Constantinople they found Capitulations in full force, Galata on the opposite shore of the Golden Horn was a walled city occupied by Genoese, who, by virtue of their Capitulations with many emperors, elected their own *podesta* or mayor, were governed by their own laws, and were all subjects of the Duke of Milan. The Sultan, within a few days after the conquest, confirmed their Capitulations, though he would not allow their fortifications to remain. He stipulated that they should govern themselves and remain subject to the Duke of Milan their over-lord."

.....

"In the following year, 1454, the Venetian colony, which had taken an active part in resisting Mahomet during the siege, likewise received Capitulations and were allowed to govern themselves under their own *bailo* or mayor, it being always of course understood that they should continue subjects of the Republic of Venice. We need not trouble ourselves about other Capitulations until we come to those given to France in 1535. A few years afterwards the first Treaty of Capitulations was made with England. This was subsequently renewed and added to in the time of Charles II., in 1675.

"Now the English Treaty obtained by the Ambassador Harebone in the last years of Queen Elizabeth was based upon the French Treaty of 1535, and that again was founded on, and so far as legal principles are concerned was identical with, the Treaties with Genoa and Venice. The English Treaties of Elizabeth and Charles II. have never, so far as the legal status and privileges of British subjects are concerned, been changed from that day to the present."

.....

"The best and most recent work on the Capitulation is 'Le Régime des Capitulations dans l'Empire Ottoman', by G. Pelissié du Rausas (Paris, 1902). The writer points out that the determination of the rights of the foreigner resident in Turkey is not left to the discretion of the Ottoman legislator. 'It is settled by convention (between the Sultan and the Christian sovereign), and this convention which defines the situation

of the foreigner assures to him in presence of the territorial law and authorities a nearly complete independence."

.....

"After sketching the history of the Capitulations, the writer claims that the great French Treaty of 1535 made the rules already existing general and extended to all the provinces of the Ottoman Empire the application of principles which were already in evidence and had long been followed in most of the Mahometan countries which Turkish arms had conquered."

"In answer to the question, What was and is the legal effect of the Capitulations? I may begin by quoting a good summary of the law on the subject approved by His Majesty's Privy Council. Lord Watson says, in the case of Abd-ul-Messih v. Farra, 13 App. Cas. 440:—

The legal condition of foreigners resident in Turkey, who are exempted by Treaty from the jurisdiction of its local courts, is very well described by Féraud-Giraud (Juridiction française, vol. ii, p. 58), one of the authorities referred to by the appellant's counsel. They form, according to the view of that learned writer, an anomalous exterritorial colony of persons of different nationalities, having unity in relation to the Turkish government, but altogether devoid of such unity when examined by itself; the consequence being that its members continue to preserve their nationality, and their civil and political rights, just as if they had never ceased to have their residence and domicile in their own country.'

"The proposition here laid and adopted by Lord Watson that the members of the ex-territorial colony of foreigners preserve their nationality and their civil and political rights just as if they had never ceased to have their residence and domicile in their own country is indisputable."

"With reference to the remark regarding 'this ex-territorial colony of foreigners', it should be noted that as the Capitulations with all countries contain the most favour d nation clause they constitute a body of treaties which exist between the Porte and foreign states and accrue for the benefit of all European states, and the whole body of Capitulations thus form a code for what Féraud-Giraud properly calls the 'exterritorial colony of foreigners in Turkey'."

An Ottoman semi-official organ announces that the Special Commission appointed to study the new régime created by the abrogation of the Capitulations has not found it advisable that the Ottoman Courts should judge the personal actions of foreigners and apply to them the existing Ottoman Laws and it has advised that the Consular Courts should continue to judge and decide such actions until such time as new laws be elaborated establishing a procedure similar to that existing in Europe. The view of the Commission is said to have been approved by

the Council of Ministers. We have no detailed and accurate information as yet as to this judicial side of the question.

It is difficult also at this moment to state what will be the effect of the above measures on the commercial development of Turkey, or on the foreigner engaged in trade or resident in this country. There will in future be no distinction in fiscal matters between the relation of the Porte towards its own subjects and the relations of the Porte towards foreigners, whilst Turkey will obtain complete liberty with regard to the imposition of taxes on foreigners and the taxation of imports, or establishments of monopolies, &c. The result will depend on the manner in which the Government of Turkey in the capital and the provinces make use of their newly acquired independence.

ANNEX No. 2.

Letter to the Near and Middle East Association from the British Chamber of Commerce of Turkey and the Balkan States, (Incorporated)

Constantinople,
September, 16th 1922.

Major General Lord Edward Gleichen, K.C.V.O., C.M.G., D.S.O.,
Near and Middle East Association,
London.

Sir,

The attention of the Council of the Chamber has been called to the formation of an association of prominent Englishmen and Members of Parliament under the name "The Near and Middle East Association."

The objects of the Association appear to be set out in "The Times" of the 27th of July last, and in "The Daily Telegraph" of August the 10th there was published a Memorial address to the Prime Minister signed by a number of gentlemen interested in the affairs of the Near East.

In the course of the discussion of the Turkish problem on the occasion of the inaugural luncheon on the 26th of July last, Major Ralph Glynn M.P. stated that "The association might do worse than call into its counsels those men who had been carrying out their business occupations in Asia Minor and thus try to grapple with the problem from an economic point of view."

The objects of the Association are in the main political, and these, it is suggested, should be supported by the economic argument more fully dealt with by Major Glynn. This Chamber may not express its attitude as regards the political views of your Association, no matter to what extent it may be in sympathy with your aspirations. It is in regard to a certain part of the programme and its effect upon British Trade that the Council wish to deal.

"The rights of the Ottoman people to exercise complete sovereignty within its frontiers" is one of the objects of the Association and in the memorial to the Prime Minister this is described as "the full sovereignty of the Sultan.

This Chamber is a Commercial body, developing and watching over the interests of British Trade in the Near East; as such it wishes to enter the strongest possible protest against the abolition of the Capitulations implied in the suggestion to restore "the right of the Ottoman people to exercise complete sovereignty within its frontiers."

The Council views with dismay the use made by a body of Members of Parliament of their influence to attain what amounts to the abrogation of the Capitulations.

In March last the Council sent to the Foreign Office a strongly worded telegram followed by a memorandum on the subject of "those ancient rights which alone make it possible for British subjects to live and trade in Turkey with any security" in which the views of the Chamber were fully expressed.

The records of the Levant Company reveal the fact that our forefathers fought hard for these rights to trade without restrictions. Some indeed died in prison rather then lose one jot or tittle of those rights the surrender of which their descendents to-day appear to be contemplating with equanimity, although the present conditions are practically what they were three hundred years ago.

The Council believes that the Committee of the Association has not fully considered the effect their policy will have upon British Trade in Turkey. Complete sovereignty means full liberty to discriminate against British goods in favour of, for example, German goods. It also implies that a contract with a Turkish subject is to be subject to the jurisdiction of a purely Turkish Court without the assistance of British Assessors and the watchful eye of the British Consul.

Your Association desires to bring to bear upon the problem the economic aspect of the political action recommended. On the other hand it includes in its platform a plank which Turkish Governments, of whatever complexion, will consider the most important, namely "complete sovereignty". This in the opinion of the Council will have a diametrically opposite effect and prove disastrous to our commerce in Turkey.

The Council in its general attitude towards the Capitulations supports the view that the foreign trader should be liable to the same taxation as Ottoman subjects. It believes if adequate safeguards are provided for equal treatment all should be subject to the same taxes.

The Council is in sympathy with so large a portion of the objects of your association that it would be glad to put at your disposal its services and all the information in the possession of this Chamber.

On the other hand the Council has such pronounced views on the question of the Capitulations, that it would welcome the opportunity of laying before your Association the conclusive evidence it has amassed as to the danger of any serious modification of our Treaty Rights with Turkey.

Yours faithfully,
The Council of the British Chamber of Commerce
of Turkey and the Balkan States (Inc.)

ANNEX No. 3.

Translation of a Memorandum Prepared by the British, Franch, and Italian Chambers of Commerce in Constantinople and sent to their respective High Commissioners.

Owing to the gravity of contemporary events, and as a corollary to the wishes which were submitted separately by the British, French and Italian Chambers of Commerce on the subject of the maintenance of the Capitulations through their respective Governments for consideration at the Paris Conference of March 22nd, 1922, the representatives of the Councils of these above-mentioned Chambers have met in joint session on October 2nd and 4th, 1922.

They are under the impression that radical changes are to be made in the treaties known as the Capitulations which constitute the heritage of our respective communities. Certain of these ancient privileges are so vital to the interests of these communities that the delegates of the above three Chambers make appeal to their respective Governments for safeguards for their nationals residing in Turkey.

The Meeting desires to emphasise the importance of maintaining in full all rights with respect to the administration of justice (1), the inviolability of domicile and of person, as existing under treaty rights, grants, usages, and privileges. If to satisfy the pride of the Turkish nation, the Allied Governments think it advisable to declare that the Capitulations are abolished, it is absolutely necessary to establish under another form these ancient rights, and even, bearing in mind the experience of the war, to strengthen them. It is only due to such rights that foreigners, who are engaged in trade, or who in any other way render services to their respective countries, — can live and trade in this country with security. The attention of our Governments is called to the fact that security of life and property will immediately become endangered should in the smallest degree the Capitulations be weakened in the protection they now afford.

From an economic point of view we recognise the necessity for the Turkish Government to be in a position to balance its budget. Equity demands that all who trade and live in this country should be subject to equal taxation whatever their nationality. If, on the other hand, the Turkish Government is permitted to modify its Customs Duties, without, as in the past, having to obtain the consent of the Great Powers, then guarantees must be obtained that direct taxation — and particularly in

(1) In October 1914 the Turks Abrogated the Capitulations. They then promised to effect judical reform of which they themselves recognised the need. Nevertheless, eight years have since elapsed and nothing has been done.

the matter of the temettu (income tax) — will be applied with justice and equality for all. Friendly advice should be given to the Turkish Government, in its own interests, not to exaggerate its import and export duties, — the Customs tariff established in Anatolia constitutes a disquieting indication in this matter — and, in all cases, the Customs duties must be alike for all, each of our countries benefiting by the "most favoured nation" clause.

The Meeting ventures to express a wish, which its experience of this country justifies, that whatever modifications be introduced as a result of any concessions with respect to the Capitulations, these should not be granted all at once, but progressively, in the inverse order of their importance, each new concession depending upon the equitable application of the previous one.

The Meeting earnestly hopes that its views will receive the kind consideration of the British, French and Italian Governments, and would point out that the very existence of their commerce in Turkey is at stake. It trusts that its petition, born of experience, will receive attention.

Constantinople, October 4th, 1922.

ANNEX No. 4.

Memorandum issued by the French Chamber of Commerce of Constantinople.

Now that the necessity of negotiating with the Turkish Government will arise, it is the duty of our Chamber to enlighten the Ministry to which it is subordinate — and indeed all those in France who are interested in Near Eastern affairs — regarding a situation, which by reason of recent events has acquired peculiar importance.

As a result of numerous mistakes, for a large number of which our Great Allies are to blame, we find ourselves in an unfavourable position.

In 1918 after our great victory the Turks were frightened and subdued. It would have been possible then to organise the country in a practical manner, favourable to the Allies. To-day these same Turks consider themselves the greatest military nation in the world because the Greek Army disbanded in front of them. They are the victims of their immeasurable conceit and wish to dictate their conditions. They profess great friendship for France but we know the value of "Turkish friendships" which have no real existence where Non-Moslems are concerned. In any case it will be easy to test this in the near future.

France and Italy have so openly declared that they were quite decided never to fight the Turks that they have completely lost prestige in the eyes of this warlike nation whose esteem they have forfeited by their cajoleries.

This is what we have to fear:

Firstly, as far as our persons and our property are concerned, the abolition of the Caplitulations.

Taking into consideration the character of the Turks, their methods and the state of their legislature, one can frankly say that it would be impossible for honorable Europeans to live in Turkey in the absence of the essential guarantees afforded by the Capitulations. The result would be that those who stand for our influence and interests and assure our Trade, thereby constituting one of the best features of our colonies, would be forced to leave the country. This would be an irreparable loss for France.

It is therefore indispensable that these guarantees should be maintained. This is the unanimous opinion even of the most ardent pro-Turks. The most imperative necessity is the maintenance of the Consular Courts and the Mixed Tribunals and, as corollary, the sanctity of person and domicile.

In order to satisfy the pride of the Turks the Capitulations could be declared abolished, and the essential guarantees above referred established in a different form. The latter step could be justified by pointing

to the indisputable fact that Turkish legislature is absolutely incomplete and needs to be remodelled. Firstly the Turkish Bench is beyond everything. The judges are not only ignorant of the Law and lacking in judical experience, but are corrupt to a scandalous degree. In 1914 when they abolished the Capitulations the Turks themselves recognized the inferior nature of their organisation and promised reforms which have never been carried out. Consequently the judicial guarantees which we demand must remain as long as no reforms are made. A period of 15 years could be assigned for the carrying out of these improvements. If at the end of 15 years Turkish Justice affords sufficient guarantees, the last trace of the Capitulations may disappear: Frenchmen duly prepared will then be able to leave the country if they consider it necessary.

If the remainder of the Capitulations is abolished Frenchmen, in company with all other foreigners — will be liable for all taxation collected from Ottoman subjects. At first sight this may appear equitable, but those who know the country are fully alive to the dangers of such a measure. It will be necessary to stipulate clearly that such taxes will be alike for foreigners and for Ottoman.

Graver still is the fact that in all probability Turkey will recover her economic liberty. She will be able to modify at will the customs duties — hitherto impossible without the consent of the powers — and as her rulers have puerile visions of creating a powerful industry in a country impoverished and depopulated — the most prosperous province, Konia, numbers according to their own admission 3 to 4 inhabitants per square kilometer—they will raise considerably the customs tariff thereby making it protective. We have, indeed, already published the Tariff in force in Anatolia shewing the restrictions and exaggerations which make the entry of almost all French goods impossible.

That is not all: With the same idea of favouring national industry the Turks intend to levy high export duties on the produce of the country — of which France after England is the largest purchaser — with the idea of keeping it in the country.

There is grave danger of Prohibition being introduced. It is already being severely enforced in Anatolia. A frenchman at Zounguldak has been several months in prison for having taken a few bottles of wine to his brother's house. Upon arrival at Smyrna and Broussa the Nationalists immediately closed the retail trade sources, seized the stocks of wines spirits and threatened a house to house search. It is practically certain that prohibition will be enforced here as well as throughout Turkey, and there will be a great outlet for more than 15 million francs per year lost for France. Furthermore our compatriots, many of whom are engaged in the wine trade, will view with considerable annoyance a cold water regime, the imposition of which is an attack on the liberty of the Individual.

Companies representing vast interests which though French in fact and Capital have of necessity adopted Turkish Style will find their continued existence very difficult. The Board which resides at Paris will have to transfer to Constantinople and contain Ottoman subjects, any development will be closely and relentlessly scrutinised, books and correspondence will have to be conducted in the Turkish language and finally the staff will have to consist entirely of Turks, which will throw numbers of our compatriots out of employment. We have also grave misgivings on the subject of our navigation, our schools, our hospitals etc. The French, English and Italian Post Offices will be abolished which will mean an end to the privacy and safety of our correspondence.

Under these unhappy circumstances some effort must be made to safe some relics of our ancient privileges in the event of it being impossible to retain them all, which would be infinitely preferable.

We have indicated the absolute minimum guarantees required in each case :

As far as the Customs Tariff is concerned, attempt to limit the duties on the main articles : obtain the application of the most favoured nation clause, for though we are to-day the Turks' best friends, this friendship may be transferred to-morrow to the Russians, Germans, and even to their worst enemies of to-day.

As far as prohibition is concerned, attempt to modify its application. Appear to accept it to satisfy the *amour propre* of the Turks, but secure free importation by supplementary conditions. At the worst, give way on the subject of spirits, brandy and liqueurs, but retain liberty for salutary drinks and wines of all sorts : in the event of a wholesale return of stock, insist on a refund of all customs duty paid.

Finally, attempt to safeguard the interests of our navigation, our hospitals, our schools, our firms and the respect of our trade marks.

Never be content with verbal assurances however friendly or effusive : obtain precise guarantees in writing.

And even if all these wishes are realised, the economic future of France in Turkey will be dark with clouds.

Constantinople, 5th October 1922.

NOTE: —

After the publication of this memorandum a copy fell into the hands of the Turkish Nationalist Government, who used their influence with the French High Commission in Constantinople to have it withdrawn. It was repudiated by the French Chamber; subsequently the Chairman after 35 years service sent in his resignation.

ANNEX No. 5.

Memorandum issued by the Nationalist Government in Angora with respect to loans, treaties, conventions, etc., made by the Turkish Government in Constantinople.

The Council of Commissaries of the Government of Angora, through the medium of the Commissary for Foreign Affairs, has issued under date of 8th October, 1922, the following communiqué to the Nationalist Representatives abroad to be brought to the notice of the Powers to which they are accredited.

The national representative at Constantinople has also been instructed to transmit it to the Sublime Porte.

This is the text of the Communiqué.

"All Treaties, Conventions, Concessions, as well as all forms of official engagements entered into, or to be entered into, by the Sublime Porte since the 10th March, 1920 without the knowledge of the Grand National Assembly of Angora will be regarded as null and void.

Furthermore, it is brought to the knowledge of the parties interested that all loans or advances made. or to be made, to the Constantinople Government by certain financial establishments will also be regarded as null and void.

This Communiqué is issued on the basis of a report of the Commissary for Finance."

Signed : Youssouf Kemal.
Commissary for foreign affairs of the Grand National Assembly of Angora.

The above explanatory note is issued for the following reasons.

Some time ago the Angora Government had decided, in accordance with Article 1 of the law passed 7th June, 1922, and sanctioned by the Grand National Assembly, to consider as null and void all engagements of whatever nature contracted by the Constantinople Government. The latter, taking no heed of this decision, contracted loans and advances with various establishments for the purpose of paying the salaries of its servants.

The said Government taking steps to contract fresh loans and advances, the Angora Government has instructed its representatives abroad and at Constantinople to warn all financial establishments against any further dealings with the Sublime Porte.

Furthermore, inasmuch as the Angora Government will assume control immediately after the signature of Peace, the following

additional articles will be added to the terms of article 1 of the above-mentioned law.

1. All loans and advances contracted after 7th June 1922.
2. All concessions as well as those the duration of which has been extended after the said date.
3. All tenancy contracts made by the Constantinople Government which have not elapsed when the Angora Government assumes authority in Constantinople.
4. All contracts or engagements which are not in accordance with the economic and financial clauses of decrees issued by the Nationalist Government.
5. The transfer or lease of any property belonging to the Government or to the Civil List.

The Government of Angora have decided not to recognize any operations or engagements covered by the above paragraphs and entered into by the Government in Constantinople.

It is clear that the decision of the Angora Government puts firms and individuals with whom the Sublime Porte is in relation in an exceedingly difficult position, but the Angora Government cannot recognize any conventions which are in contradiction with the national pact. It, therefore, is obliged to consider them null and void even in the case of engagements entered into by the Sublime Porte with foreign undertakings.

ANNEX No. 6.

Present Judicial Systems.

Civil.

General. At the present moment the Courts open to British subjects in Turkey for the redress of Civil claims are (a) H.B.M. Supreme Court for disputes between British subjects, or where a foreigner (Non-Ottoman) subject claims against a British subject. In other words the defendant has the right to be sued in his own Court by any foreigner other than an Ottoman subject. (b) The various Consular Courts of the Capitulatory Powers corresponding to the British Supreme Court. In these Courts, the most important are the French and Italian, which are staffed by Consuls with a legal qualification. It is to these Courts that a British subject would have to address himself for redress against a Non-Ottoman foreigner. (c) The Provisional Mixed Judicial Commission set up by agreement between the Allied High Commissioners and the Sublime Porte for the trial of all civil questions, other than those involving title to real state, but including cases arising out of the letting of houses. (d) The Ottoman Courts wherein alone a British subject can enforce a claim to real estate.

H.B.M. Supreme Court. This Court, which is now established by the Ottoman Order in Council 1910, has all the powers of the High Court of Justice in England. It is presided over by a qualified English Judge, and parties to proceedings therein have substantially the same rights to trial by Jury as in England, save that the Jury consists of five jurors. It has unlimited jurisdiction. In certain cases there is an appeal to a full Court composed of the Judges of the Court in Egypt and of the Court in the Ottoman Dominions, and what is a still more important and valuable safeguard, there is an appeal direct to the Judicial Committee of the Privy Council. It is submitted that this most valuable privilege should not be taken away from the British Colony in Turkey without the substitution of some equally independent and reliable safeguard in its place.

II. The Consular Courts. The other Capitulatory Powers have their own so called Consular Courts presided over by the Consuls who are in the case of all the important Powers qualified legal men. In the Italian Consular Court there is an Italian judge independent of the Consul. In the case of the important Powers, there is an appeal from the Consular Courts to some tribunal in the Mother country, with the consequent right of appeal to the Highest Tribunal of the Capitulatory Power. Similarly it is not anticipated that these rights will lightly be exchanged for some appeal to a local court which must inevitably be more Turkish in its character than anything else.

III. The Provisional Mixed Judicial Commission. This is a creation of the Armistice, which the Angora Government are stated to have protested against. It sits with three Judges. The President must always be a Turk. The other two Judges are taken from the judges of the H.B.M. Supreme Court, of the Consular Judges of the Italian or French Consular Courts. It it for the trial of cases between either British, French, Italian, Greek, or Belgian nationals on the one side, and Ottoman subjects on the other. So far it is believed that attempts to induce other Powers to assent to its jurisdiction have not been successful. Its jurisdiction extends to civil commercial cases and rent cases only, and so far it has not been concerned with any cases approaching the gravity, importance, or value of those normally dealt with in the Supreme and Consular Courts. There is no appeal whatever from its decisions, other than by way of Requete Civile, which is very limited, except in its power to cause delay, and which Requete does not go to another Tribunal, but to the same Tribunal as that which gave the judgment sought to be attached. (The law (take in later) it applies is Turkish, its Procedure is Turkish based upon the French law, and being presided over by a Turk its whole character remains to a great extent Turkish). To a great extent these courts have filled the place vacant by the absence of what was known as the Tidjaret (commercial) Court, which sat before the war with Turkish judges, European Assessors and the Dragoman of the Embassy whose national was concerned.

IV. The Ottoman Courts. The British subject has only to have recourse to these Courts now for the purpose of obtaining redress were the title to land is concerned. With their endless and expensive delays' Requetes, Appeals etc., due to the incompetence of the Judges, the manœuvres of the Advocates and the out of date procedure and antiquated law, they can only be described as beneath contempt.

Criminal.

Apart from the Military and Naval Courts held under the authority of the respective Commanders-in-chief there is now only the British Supreme Court and its subordinate Courts which have any criminal jurisdiction over British subjects. Since the Armistice the Ottoman Courts have had no criminal jurisdiction over foreigners at all. The Law administered in the British Supreme Court is, so far as the circumstances admit, British law. Further there is the right of appeal to the Judicial Committee of the Privy Council as from any part of the British Empire. Prior to the war offences alleged to have been committed against Ottoman subjects by British subjects were triable by the Ottoman Criminal Courts with again no rules of evidence at all, under a Penal Code which even the Turks admit to be so out of date that they have been redrawing it for the last 14 years, under a form of procedure which readily lends itself to delay after delay, and presided over by Turks with

qualifications granted in Constantinople as a rule or else in France, but certainly not in England.

If the war was fought and won in the interests of universal Justice it is submitted that far from British subjects being completely put under Ottoman jurisdiction by the abolition of the Capitulations they should forever be freed from it and rendered solely liable to be tried before the British Supreme Court. Why should their ancient and vested rights be taken away from them and given to their late enemies, who lost the war? Is it right, is it fair, is it just, is it reasonable that thousands of perfectly loyal British subjects many of whom have been in Turkey for generations and relying upon British protection have large interests in goods and money in the country are to be ruined or, which is the same thing, have their lives and those of their families rendered intolerable if they remain, simply and solely to gratify the wishes of the Turks who attacked Great Britian and her Empire when they were fighting with their backs to the wall? It could perhaps be understood if the British Empire and her allies had been defeated in the war. To give up these rights and surrender the British subjects to a defeated enemy seems incredible. It is well known that as Great Britain alone stood out against the Forces of the Angora Government that the friends of that Government will be put into high places in the Judiciary in Turkey, any possible chance of a fair trial the unfortunate British subject ever had before an Ottoman Tribunal before the war has been completely dissipated now. The only safeguard is to retain the criminal jurisdiction of the British Court and to the take away from the Ottoman Courts any criminal jurisdiction whatever where British subjects are concerned.

ANNEX No. 7.

The First Commercial Court, Constantinople.

One of the important features of the Capitulations in their relation to commercial affairs, was the existence in Constantinople of the First Commercial Court, which before the war dealt with commercial disputes between Ottoman subjects and those of any foreign nation enjoying the privileges of the Capitulations.

This Court heard in final appeal cases of disputed judgments of the Provincial Courts of the Ottoman Empire. Thus in out-of-the-way places, suits would be heard by the ordinary Turkish civil courts, even when foreigners were concerned, but the latter had the right of appeal to the First Commercial Court in Constantinople.

Cases which arose in the Capital itself were heard in the first instance by this Court and there was no appeal to any higher authority, though a full retrial of the suit could be required in the event of the Court having omitted to rule on any point or if there were any defects in procedure. In practice such appeals could be obtained in practically every case.

The Court consisted of three Turkish judges together with whom sat two assessors appointed by the Consulate of the Foreign subject concerned. The bench so composed, heard all pleading, deliberated together and gave judgment either unanimously or by majority of votes. It is to be noted that the majority lay always with the Turkish judges, who could, if they saw proper, out-vote the foreign assessors. In practice, every effort was made to obtain unanimity and cases occurred in which a divergence of view would be found when a Turkish judge would vote with the assessors or that the latter would also differ. The Court was complete by the presence of a Dragoman of the Consulate of the foreign subject concerned, without whom it was not legally constituted.

The duties of the Dragoman consisted in watching the proceedings in order to ensure fair trial, to guide the two assessors on points of law or procedure, to translate any pleadings in Turkish which the assessors had failed to understand, and finally, but most important of all, he had to sign the judgments given, before they could become effective. He could also instruct the assessors not to sign a judgment. In either of these last two cases, which very rarely occurred, the proceedings would be suspended and the dispute would become a diplomatic question to be arranged between the Embassy of the foreign subject and the Ottoman Ministry of Foreign Affairs. In other cases, the Ottoman Authorities had the support

of the Consulate concerned, in allowing execution of judgments against their nationals.

Proceedings could be conducted before the Court in Turkish or French, both as regards verbal pleadings or written arguments. All other languages had to be translated into one or other of these tongues.

Lawyers permitted to plead had to possess Turkish licencies which, however, could be obtained by any barrister or advocate after examination of his foreign certificates and a viva voce test of his knowledge.

No witnesses could be heard by this Court. Only written evidence could be submitted. The sole exception to this rule was the taking of an oath by one of the parties, on the demand of his opponent (not at his own request) on some point of fact. An instance of the procedure in question can be found in the case of a suit for the recovery of a loan. The defendent acknowledges having borrowed the money or it is proved by documents that he had so borrowed, but he maintains that he had repaid the amount though he can produce no written evidence to that effect. The defendent can then require the plaintiff to swear "That he had not been repaid", and judgment would follow accordingly.

It is important to note that the Turkish judges received their salaries out of the fees paid into Court, with the result that they fared better in this respect, than others of their cloth. The judges, for the most part, were men versed in law and of good repute and did not incur the accusation of bribery to the extent that was alleged against other Turkish tribunals.

The procedure of the Court was long and clumsy. Differences would arise as to the law applicable. Generally speaking it was assumed that the French Code was to be used, but attempts to introduce the MEDJELE (a Turkish code based on Sherie rulings) were frequently made.

The Court sat five days per week, but in view of the diversity of nationalities concerned, the turn for each was fixed at once a fortnight, though occasionally, in important cases, extra sittings would be held.

The main cause of delay arose from the abuse, by the lawyers of the rules or indulgence of the Court. The rules provided certain reasonable delays suitable to bona fide cases but the recurrent demand for their application led to grevious delays of a fortnight each.

Even a casual examination of the procedure above described will show that the ultimate protection to the foreigner before the First Commercial Court was the functions and prerogatives of the Consular Dragoman. In cases of obvious injustice, the Dragoman by refusing to sign a judgment stayed execution and by so doing gave an opportunity for diplomacy to intervene with the result that prejudicial precedents were avoided.

Properly to appreciate the value, indeed the absolutely necessity for the protection afforded to trade by the Capitulary Courts, it is necessary to realize that Turkish judges, whatever the honesty of their intentions, lack instruction in what may be called international commercial law. The ignorance and inability to grasp points of maritime law, insurance principles and so forth, shown by a variety of the best judges in Turkey over a number of years as proved by our Consular records, provides sufficient evidence in favour of the imperative necessity for the retention of some control of any Courts dealing with Europeans and their affairs.

ANNEX No. 8

A Proposed Reformation of the Judiciary.

The proposal to institute any form of Mixed Courts cannot possibly commend itself to the British community who believe that the Commercial Court described in Annex 7 properly strengthened would serve as the best substitute to a purely British Court which they can reasonably hope for. Whatever character Mixed Courts may have it certainly will not be British. As pointed out, beyond the British judge, there will be absolutely no one with any knowledge of or sympathy with British Law procedure. The Continental system, or its Turkish equivalent, will be alone known not only to the Turkish judges, but to the French and Italian judges as well, and consequently the British judge must inevitably be always in a minority should he wish to apply to a case any principles of English Law or procedure. At the present moment in the Mixed Judicial Commission either French or Turkish is the language always employed, English is never employed at all.

Similarly its procedure must inevitably be founded on the French Codes which are admitted even by French experts to be out of date and a ready tool in the hands of a dishonest litigant. Professor Tissier, writing on the Centenary of the Code of French civil procedure stated:

"No one dreams of celebrating this one hundredth anniversary and it must in fact be admitted that there is no cause to make it the subject of a manifestation. If it be right to call attention to it it is only for the purpose of expressing astonishment and regret that a work so imperfect, so hastily elaborated and which was born in advanced old age should have been so long able to resist the attacks made upon it."

Another French writer, M. Constant has characterized French judicial forms and procedure as "superannuated, absurd and vexatious." Yet this will certainly be the foundation upon which any Mixed System of Courts, which may be forced upon British subjects, will be based.

It may be argued that the Mixed Courts in Egypt are to be followed in principle. If anything their delays and antiquated methods of procedure are even worse than the Ottoman Courts. Cases commenced in the Mixed Courts seldom come into the list for hearing until about a year after they have been commenced, the defendant can make default in appearing, and then, as of right, carry in his "Opposition" and start the case all over again. Even if a plaintiff obtain a judgment the defendant can appeal within 3 months. When after an enormous delay the case comes into the list of the Court of Appeal he may, and often does, make default, again carry in another "opposition" in the Court of Appeal and for the second time start the case all over again. These

delays in any Mixed Court will inevitably be met with by British subjects even in cases between themselves if the Capitulations be abolished, and Mixed Courts of universal jurisdiction be created.

The pre-war experience of the Commercial Court in Constantinople did not bear out the experience of Egypt. Cases seldom dragged on in the way described above.

To British ideas the Rules of evidence, such as they are, are grotesque, and more designed to conceal than to disclose the truth. For example, the parties themselves, their relations by blood or marriage, their clerks or servants, or anyone having any personal interest in the matter, cannot give evidence, yet any document which may be tendered, no matter by whom it is signed, or even unsigned, whether verified by oath or not, is accepted as a matter of course. Examination and crossexamination of a witness simply does not exist. There is no summary remedy for obtaining leave to sign a final judgment unless the defendant prove by affidavit that he has reasonable grounds of defence. Affidavits are absolutely unkown in the System. And those are the principles which may be forced on British subjects in a country where veracity is not of a very high standard.

There is no such thing as contempt of court in the British sense of the term, and in civil or criminal cases of any importance the cases are tried over and over again in the newspapers long before they come into Court for trial. No judges can be proof against pressure of that kind.

As to the non-British members of the Bench of any Mixed Courts it would probably consist entirely of Judges who had never had any practice in their lives, as it is never the practice to apposit a successful Barrister to the Bench probably because he would not accept such an appointment and the "magistrature assise" is regarded as the last resource of a continental advocate. As to the Turkish judges, it is difficult to imagine what their judgments would be like. For example they always decide that the holder of a Bill of exchange for value and in good faith cannot sue upon it in his own name without an express power of attorney to that effect from the person liable on the Bill. They have not the necessary experience or ability to sit in judgment on any questions of law, and yet if the capitulations be abolished they will sit in judgment on British subjects. As to criminal procedure the difference between any system of Mixed Courts and the British Courts is cardinal. Again the mixed system would be Continental as opposed to British or American, that is the judges would be ministerial or Government officials seeking to find out a culprit, or in other words inquiring into a crime, as opposed to the British system which is accusative and in which the State asserts that a person is guilty *and has to prove it*, otherwise that person is assumed to be innocent.

At the present moment a British subject is tried according to English Law, by an English Judge, by an English Jury, which has the last word in accordance with the terms of Magna Charta, carried into Turkey by the Capitulation of 1453 A. D. If aggrieved he can appeal to the Judicial Committee of the Privy Council which is almost the same thing as the House of Lords, the highest Tribunal in the British Empire. Are those privileges to be given away by the Home Authorities? Prior to the war, a British subject might be put up for trial before a Turkish Tribunal, since the armistice he could not, and yet it may be proposed that he be exposed to the injustice and unfairness of a trial before a Tribunal in the main either Turkish or Continental, wherein the only person who could protect him must inevitably be in the minority.

ANNEX No. 9.

Insurance Laws in Turkey.

From close on half a century, up to 1906, Insurance Companies, Fire, Life and Marine, operated in Turkey free of any special laws treating of insurance. The policy conditions governed the contract between the parties. Policy conditions which from experience of two centuries have been equitable and fair to the contracting parties. The conditions are the same as those applying to similar insurance policies the world over. In 1906 a project of a special law was in course of preparation by the Ottoman Authorities, but it met with so much opposition from the Embassies of the Foreign Powers that it was held up. Nevertheless, from time to time attempts were made to modify the text and to obtain the consent of the Foreign Embassies. During 1913 and the early part of 1914 so much pressure was brought to bear on the Embassies that they feared that the law might be promulgated without their sanction thus creating a difficult diplomatic situation. In view of this a commission was formed of Embassy and Consular officials seriously to study the question, accept as many of the Turkish requirements as possible and to contest only such points as were flagrantly in opposition to any known law on Insurance. Much useful work had been done in the matter and on the side of the Ottoman Authorities better sense was being shewn, when the war broke out and put an end to further negotiations. It is of interest to note that this project, known as "The Annex to the Commercial Code", "A law for Insurance Companies", was not promulgated even during the warperiod. In its place, it would seem, a few clauses were added to a law promulgated on the 3rd December, 1914, entitled "Provisional Law on Foreign Companies (Anonymes) and those whose Capital is Divided in Shares and on Foreign Insurance Companies".

As regards the first project the main points on which conflict arose was with regard to "Valued Policies". The law laid down that in case of loss the Companies should pay the sum assured without regard to the value of the property. This is contrary to the Universal law that insurance is an INDEMNITY for loss sustained and not a gambling debt. A further objection was that property pulled down during the fire, was to be paid for by the Companies, insured or not insured.

The law of 1914 is seriously objectionable in only one important feature, namely with respect to property pulled down or otherwise destroyed by proper authority to prevent the spread of fire. The clause is much more carefully drafted than in the 1906 project. The property must have been pulled down by proper authority and the Companies are only called-upon to pay if the building were insured, but the mischievous

feature of "the insured value" is maintained, namely that the Company concerned has to pay the sum insured without reference to the actual value of the property at the time of the fire.

Both projects have clauses requiring Deposits, Returns of Amounts Insured, and various similar meddlesome regulations, which are not impracticable provided they are carried out in a spirit of equity and not in a spirit of inquisitiveness and are not used as a means to provide an income to needy officials.

Needles to say the law of 1914 has not been accepted heretofore by either the British, Italian or French Embassies as it is in contradiction with the Capitulations in many respects. It is felt also that any concession made in respect to such laws inevitably leads to further mischievous demands.

Cases have been known of unsound or purely dishonest Companies operating on the market but their number was never important and measures were being taken by Foreign Governments to prevent such concerns trafficing under the privileges of Foreign nationality. The public have been safeguarded by the insurance Association which does not admit as a member any Company not of good standing.

The position with regard to the Insurance law as it stands to-day has been further complicated recently by a decision of the Grand National Assembly of Angora which has ruled that deposits paid by Companies to the Constantinople Government (during the war German, Austrian and **French** Companies recognized the law and made the required deposit) is not recognized by them and that they will require further deposits (paid to them) before permitting Companies to do business in any district under their control. A further Nationalist circular intimates that the amount of the deposits indicated in the law are inadequate and that they will be increased and that those concerned should place themselves in communication with the Angora Ministry of Commerce. (No doubt this last ruling is due to the fall in the value of the Turkish Lira). Companies have been told that thay must in future appoint a Turk as Co-agent to their own national whom thay may select as Agent.

There are trading in Turkey at the present time Insurance Companies doing Fire, Life, and Marine business. These Companies represent approximately £ 500,000,000 of capital and reserves. Of the total there are 41 British Fire Insurance Companies representing £ 350,000,000 with a combined income of many hundreds of thousands of Pounds (Figures cannot be obtained but the amount cannot be less than £750,000 per annum) from their business in Turkey. The proposed laws, which would become immediately operative should freedom be granted to Turkey to do as she pleased within her frontiers, would mean

that this very valuable business would be lost to Great Britain for the absurd regulations would have the effect of compelling the Companies to close their agencies or branches. The laws and regulations proposed and contemplated are an interference with trade and are not considered but are prepared with the sole plan of exercising control on the foreigner in whose hands insurance is.