

# AMERICAN CONSULAR BULLETIN



15s. A Copy

NOVEMBER-1920

\$1.50 A Year



# AMERICAN CONSULAR BULLETIN

PUBLISHED MONTHLY WITH THE COOPERATION OF THE AMERICAN CONSULAR ASSOCIATION  
TO FURTHER AMERICAN BUSINESS INTERESTS IN FOREIGN LANDS THROUGH THE CONSULAR SERVICE

VOL. 2

NOVEMBER 1920

No. 9



*CONSULAR INSTRUCTION CLASS—September 15-22, 1920*

*Front Row (left to right): Maurice Parmalee, Frederick E. Lee, Mr. Hengstler, Acting Chief of Consular Bureau, Mr. Carr, Director of Consular Service, Consul-General N. B. Stewart.*

*Back Row: Herbert O. Williams, Dana G. Munroe, Charles D. Westcott.*

*Of the new appointees all but Mr. Williams are Economist Consuls. Mr. Williams is a Consul of Class VII.*

EDITOR AND PUBLISHER, J. W. YOUNG-141-145 WEST 36th ST., NEW YORK N. Y.



## The Reform of Our Foreign Service

Reformation of our foreign service will be one of the great problems confronting the Republican party after March 4th, according to the Republican Publicity Association, which, through its President, Hon. Jonathan Bourne, Jr., outlines in brief some of the salient features of a tentative plan for placing our foreign service on an efficient and meritorious basis.

"Senator Harding has well said that our foreign service is our first line of defense. In a pacific and commercial sense it is our first line of offense as well. 'Our diplomacy as expressed in our foreign policies has a vital effect upon our foreign trade,' declares Candidate Harding. 'The consular service built by Republican genius is excellent, but the lack of an organization to collect and digest information about current political affairs in other countries has become notorious.' It is equally notorious that what has amounted to the sale of the higher diplomatic posts in very recent times was responsible in no small degree for our entering the Great War uninformed and unprepared. Men whose claim to a share in party spoils seemed to be in direct ratio to their contributions to the party campaign chest were appointed with little or no consideration of their fitness for diplomatic office.

"Government scholarships in approved educational institutions, reclassification and regrading, the application of the rule of merit, respectable local allowances to foreign officers, when justified, and an equitable provision for retirement pay, are the salient features of the reformation to be accomplished. The advisability of the United States owning its foreign service residences is also an important point in the scheme. It is practically certain that the annual appropriation contemplated in this plan would aggregate less than the annual receipts

now being covered into the Treasury through the imposition of fees for services performed by foreign officers on behalf of foreigners. For example, it is estimated by the State Department that the receipts from the consular service alone for the fiscal year ending June 30, 1921, will exceed by not less than \$5,500,000 the total cost of upkeep of the consular establishment. While this has been a somewhat abnormal year, it is confidently predicted that the fees legalized and exacted from foreigners will exceed the upkeep of the service by an average of not less than \$3,000,000 annually in the future. Services performed by foreign officers on behalf of Americans are, of course, gratis as a part of the duties of such officers, and those services are well-nigh innumerable.

"The principal feature of the suggested plan deals with the method for recruitment of the foreign service with a view to abolishing the spoils system. Tentatively, students who have for two years pursued a general cultural course in educational institutions of approved standard, and who have been properly certified, and others who can give satisfactory evidence of possessing the requisite qualifications for foreign service, shall, after passing competitive tests, be granted government scholarships for a two-year period in schools of their own choosing; provided the courses in diplomacy and commerce given by such schools are such as commend themselves to a Board of Selection; and, provided further, that the donees enter into a binding agreement that they will well and faithfully perform the duties imposed by the scholarship, and, in addition, will remain in the foreign service of the United States for not less than five years running from the date of completion of the scholarship, unless sooner released by the Government. The amount of the scholarship is placed at \$1,200 annually. With its com-



pletion the student will again be examined and if his second test is successfully passed he will be given six to eight months' practical training in diplomacy and commerce under the direction of the State Department, as a salaried probationer. If his probation has been satisfactory he will be regularly inducted into the foreign service as a 'foreign service officer.' Thenceforth his success in that field will be measured by his own ability.

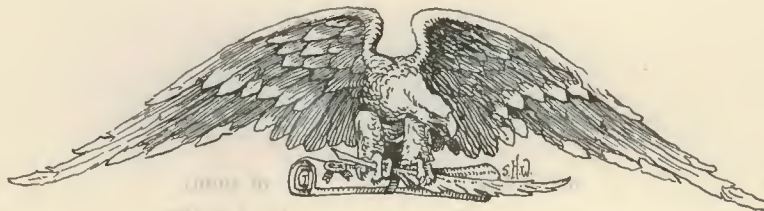
"The number of scholarships to be granted annually should not exceed double the number of vacancies occurring in the foreign service in the course of the year next preceding, and in no case should exceed sixty, for the immediate future. The composition of the Board of Selection, under whose auspices examinations will be held and educational standards maintained, is suggested as follows: One detailed from the Civil Service Commission, one from the office of the Secretary of State, one from the Consular Bureau, one from the Department of Commerce, and one designated by the Chamber of Commerce of the United States, a private organization which ably represents at Washington the trade and commercial bodies of the country.

"The reclassification and regrading features should contemplate the commissioning of all members of this service as 'foreign service officers,' rating from Class 1, in the case of ambassadors, to Class 14, in the case of consular agents, interpreters and other minor officials; and the salary grades ranging from \$20,000 for ambassadors to \$2,000 in Class 14. The diplomatic and consular services should be so coordinated that a 'foreign service officer' may pass readily from one to the other.

"The feature of the measure which would give greatest assurance of permanent officers—who would make the foreign service a life career—is that providing for generous retirement pay at the end of thirty years' service

and retirement by request, or on reaching the age of seventy, when retirement comes automatically. The three-fourths' retirement pay of officers of the army and navy should be the basis of retirement for 'foreign service officers.' The latter are as justly entitled to retirement pay, after many years of service abroad, as are military officers. Men long in the foreign service are precluded from establishing themselves in private business abroad or at home. This retirement feature will accomplish wonders in fostering *esprit de corps* of the foreign service; in relieving the beneficiaries of the worries incident to an uncertain future; in enabling them to devote a greater portion of their salaries to the maintenance of more respectable appearances; and, above all, in insuring to the United States a far more efficient foreign service. This country is alone among the great nations in its failure to make any retirement provision for its superannuated foreign service officers. The salaries and allowances now given them do not begin to meet their actual expenses, and they have nothing to depend on in their old age. Because of this inhuman attitude of their Government, more than for any other reason, these officers are resigning in numbers which give grave cause for apprehension as the host of more remunerative private undertakings engendered by the new era are opened to them. They love the service, but self-preservation is the first law.

"The matter of this Nation owning its foreign service residences is one which must commend itself to any business man. The rentals now paid by the Government for buildings which reflect discredit on America aggregate a fair rate of interest on a sum which would construct most, if not all, of our embassies, legations and consulates. Their construction would make for economy and better morale in the foreign service. Let these be the foreign houses which we first set in order."





## Remarks by Consul De Witt C. Poole at a Recent Consular Luncheon

I have been chosen on very short notice to welcome you into the Service. I do not know why, unless it has been the thought on the part of the officers of the Association that six months' respite from the strenuities of consular activity might give to my welcome a tone of special cordiality and enthusiasm.

I am very happy, under any circumstances, to be privileged to welcome you into a Service which combines to a degree little appreciated even by those most familiar with it—which combines in a very high degree, dignity, romance and the opportunity by hard work of contributing to the public weal and to the well-being of individual citizens in a way which will repay you richly in the comfortable consciousness of service unselfishly rendered and duty done.

I emphasize the altruism, because I am constrained to add that you will rarely be repaid in any other way. I venture to observe, however, that this is a reward beyond all the material riches of the earth.

You are entering a Service, then, characterized on the one hand by dignity and romance and on the other by efficiency and hard work. Its history is as little known as it is admirable and engrossing. The appointment of Consuls antedates the organization of our present form of government, their reciprocal despatch and reception being provided for in the treaty of amity and commerce which was concluded by the Continental Congress with France in 1778. When the Constitution was adopted, so important had the function of Consul been found to be, in the experience of the Fathers of the Country, that it was specifically provided in the Constitution that Consuls, together with "ambassadors and other public ministers" and Justices of the Supreme Court, should be appointed by the President, only by and with the advice and consent of the Senate.

The first basis of organization was given to the Service by Thomas Jefferson, when as Secretary of State he issued August 26, 1790, to the sixteen American consular officers then residing abroad, a circular letter defining their duties. I shall read you a digest of this circular as given by Mr. Carr in an article on the Consular Service, which appeared in the American Journal

of International Law for October, 1907, and which I recommend to the perusal of the incoming class. Mr. Carr writes: "He (Jefferson) directed them to report to him every six months in detail concerning American vessels that may have entered or cleared from their respective ports; to supply him from time to time with political and commercial information of interest to the United States; and to report upon all military preparations that might take place in their ports, and should war appear imminent, to notify American merchants and vessels in order that they might be on their guard."

The history of the manner in which our early colleagues carried out these duties has—so far as I am aware—never been written. This is most unfortunate. It is a task to which any historian responsive to the courageous and to the romantic as well as to the permanently constructive in our past, might address himself with the promise of stores of rich material to explore and a finished work of surpassing interest and inspiration. From a very desultory acquaintance on my own part with some of this material, I recall stirring passages in the American State Papers, dated in the last few years of the XVIIIth and the beginning of the XIXth century, describing the activities of American Consuls in the ports of the Mediterranean, their efforts on behalf of American citizens held prisoner by the Barbary pirates and the cooperation of these Consuls in the naval operations which led eventually to the suppression of this long-standing menace to world commerce.

The archives of the American Consulate General at Paris, which extend unbroken in their main story back to 1801 and in a desultory way to earlier years contain footnotes, as it were, of unusual interest upon the events of the latter days of the French Revolution and the establishment of the Consulate and then of the Empire by Napoleon. There are vivid personal descriptions in the records of this office of the siege of Paris by the Germans in 1870; how the shells from the German artillery fell in the home of the Consul General, driving him to other quarters, and how he worked ceaselessly and courageously to protect American lives and property alike against the German invaders and the Paris Commune.



The archives of the Consulate at Havre contain a description by the Consular Agent at Cherbourg of the sinking of the Confederate frigate *Alabama* by the *Kearsage* in 1863 off that port, as he saw it with his own eyes, sitting with great crowds of French citizens on the hillsides of the Brittany coast.

The record of consular experience in the great war we have just gone through—the unselfish devotion and quiet heroism of numberless individual officers—surpasses, if it can, the annals of the past. The relative obscurity in which this record still rests is in keeping with our modest tradition but it should, and I trust soon will be, made more accessible to common knowledge, to the end that the people of the United States may appreciate more justly what these public servants did for them, as well as to serve as an inspiration to Consuls of the future and a proper memorial of those who have gone before.

And in the last war most conspicuously have efficiency and hard work been coupled with the romantic and the courageous.

One is constrained to say that in the past the history of the Service has at times been at best romantic only.

Early falling a complete victim to the Spoils System, the Service was made up until recent years of a striking, though perfectly natural, agglomerate of persons ranging from distinguished brilliancy in not a few individuals, down through mediocrity to instances of sordid unworthiness.

Efforts at systematic reform date as far back as 1856, but did not bear important fruit until 1906, when the Service as we now know it was organized under Mr. Roosevelt's presidency. Since then, under the general impetus of the demands of our growing foreign trade and the wise, constant and patient guidance of our beloved chief, Mr. Carr, the Service, losing none of, but rather adding to its romantic vesture and historic tradition of courageous devotion, has attained that rare and very desirable combination—practical efficiency of a high degree vivified by a progressive Service spirit which demands that this efficiency be made constantly greater.

Into this Service it is a pleasure and a satisfaction to welcome you. I know that you will cherish its ideals and add to its practical attainments. I wish you all sorts of good luck and every possible success.

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## Consular Luncheon, October 16, 1920

The Consular Association, Saturday, October 16, gave a luncheon to the members of the fall consular class, composed of one consul of class seven, nine vice consuls of career and three consular assistants.

Director of the Consular Service W. J. Carr acted as toastmaster and addresses of welcome were given by the Chief Clerk, Mr. Ben G. Davis, on the part of the Department of State and by Mr. De Witt C. Poole, Consul of Class Three, for the Consular Association.

Mr. Davis' talk comprised genial advice on several matters. Mr. Poole's remarks are printed elsewhere in this issue.

The new officers were given additional counsel in anecdotal form by Mr. Nelson T. Johnson, Consul of Class Three. The lessons to be drawn from his stories of the Chinese waiter and the toothpicks and the case of the

newly-wed consul who "went a-hunting the gay gazelle o'er the mountain tops just as the inspector was due to appear" were carefully noted by the new career men.

Mr. Walter C. Foote, Vice Consul de carrière, responded to the addresses of welcome in behalf of the guests, expressing the gratitude of the class for the inspiration and instruction during the instruction period given by Mr. Carr, Mr. Hengstler and Consul General Stewart, instructor. He stated that to the new men the spirit of the service appeared the same as that existing in a turret of a battleship in action—"officers and men toiling together, regardless of rank and ceremony, stripped to the waist for efficient action."

Following the luncheon, Mr. De Witt Poole was unanimously elected a member of the Executive Committee of the Consular Association.



## Announcement of Appointments, Etc. October 22, 1920

The following appointments, transfers and resignations have occurred in the American Consular Service since September 27, 1920:

Charles A. Bay, of Minnesota, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Dublin.

Homer Brett, of Mississippi, now assigned Tacna, Chile, assigned Arica, Chile.

F. Harold Brown, of New York, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Marseilles.

Reginald S. Castleman, of California, now Vice Consul and clerk Madrid, promoted to be a Vice Consul de carriere of Class 3 and assigned Vice Consul Madrid.

Benjamin F. Chase, of Pennsylvania, now assigned San Jose, Costa Rica, granted leave of absence, to be assigned elsewhere at the termination thereof.

James P. Davis, of Georgia, now detailed Marseille, assigned Consul Bangkok.

Edward A. Dow, of Nebraska, now assigned Ciudad Juarez, assigned Consul Algiers.

Ernest E. Evans, of New York, now Vice Consul Gibraltar temporarily, reappointed Vice Consul Tangier.

Harold D. Finley, of New York, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Havre.

Walter A. Foote, of Pennsylvania, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Port Said.

Ray Fox, of California, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Melbourne.

Charles M. Freeman, of New Hampshire, now detailed Halifax temporarily, returned to Sydney and resumed duties.

Arthur C. Frost, of Massachusetts, now assigned Algiers, assigned Consul Barranquilla.

Arthur B. Giroux, of New York, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Quebec.

Harvey T. Goodier, of New York. Commission as Vice Consul Nagoya cancelled. Remained Yokohama.

Claude E. Guyant, of Illinois, now assigned Barranquilla, assigned Consul San Jose.

Donald R. Heath, of Kansas, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Bucharest.

J. Klair Huddle, of Ohio, American Consul, detailed Warsaw.

J. Paul Jameson, of Pennsylvania. Commission as Consul Kalgan, China, cancelled. Detailed Department.

Leo J. Keena, of Michigan, now assigned Zurich, assigned Consul General Warsaw.

C. Porter Kuykendall, of Pennsylvania, newly appointed Vice Consul de carriere of Class 3, assigned Vice Consul Amsterdam.

William J. McCafferty, of California, now assigned Vice Consul Melbourne, assigned Vice Consul Auckland.

John N. McCann, of Wisconsin, now assigned Barbados, assigned Yarmouth.

Joseph F. McGurk, of New Jersey, now assigned Vice Consul Paris, assigned Vice Consul Dekar temporarily.

W. M. Parker Mitchell, of Virginia, newly appointed Consul of Class 7, detailed Vera Cruz.

George H. Murphy, of North Carolina, now assigned Cape Town, assigned Consul General Zurich.

James A. Smith, of Vermont, American Consul unassigned, died, September 29, 1920.

Paul D. Thompson, of California, now assigned Vice Consul Corunna, assigned Vice Consul Barcelona.

William O. Thornton, of Georgia, Consul of Class 8 unassigned, resigned.

George E. Van Dyne, of Maryland, now assigned Vice Consul Dublin, resigned.

Henry C. von Struve, of Texas, now assigned La Guaira, assigned Consul Antilla.

John J. C. Watson, of Kentucky, now assigned Yarmouth, assigned Consul Barbados.



Leroy Webber, of New York, now Vice Consul and clerk Palermo, promoted to be a Vice Consul de carrière of Class 3 and assigned Vice Consul Palermo.

Digby A. Willson, of New York, now Vice Consul and clerk Aleppo, promoted to be a Vice Consul de carrière of Class 3 and assigned Vice Consul Aleppo.

## Copies of Despatches Regarding Office Personnel, Etc.

With reference to an outline prepared by Consul W. E. Chapman and printed in the September number of the Bulletin, regarding the number of copies of despatches and reports relative to various subjects which should be forwarded to the Department, it is noted that in paragraph 6 of his outline, Mr. Chapman indicates that three copies of despatches relative to changes in office personnel, leaves of absence, allotments, etc., should be sent to the Department. Attention is directed to the next to the last paragraph of General Instruction No. 714, which states that "it will be unnecessary hereafter to send extra copies of despatches the subject matter of which relates to changes in personnel, leaves of absence, and allotments or allowances to your office."

## Personal Notes

The following consular officers recently called at the Department:

- Leroy Webber, Vice Consul at Palermo.
- Alfred R. Thomson, Consul at Zegreb.
- Reginald S. Castleman, Vice Consul at Madrid.
- H. A. Doolittle, Vice Consul at Tiflis.
- Mason Mitchell, Consul at Queenstown.
- Parker W. Buhrman, Consul at Ceiba.
- Claude E. Guyant, Consul at Barranquilla.
- H. E. Carlson, Vice Consul at Christiania.
- Julius D. Dreher, Consul at Colon.
- H. C. von Struve, Consul at La Guaira.
- Edwin N. Gunsaulus, Consul General at Halifax.
- Perceval Gassett, Consul at Leeds.
- David F. Wilber, Consul General at Genoa.
- W. M. Parker Mitchell, Consul at Vera Cruz.
- Otis A. Glazebrook, Consul at Jerusalem.
- Carlton Bailey Hurst, Consul General at Habana.
- Ralph H. Bader, Consul at Teheran.

Mr. and Mrs. Robert B. Macatee announce the birth of a son, born September 15, 1920, at Geneva, Switzerland. Mr. Macatee is a vice consul de carrière and was recently assigned to Geneva.

The marriage of Mr. James B. Stewart to Mrs. Harriotte Stearns Goddard took place at Denver, Colorado, on October 6, 1920. Mr. Stewart is a consul of Class 6 assigned to Chihuahua.



CONSULAR INSTRUCTION CLASS—October 4-18, 1920

*Front Row (left to right): Charles A. Bay, Walter A. Foote, Mr. Hengstler, Acting Chief of Consular Bureau, Mr. Carr, Director of Consular Service, Consul-General N. B. Stewart, Donald R. Heath, Reginald S. Castleman. Middle Row: Ray Fox, Clark P. Kuykendall, F. Harold Brown, Arthur B. Giroux, Austin C. Alden, Francis H. Styles. Back Row: W. M. P. Mitchell, Harold D. Finley, C. Luther Szacim.*

*All the new appointees are Vice-Consuls de carrière.*

AMERICAN  
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COPYRIGHT 1919-J. W. YOUNG

VOL. 2 NOVEMBER NO. 9

Editor and Publisher - - - - J. W. YOUNG  
141-145 West 36th Street  
New York City, N. Y., U. S. A.

Subscription - - - - - \$1.50 a year—15c a copy

Plans of the Bureau of Foreign and Domestic Commerce

Replying to the request of the American Manufacturers' Export Association for information as to plans of the United States Bureau of Foreign and Domestic Commerce, for the fiscal year 1921-22, Dr. R. S. MacElwee, director of the bureau, said:

"We are going to ask Congress for practically the same increase this year that we requested last year (but did not receive)—that is, an increase from the present \$910,000 to approximately \$1,500,000. We shall ask for an increase from \$325,000 to \$500,000 in our largest fund—'Promoting Commerce'—which is used to maintain the district offices in the United States and to conduct investigations by trade commissioners in Europe. We have tried out our system of district and co-operative offices and have found them very much in demand. We wish to extend this service. In particular we should like to see a co-operative office of the bureau in the Chamber of Commerce of every large manufacturing centre. Such offices have proven to be of very great service everywhere that they have been established.

"It is not the province of the Government to give credit ratings, but I believe it is the province of the Government to maintain information concerning individual firms and compile this information, as we are now doing, in mailing lists which will indicate the relative size and importance of firms, the nature of the goods they carry and their general standing in the community. This is not credit information, this is sales information. In my own years of experience in opening up new territory abroad it was

always with the greatest difficulty that I located in a new city these firms that I should have approached first regarding the agency of the line I represented. Sometimes there was an American Consul in the town who had been there long enough and had circulated among the people sufficiently to be able to give very good opinions. But ordinarily one was thrown upon the doubtful resources of the classified telephone directory, which, as you know, is full of material that wastes the time of any one endeavoring to pick out the very best persons that he should approach to handle his line. The Consular Service, at the cost of much time and effort, is co-operating to procure the information in the field, and we are tabulating the material in our new starred lists, as we call them.

"We intend to ask for an increase from \$175,000 to \$300,000 for the maintenance of the commercial attache service. We wish to establish about ten new commercial attaches. From many of our ambassadors and ministers we have received earnest requests for them."

Death of Consul-General James A. Smith

James A. Smith, Consul General at Calcutta, died at Monte Carlo on September 29, 1920, while on leave from his post.

Consul General Smith entered the Service on April 22, 1897, as Consul at Leghorn. On March 30, 1907, he was promoted to be Consul General at Boma at which post he rendered invaluable service to the Government in securing information concerning conditions in the Congo. June 10, 1908, he was promoted to be Consul General at Genoa, and September 18, 1913, to be Consul General at Calcutta. He was promoted at his post to be Consul General of class two on March 2, 1915.

After the outbreak of the war in Europe the duties of Consul General Smith were most arduous. As the chief American representative in India his position required the exercise of the utmost tact and patience. He acquitted himself with credit always; but the strain under which he labored during the first years of the war in maintaining the rights and prestige of the United States within the limits of his jurisdiction, and his later efforts in assisting the Government in winning the war, combined with the effects of the trying Indian climate, undermined his constitution. In July last he returned to the United States, and after a brief visit to the Department went to the Riviera to try to restore his health, but he had waited too long. Through his death the Department has lost an able and very loyal servant, and the Service one of its most popular officers.



## Branches of American Business Houses in Great Britain

*"Anglo-American Trade" Welcomes, as a Further Trade Bond Between the Two Countries, Recent Letters of Inquiry Received by the Chamber Indicating an Increasing Tendency on the Part of American Business Houses to Establish Their Own Branches in Great Britain.*

American firms contemplating the extension of their activities to Great Britain may be helped by the following statement which has been prepared, at the request of the American Chamber of Commerce in London, by a firm of London solicitors of long experience in the service of American houses.

The statement deals, so far as the necessary information is available at the moment, with all the principal questions raised by the Chamber's recent enquirers. As soon as the new taxation under the pending budget has been fixed, a further statement will be prepared which, read in conjunction with the present one, will give American firms all the general preliminary information they are likely to require and which will at least enable them to ask for further detailed information. The form of an "interview" has been adopted, in order to break up as much as possible a somewhat heavy subject:

### *A Hypothetical Case*

"Suppose I am an American trader manufacturing and selling my goods in America and exporting them to various parts of the world (including Great Britain), but I want to come right over into the British market and push my business here, how do I set about it?"

"That depends on what sort of establishment you want to run here, and how you want to operate your British business. If you merely contemplate canvassing the market here, advertising, showing samples, taking orders, and so

on, but you are going to have remittances made direct from customer to America, and goods shipped direct from America to customer, then all you want is a live manager, an office and a show-room."

"But, suppose I want to do more than that: to carry stocks here, collect money here, enter into contracts here, and——"

### *Advantages of British Company*

"It's just the same thing in principle. But the practical question then arises whether it would not pay you, as a matter of all-round convenience, to register a company here. If you require your British establishment to perform all the functions of an ordinary British business, you ought to give it an appropriate constitution and equipment."

"But how would the British business be better off in the form of a British company than in the form of a branch of an American business? It would not have any greater trading rights, or get off with any less taxation or anything of that kind, would it?"

"No. It is merely a question of making your trading machine as efficient as possible for the particular work it has to do. If the bulk of the business operations are to be done in America, then you don't want much business machinery at this end. But if the business is to be really operated here, then a British company is generally found to be the best equipment."

"But why?"

*A Question of Convenience*

“Remember that here you would not be in quite the same position as in your own country. When you began to move, this would be brought home to you. When you went, as a first step, to secure your premises you would have to show the landlords that you were an American firm, that you were good for the rent, that you were duly constituted on the other side, that you personally held a power of attorney to pledge your firm’s credit and enter into contracts, that you could sign a lease on their behalf, and so on. Whenever it came to collecting money, or fixing contracts, or dealing with official authorities you would have to cover the same old ground. If you wanted legally to enforce any of your rights, you would, in some cases, have to give security for costs, or else show the Court what property or goods you had got on this side. You would have the fullest rights and would ultimately get the fullest protection, but you would always have to be explaining yourself and vindicating yourself. All these things would vanish if your business were in the form of a British company.”

“I see. Then it is really a question of *status*?”

“Well, not quite. You would have a *status* either way. It is rather a question of facilities and conveniences that would result from the commercial constitution you adopted. While you, as a foreign representative, were explaining and vindicating yourself, the other fellow, as a British company, would be selling his goods.”

“But are there no disadvantages in taking the form of a British company?”

“Yes. Two—the recently increased cost of registering the company and the recently imposed special tax on a company’s profits.”

“Ah! Now we are beginning to get at it. What about the cost of registration, first?”

*Initial Registration Costs*

“This cost only comes once. That cannot be too clearly understood. When once the com-

pany is started, the recurring cost of company formalities is represented by a few shillings a year in money, and, say, a couple of hours a year in time. They can both, therefore, be ruled out. The expense of formation obviously varies with the size of the company. The principal registration fee is now £1 for every £100 of nominal capital. Then there is the printing of the memorandum and articles of association and the cost of the common seal of the company. There are other incidental disbursements, but they need not amount to much. If the shares are issued against cash, no transfer duty (which is somewhat heavy) is payable. If cash is not forthcoming and the shares have to be issued in exchange for property or goodwill, then transfer duty comes in. But in your type of case (if your lawyer understands his work) no question of transfer duty would arise, and I only mention it in order to dismiss it.”

“What would the fees be for a company of \$5,000, of \$50,000 and of \$500,000?”

“If you do not mind, I will talk sterling, and leave the exchange into dollars to you. The best estimate I can give you is this:

Nominal Capital	Out of Pocket Cost
£1,000.....	£34 5 0
10,000.....	129 5 0
30,000.....	334 5 0
60,000.....	639 5 0
100,000.....	1,049 5 0”

“And the lawyer’s costs?”

“I cannot hope to give you precise figures in such a connection—especially as some lawyers charge a good deal more than others. But the charges should not be heavy. They depend, of course, upon the amount of work involved in each particular case. They do not necessarily follow the amount of nominal capital. On a general statement of what is wanted, an estimate or fixed charge can easily be arrived at.”

“Now about the second disadvantage—the extra tax?”

## *Tax on Company's Profits*

"Until recently there has not been any corporation tax, nor any differentiation between a corporation and a private house. Under this year's Budget, however, the profits of any company or corporation trading here must pay (in addition to income tax of 6s. in the £1, and other rates and taxes payable by all businesses alike), a special tax of 1s. in the £1 or 5 per cent. On the face of it, it looks like a case of downright differentiation against a company, but it is really not so unfair as it looks. You see, private traders here are liable to 'super tax' (which is an individual or personal tax), but a company is not."

"Then if I started here as a branch of an American business I should escape this tax?"

"Not if your business in America is an incorporated one, but only if it be owned by a private firm or individual there, and then the private owners would run the risk of 'super tax,' so it is about as broad as it is long."

"In your judgment, do the advantages of a British company outweigh these disadvantages?"

### *When a British Company Pays.*

"Not in every case. It depends upon how seriously and definitely you want to plant your new business here. If you are going 'all out' for the British market, you will find that a separate company *pays*. Moreover, it enables the principals in America to handle the business easily and smoothly. They have the complete control by means of the shares. The directors and shareholders can be entirely American if desired, and all be resident in America. The various positions in a company—those of directors, managing directors, secretaries—are clear cut and defined, and are recognized by our law and indeed throughout the world. You just put a man into the position he fits, and you don't have to bother with powers of attorney and authorities and definitions. You effect all alterations in control by methods which are

easy and simple and yet inflexible. If you want to sell the whole business, or some exact proportion of it, or to increase it, or modify it—all these things can be done with an ease and speed and economy with which an agency cannot compete. By means of your articles of association (which can be altered as you go along if occasion arises) you can make every possible arrangement you wish as to directors, life governors, remuneration, profits, dividends, priorities, reserves, and so on. You can increase your nominal capital whenever you want to. You can make the machinery do anything you want by touching the appropriate lever. But the greatest advantage of all, to my mind, is the most difficult to describe. It is the 'atmosphere' that is created with your customers here. All the old prejudice that was created years ago against certain kinds of American goods and of American methods has now, of course, been obliterated, and is as dead as Queen Anne. There is no reservation in the friendly support which the people of this country are prepared to extend to American houses which come over and, as it were, pitch their tent in our midst. But the tent must be *pitched*. A long arm extended from a tent pitched somewhere else is not the same thing and creates a different sentiment. It may be extraordinary, but it is certainly true, that throughout this country today there is a very real and widespread difference in attitude towards an American house that has taken the trouble and displayed the interest to make itself one with us, and towards one that holds itself aloof from our citizenship and yet wants our trade. It may be national vanity. It may be foolishness. It may be the result of recent world-happenings. But it is there."

"I think I understand what you mean. Better to have the tide with you if you can. Now for one or two specific points before we come to the main question——"

"The main question?" Haven't you nearly finished?"



"Don't you think it. If I come over here and establish my business, do I continue to be entitled to the diplomatic protection of the United States?"

#### *Diplomatic Protection*

"If you came here as an unincorporated branch, you would be entitled to the same diplomatic protection as any private American citizen staying in this country. At the same time you would be subject to the laws of this country and entitled to the full benefit of our legal protection. But if you registered a British company, the company itself would be to all intents and purposes a British subject, and no question of United States protection could possibly arise."

"And now for the main question."

"Which is?"

"Taxation."

"But that would take a treatise to expound."

"Try and expound it without the treatise. It is the most important question of all."

#### *Taxation*

"Well, you have to pay substantially the same taxation as a similarly established British company would—nothing more and nothing less. What would you have?"

"But does not it matter which form the business takes?"

"No."

"If I am already incorporated on the other side, do I pay more or less according to whether I register a British company or not?"

"Not a penny."

"If I am a private firm or individual on the other side, do I stand to gain or lose by forming a British company here?"

"You gamble between the new company profits tax and the individual or personal super tax. The company would pay the profits tax, but no super tax. The unincorporated branch would pay no company profits tax, but would open up for its American principals the question of super tax."

"Then you could not definitely advise?"

#### *The Super Tax*

"No. But remember that super tax is on a somewhat different basis from income tax or profits tax, or indeed any other tax. It takes into account the total income of the individual *from all sources*. You can ponder over what that means for yourself. Personally I should advise no well-to-do American to bring himself unnecessarily within the operation of our super tax. If I were the Chancellor of the Exchequer I should extend him a very cordial welcome."

"Right. Super tax to be marked with a black cross. Do I escape anything if I refrain from handling either money or goods in this country, but merely pass the orders on to America and they execute them from there and they collect the money direct from the customer?"

"No. Those happy days are past."

"Not even if the American house fixes up its own terms with the customer and can reject the order altogether if it likes?"

"No."

"But I should be carrying on the business in America, not here. The goods would be made in America and sent from America, and the money received in America."

"But the *market* is here. In contemplation of law a merchant's profits is made where the market is—where the goods are sold."

"Then what is the most I can do without becoming liable to British taxation?"

#### *Non-Taxable Activities*

"A dangerous question to answer. But I think you could advertise here, send men for a few months in the year traveling from place to place obtaining orders for you, supply goods to individual customers here, send goods on consignment to a firm of general consignees (but they must not be your 'agents'), and so on. But you must stop short of anything in the nature of an agency or branch. If I may venture on a simple illustration, you may pop in and out of the British market place at intervals with a



pack on your back and keep moving among the crowd as you sell. But if you want a stall, or even want to stand with your pack always in a particular place where your customers can find you, then you must pay the market tolls. The words of the Act are 'branch, factor, agent, receiver or manager.' You must steer clear of any of these."

"That is all perfectly intelligible in principle. But when you come to figures, what am I taxed on?"

"On the profits you make by reason of your trading in this country."

"Yes, but that may be difficult to ascertain. Suppose I manufacture the goods in America and sell them here. Do I pay on the total profit?"

#### *Tax on Merchanting Profit Only.*

"Certainly not. Our Exchequer has nothing to do with the legitimate manufacturing profit. You pay on that to your own Exchequer, and you are not liable to pay twice over."

"Then how and where is the line drawn?"

"In such a case our Exchequer claims on all the net profit of the operation of merchanting the goods in this country. Suppose, for instance, that after allowing for a fair manufacturing profit your goods were selling at \$1 as the lowest price at which any buyer could obtain them from you—that \$1 was the lowest export price in whatever quantities to whatever part of the world. If you tried to invoice them to your British business (whatever its constitution) at \$1.05, our Exchequer would object. But, on the other hand, they would not expect them to come in at 95c. The point at which the merchanting profit would begin would be \$1."

"Then am I right in thinking that under no circumstances could your Exchequer go behind the lowest export price?"

"No. That is too sweeping. If it were the fact that the export price included more than a fair manufacturing profit, then our Exchequer could challenge it. Take an extreme case as an

illustration. Suppose you manufactured some specialty which was likely to find a great market here. It cost you \$1 to manufacture. You fixed the export price at \$10 and shipped quantities to your British business at \$10, and they sold them to the public here at \$11, and only just about paid their selling expenses or only made a small profit. Our Exchequer would, of course, object. They would say (and rightly) that they were entitled to claim on the true profit which resulted from the sales in our market, and that this true profit was *not* shown by merely subtracting the \$10 from the \$11. No. There must be a square deal on both sides. The fair manufacturing profit belongs to the manufacturing country. The merchanting profit belongs to the country that supplies the market. But where the same firm or company is interested at both ends and has the fixing of the prices it must be prepared to satisfy our Exchequer that the apportionment is fair and just. In the case of open and competitive transactions between strangers the question, of course, does not arise."

#### *Questioning the Export Price*

"One other question on this subject. Is it open to your Exchequer to say that by reason of my sales having been increased by your market, I have been enabled to diminish my cost of manufacture, and that they are therefore entitled, on this ground, to go behind my export figure?"

"Yes. It is a simple question of fact. If, by reason of extended market or for any other reason, the manufacturing profit is set too high or becomes too high, it is obvious that some part of what is claimed to be manufacturing profits is in reality a part of the merchanting profit."

"Who is the final judge on such debateable points?"

"The Exchequer. You have got to convince them."

"But suppose they are unreasonable or greedy. What is my remedy?"

"They will not be. You are a source of profit to them and they would not want to lose you. The remedy is to withdraw from the market, and they do not want that any more than you do. Moreover, although I have followed you to the best of my ability through all your questions, very little difficulty arises in practice. Your accountants submit your audited accounts and then, if any question arises, it is discussed and a settlement arrived at. Our Revenue people only want what is fair, and unless there is any ground for suspicion that the true facts are not being disclosed, they accept the certificate of any reputable firm of auditors here without going into any of the sort of questions you have raised. Hundreds of American houses carry on here with no more difficulty than British firms."

"Can they make me show my American books and accounts?"

"Perhaps not. But they have no need to. If they have ground for suspicion, they can assess you at a high figure and tell you—quite courteously—that they are willing to reduce it if you care to show them the real figures."

"A handy weapon. What rate of profit on the capital invested in the British business would satisfy the Exchequer as the merchant profit?"

*Profits Taxed by Amount—Not by Rate*

"I do not know. Nobody knows. It is not a question of *rate*, but a question of *fact*. You cannot deal with the question that way. You are not taxed on a rate of profits that you ought to make or that it would be reasonable for you to make, but on the amount of what you *do* make. That differs in every case, and has to be ascertained."

"I was hoping that a steady 7½ or 10 per cent might satisfy them. But I see the point. Is there any respect in which a company here, owned and directed by citizens of the United States, is taxed more heavily or penalized in any other way when compared with a similarly established company owned and directed by British subjects?"

"Emphatically no."

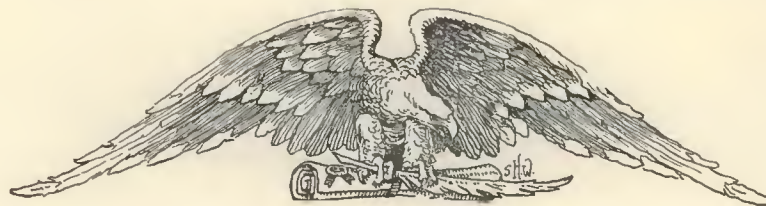
*Excess Profits Duty Still Uncertain*

"That is all right then. And now I want to go thoroughly into the question of excess profits duty and how much it actually amounts to, and what allowances are made, and just how it all works out, and whether it pays best to have a large nominal capital so as to get a large 9 per cent allowance, or whether I do better with a small company and only incur——"

"Fortunately for my day's work, my friend, all these questions are at the moment in the melting pot. They are all being reconsidered in the pending Budget, and nothing reliable is yet known as to what will be decided—so you must exercise a bit of patience. Come and see me again in a month's time."

"But cannot you give me any idea as to——"

"It is not my business to *guess*. All I can tell you is that I believe the position of newly established businesses is receiving special consideration. There has been a bit of an outcry about it, and I am told that the Government intends to make things a bit more encouraging for the opening up of new businesses. But I am not in any position to say in advance what the Government is going to do. We must wait for the official announcement."





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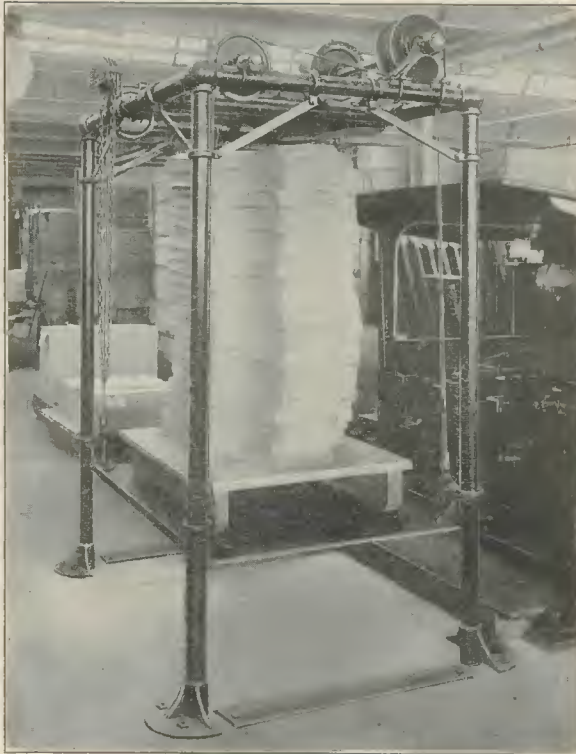
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