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Schreiben Seymour Parker Gilbert an Hermann Pünder (20.09.1926)

Brief

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Regest:

In diesem Schreiben belehrte der General Agent of Reparation Payments, Seymour Parker Gilbert, den Leiter der Reichskanzlei, Hermann Pünder, ausführlich darüber, dass der Prospekt des Preußischen Staates für die Auflage einer Anleihe sich nicht korrekt auf den Artikel 248 des Versailler Vertrages bezog. Es folgen langatmige juristische Erläuterungen, unter welchen Bedingungen das Reich, die Länder und Kommunen solche Anlagen auflegen konnten. Insgesamt gibt das Schreiben einen guten Einblick in die unterkühlten Beziehungen zwischen dem Reparationsagenten und den Reichsbehörden. Ersterer war - anders als vergleichbare "Aufpasser" in Österreich, Polen oder Ungarn - in keinsten Weise bereit, sich in das politische Leben der Stadt zu integrieren. Der pedantische, langatmige Tonfall des Briefes macht deutlich, wie gering die Verhandlungs- und Toleranzspielräume für das Reich von Seiten des Reparationsagenten waren.

From: The Agent General for Reparation Payments

To: Minister of the Reich,

Berlin

Dear Mr. Minister:

I have the honour to refer to your letter of September 6, 1926, an English translation of which is enclosed herewith, with respect to a proposed foreign loan of the State of Prussia. This letter was acknowledged under the same date, with the statement that it would be brought to the attention of the Transfer Committee. It is understood from your letter, and from the information which has been received from the Reparation Commission, that under date of September 7, 1926, the German Kriegslastenkommission addressed a letter to the Reparation Commission conveying substantially the same notification as to the proposed Prussian loan.

Neither the German Government nor the issuing bankers have thus far furnished to the Transfer Committee, nor, so far as I am advised, to the Reparation Commission, copies of the official prospectus of the proposed loan of the State of Prussia. Nor has any information been furnished as to the date of issue of the proposed loan, or as to whether or not in fact it has been issued. I have, however, made unofficial inquiries in New York, in behalf of the Transfer committee, and have received, on September 17, 1926, information by cablegram to the effect that a prospectus has appeared in New York, offering bonds described as "\$ 20000000 FREE STATE OF PRUSSIA 6 ½ SINKING FUNDS GOLD BONDS. EXTERNAL LOAN OF 1926", in which there is quoted a letter from the Finance Minister of Prussia which is reported to include, among other things, the following paragraph:

"SECURITY AND RELATION TO INTERNATIONAL AGREEMENTS: Article 248 of the Versailles Treaty¹ reads in part, 'A first charge upon all the assets and revenues of the German Empire and its constituent

1 Artikel 248 des Versailler Vertrages besagte: "Unter Vorbehalt der von dem Wiedergutmachungsausschuß etwa bewilligten Ausnahmen haften der gesamte Besitz und alle Einnahmequellen des Deutschen Reiches und der

states shall be the cost of reparation. The Dawes Plan provided that payments shall be made by Germany to the Reichsbank for account of the Agent General for Reparation Payments and to secure the payments specific revenues are specially pledged. These bonds will be the direct and unconditional obligation of the State of Prussia. No part of the state's revenues or property has been pledged by it as a security for any loan and the State will covenant[sic!] that if while any of the bonds are outstanding it should specifically pledged or charge any part of its property or revenues to secure any funded debt the bonds of the external loan of 1926 all be secured by such pledged or charge equally and ratably with other indebtedness thereby to be secured.

"By legislation of the Reich some of the State's enterprises or properties will be obligated to make yearly payments to the Reich corresponding more or less in amount to the secured yearly payments imposed under the Dawes Plan on private industries of like character.

"Neither German law nor any international engagements assumed by the German Government involve any restrictions upon the acquisition by the Free State of Prussia of the foreign exchange requisite to meet the external obligations to be evidenced by these bonds."

I have no official information as to whether the Finance Minister of Prussia has, in fact, signed a letter making these statements, but in the absence of information to the contrary I am obliged to presume that the cabled report is correct.

As the Government of the Reich is aware, the notification given by your letter of September 6, 1926, to the Transfer Committee, and the similar letter of September 7, 1926, to the[3] Reparation Commission, constitute the only occasion since the coming into operation of the Experts' Plan (other than the German External Loan, 1924), on which the Government of the Reich has notified to either the Transfer Committee or the Reparation Commission any proposed external loan of either the Reich itself or of any of the Federal States. I have accordingly taken occasion to bring your letter of September 6, 1926., to the attention of the Transfer Committee at its meeting in Berlin on September 18, 1926, and, at the same time, have called to the Committee's attention the statement quoted above which are reported to have been made, for the purpose of the prospectus, by the Finance Minister of Prussia.

The Transfer Committee, after full consideration, has asked me to address you this communication, in order that there may be no misunderstanding of the situation by either the Government of the Reich or the Government of Prussia. This communication naturally divides itself into two parts, one arising under Article 248 of the Treaty of Versailles, and the other under the transfer clauses of the Experts' Plan and of the London Agreements²:

1. The statements appearing in the prospectus, which are stated to have been signed by the Finance Minister of Prussia, include at the outset an express reference to Article 248 of the Treaty of Versailles, with a partial quotation of that Article. The Transfer Committee assumes from this that both the Prussian Government and the issuing bankers fully appreciate the application of Article 248[4] of the Treaty of Versailles, and recognize the first charge in favor of reparations imposed by that Article on all the assets and revenues of the German Empire and its constituent States. In order to avoid misunderstanding it is well to remember that the applicable provisions of Article 248 read, in full, as follows:

"Subject to such exceptions as the Reparation Commission may approve, a first charge upon all the assets and revenues of the German Empire and its constituent States shall be the cost of reparation and all other costs arising under the present Treaty or any treaties or agreements supplementary thereto or under arrangements concluded between Germany and the Allied and Associated Powers during the Armistice or its extensions."

The application of the foregoing Article of the Treaty rests with the Reparations Commission, and, as the Article itself states, only the Reparation Commission has power to make exceptions to the first charge established in favor of Reparations. The position of the Prussian loan under Article 248 is thus a matter for the consideration of the Reparation Commission, in connection with the Kriegslastenkommission's letter of September 7, 1926.

deutschen Staaten an erster Stelle für die Bezahlung der Kosten der Wiedergutmachung und aller anderen Lasten, die sich aus dem gegenwärtigen Vertrag oder aus allen ihn ergänzenden Verträgen und Übereinkommen oder aus den zwischen Deutschland und den alliierten und assoziierten Mächten während des Waffenstillstands und seinen Verlängerungen geschlossenen Abmachungen ergeben."

2 Gemeint sind die Londoner Abkommen vom August 1924. *Boyce, British Capitalism*, 245–253.

In response to their informal inquiries, which were first made some months ago, I have consistently advised both the Finance Ministry of the Reich and the issuing bankers that in the absence of an express exception by the Reparation Commission an external loan of the State of Prussia must be regarded as ranking secondary to the payment of reparations under the Treaty of Versailles as well as under the Experts' Plan. I have stated, further, that the procedure to be followed, in case such an exception were desired, has already been indicated by the[5] procedure actually followed in connection with the German External Loan, 1924. To that loan the Reparation Commission granted a priority over the payment of reparations, and the Transfer Committee, by appropriate resolution, recognized that priority as against the transfer of reparation payments. Neither the Government of the Reich, nor the Prussian Government, nor the issuing bankers, so far as the Transfer Committee as advised, have made any application for an exception to Article 248 in connection with the external loan of the State of Prussia, and the Transfer Committee understands, therefore, that the secondary character of the Prussian loan is recognized.

II. As your letter of September 6, 1926, recognizes, that the external loan of the State of Prussia presents also the question of impending foreign payments, whether of the German Governments itself or of the Federal States. The general question of the foreign payments of the Reich has already been the subject of consideration, and on October 3, 1925, I addressed to the Finance Minister of the Reich a letter written at the request of the Transfer Committee, which communicated to the German Government the resolution in the matter adopted by the Committee on October 1, 1925, as follows:

"The Transfer Committee feels obliged, in view of the repercussion which foreign payments of this character necessarily have upon the exchanges, and in view of the obligations in respect to the transfer of Reparation payments which the German Government has assumed by virtue of the Experts' Plan and the London Agreement, to request the German Government to advise it directly whenever it intends to make payments abroad in foreign currencies, and to request further that advice of all such payments be given to it sufficiently in advance to enable the Committee to[6] consider what bearing they may have upon reparation transfers. The Transfer Committee will then be in a position to indicate to the German Government its attitude with respect to such payments in view of the requirements of the Experts' Plan and the London Agreement."

The Finance Minister replied, under date of October 31, 1925, giving the Transfer Committee assurances that in the future he could communicate simultaneously to the Reparation Commission and to the Transfer Committee the particulars of impending foreign payments of the German Government.

The Transfer Committee notes that, in pursuance of the assurances thus given, the Finance Ministry, by its letter of September 6, 1926, has notified the Committee of the proposed external loan of the State of Prussia, thus treating impending foreign payments of the State of Prussia in the same light as impending foreign payments of the Reich. The Transfer Committee, however, has at the same time noted with surprise the statement attributed to the Finance Minister of Prussia in the above-quoted prospectus, to the effect that

"Neither German law nor any international engagement assumed by the German Government involve any restrictions upon the acquisition by the free State of Prussia of the foreign exchange requisite to meet the external obligations to be evidenced by these bonds."

The Transfer Committee finds itself unable to accept this statement, and feels that in the absence of an express exception under the Article 248 of the Treaty of Versailles this statement cannot properly be made, when any loan of the Reich or any of the Federal States is concerned, unless qualified by reference to the priority of reparation payments and transfers. In view of the secondary character of the external loan of the State of Prussia, as regards both reparation payments and reparation transfers, and in[7] view also of the relatively large share of the annual budget of the State of Prussia which is financed by the transfers of revenue from the German Reich, The Transfer Committee considers that the service of the Prussian external loan must necessarily be regarded as secondary to the obligations in respect to the transfer of reparation payments which the German Government has assumed by virtue of the Experts' Plan and the London Agreements.

In concluding, permit me to add, my dear Mr. Minister, that the Transfer Committee trusts that you will take appropriate steps to advise both the Prussian Minister of Finance and the issuing bankers of the position of the Transfer Committee, in order to guard against any possibility of misunderstanding.

I am, my dear Mr. Minister.

Respectfully,

AGENT GENERAL FOR THE REPARATION PAYMENTS, AND CHAIRMAN OF THE TRANSFER
COMMITTEE