CHAPTER 6

THE DEBT ISSUE

Among the generally accepted principles governing the conduct of States is the duty of a State to respect the rights of citizens of other states which have been acquired within its jurisdiction in accordance with its laws. It is also considered the duty of a government to honour the financial obligations contracted by a state under preceding governments. The Soviet Government violated these principles when it confiscated the property of American nationals in Russia and repudiated the contractual obligations of Russia. The policy of confiscation and repudiation constituted an important barrier in the way of the establishment of normal relations with the United States.

American Claims against Soviet Russia

American claims against Soviet Russia fell into three broad categories. First, the claim of the Government of the United States arising out of its holdings of Russian Government obligations. Second, the claim of American nationals arising out of their holdings of Russian Government securities floated in the United States. Third, claims of American concerns and nationals of a private character arising out of the ownership of property in Russia or of Russian securities not included in the above two classes. It also included
claims arising out of damages sustained to property rights and interests as a result of measures of the Russian Government.

Following American recognition of the Provisional Government on March 22, 1917, the American Ambassador in Russia, Francis, recommended that a loan be given to Russia. The entire proceeds were to be spent in the United States for the purchase of war materials. The purpose of the loan was to enable Russia to continue to fight against the Germans. This was made clear by the Assistant Secretary of State Jeffingwell when he spoke of "the stupendous importance to the United States of supporting the Russian Government which was keeping a large part of the German army on the Eastern Front." (1)

Credits Granted to Russia

After an enquiry into "the determination and ability of the Russian Government to carry on the war" (2) if financial aid was forthcoming, Secretary of State Lansing informed Ambassador Francis on May 17, 1917, that the United States Treasury had established a $100,000,000 credit on behalf of Russia under the War Loan Acts. (3) Further


(2) 3 For. Rel. 1918, Russia (Washington, GPO, 1932) 3.

(3) Ibid., 9-10.
credits of $225,000,000 were granted to Russia between July and October 1917, bringing the total credit extended to Russia to $325,000,000. (4) Cash advances made against these credits by November 1917, when credits were discontinued, totalled $192,601,297.37. (5)

Russian Obligations held by the United States

Against the credits granted, the Treasury Department held obligations of the Russian Government amounting to $187,729,750.00. (6) In addition it received as custodian from the Secretary of War, a Russian obligation dated August 8, 1919 for $406,082.30, on account of the sale of surplus war supplies. (7) The Treasury also received from the American Relief Administration on account of relief, Russian obligations dated July 1, 1919, for $4,465,465.07. (8) The total of these amounts which was $192,601,297.37, constituted the principal of the so-called Kerensky debt to the United States. (9)

(4) Ibid., 22-25.

(5) H. Com. on Exp., Hearings (n. 1) 17.

(6) 67th Cong., 2nd Sess., Senate Document No. 86, Loans To Foreign Governments (Washington, GPO, 1922) 175.

(7) Treasury Department, Annual Report of the Secretary of Treasury, 1920 (Washington, GPO, 1921) 66.

(8) Ibid.

(9) Ibid., 1932 (Washington, GPO, 1933) 436.
Claims of Private American Banks

Besides the claims of the U.S. Government, there were also claims arising out of the funds advanced to the Russian Government by private American banks. Prior to the entry of the United States into the World War, the Russian Government had obtained funds in the United States through private banking operations to the amount of $86,000,000. They included the following. (10)

(a) Russian Treasury notes worth $11,000,000.00 bearing an interest of five per cent and maturing in April 1927, purchased by the National City Bank in April 1916.

(b) A three year credit for $50,000,000.00 bearing an interest of six and half per cent, granted to the Imperial Russian Government by a syndicate of New York banks on June 18, 1916.

(c) A five year loan for $25,000,000.00 bearing an interest of five and half per cent, granted to the Imperial Russian Government by a syndicate of New York Banks on November 18, 1916.

Claims of American Concerns and Nationals

Finally, there were the claims of American concerns and nationals arising out of the confiscation of their private property by the Soviet Government. The real and personal property of American concerns and nationals in Russia was, for the most part, nationalized or confiscated. This confiscated property included the physical assets of some

(10) Ibid (n. 7) 352.
thirteen important American companies domiciled in Russia.(11)
It also included the property of American nationals residing in and carrying on individual business enterprises in that country, and property in Russia of American concerns and nationals not domiciled in that country. Bank deposits of American concerns and nationals were also confiscated.
Claims against the Soviet Government on account of confiscation and nationalization consisted of the following.(12)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Properties and assets of American concerns and real and personal property of individuals confiscated by Soviet authorities</td>
<td>$115,141,931.03</td>
</tr>
<tr>
<td>Bank deposits confiscated</td>
<td>209,825,348.82</td>
</tr>
<tr>
<td>Debt of the Russian Government to Private concerns</td>
<td>2,667,281.14</td>
</tr>
<tr>
<td>Miscellaneous Claims</td>
<td>9,057,210.04</td>
</tr>
<tr>
<td></td>
<td>$336,391,771.03</td>
</tr>
</tbody>
</table>

(11) The names of the American companies were as follows: The Singer Manufacturing Company and its Russian subsidiary, Kompanija Singer; the International Harvester Company; the National City Bank of New York; the New York Life Insurance Company; the Equitable Life Assurance Society; the International General Electric Company; the Vacuum Oil Company of New York; the Guaranty Trust Company of New York; the Otis Elevator Company; J. Black Company; Babcock and Wilson Corporation; the American Trade and Industrial Corporation and the Russian-American Rate Corporation. Cf. Memoranda on Problems Pertaining to Russian-American Relations, No. 3, October 3, 1933, NA, RG,59, file 461.11/1982.

In addition to the losses sustained by the confiscation of the assets of important American companies domiciled in Russia, losses were also sustained by American manufacturers who shipped goods to Russia. The losses resulted from the nationalization of the Russian banks in which the American manufacturers often deposited the payments received by them in Russia. Some of the manufacturers suffered loss because they could not collect on their drafts. American banks dealing in Russian bills also had their Russian deposits nationalized or could not collect on the bills.

Ruble deposits in Russian banks by American concerns and nationals were very large because restrictions on foreign exchange transactions, even before the advent of the Soviet regime, made it extremely difficult to transfer funds to the United States. These deposits were later nationalized and constituted an important proportion of American private claims against Russia. (13)

On January 21, 1918, the Soviet Government issued a decree whereby all of Russia's past financial obligations were summarily cancelled, both those owing to foreign governments and those owing to foreign nationals.

The decree stated,

1) All state loans concluded by the governments of the Russian landowners and Russian bourgeoisie, enumerated in a special list . . . are annulled (Cancelled) as from December 1, 1917.

(13) Ibid., 11.
2) In the same manner are annulled all guarantees given by the said government on loans for different undertakings and institutions.

3) Absolutely and without any exception all foreign loans are annulled. (14)

As a result of this decree, a huge foreign indebtedness was sloughed off. The confiscation of the property of foreign nationals was part of the general Communist program of the nationalization of all property. But when revolutionary ardour had been somewhat cooled by the sober realities of economic reconstruction and the desirability of encouraging foreign trade and investment became manifest, the authorities in Moscow expressed their readiness to abandon their extreme position.

Soviet Efforts toward the Settlement of American Claims

Chicherin's Note

On October 28, 1921, the Soviet Commissar for Foreign Affairs, Chicherin, addressed a communication to the British, French, American, Italian, and Japanese Governments, declaring his firm conviction that "no people is bound to pay the price of chains fastened upon it for centuries". He, however, also stated that,

in its unshakable determination to arrive at an entire agreement with the other powers, the Russian Government is inclined to make several essential and

(14) For. Rel. (n. 2) 32.
highly important concessions in regard to this question. It will thus meet the wishes of the numerous small holders of Russian bonds, for whom the recognition of the Czarist debt is a matter of vital importance. For these reasons the Russian Government declares itself ready to recognize the obligations towards other states and their citizens which arise from state loans concluded by the Czarist Government before 1914 with the express proviso that there shall be special conditions and facilities which will enable it to carry out this undertaking. (15)

These conditions included recognition of Russia by the powers, and the cessation of hostility to the Soviet Government. Chicherin proposed an international conference to deal with these questions "to consider the claims of powers against Russia and of Russia against the powers", (16) and to lay the foundation for a lasting peace. This suggestion was accepted and on January 6, 1922, the Supreme Allied Council meeting at Cannes, adopted a resolution calling for an economic and financial conference, to which Russia and the defeated powers were to be invited.

Genoa Conference

The conference met at Genoa on April 10, 1922. The conditions upon which the Soviet Government was prepared to recognize Russia's public debt were first clearly set forth at this conference. Chicherin declared that his government was ready to accept liability for past obligations with the


(16) Ibid., 272.
exception of war debts provided that the damages caused to Russia by the Allied intervention and blockade were recognized. Against the claims of other governments against Russia totalling $13,000,000,000, Chicherin presented counter-claims aggregating $60,000,000,000, which the Soviet Government was prepared to scale down to $25,000,000,000.

In connection with their counter-claims against the United States, the Soviet Government cited the Alabama case and drew an analogy between it and American aid to White Russian forces in North Russia during Allied intervention. (17) The counter-claims of the Russian Government, in fact, and in natural justice, were based on a much more equitable

(17) In the Alabama case the United States had brought claims against Great Britain for depredations on American commerce committed by the Alabama and other confederate vessels during the Civil War. The United States contended that Great Britain had not performed its duties as a neutral by failing to prevent the fitting out in, and the departure of these vessels from, British ports and the use of such ports as bases of operations. By the Treaty of Washington of May 8, 1871, the British Government agreed to an expression of regret for the escape of the Alabama and other vessels from British ports and for the depredations committed by them, and to reference of the controversy to an arbitral tribunal. This tribunal on September 14, 1872, awarded to the United States $15,500,000 which was duly paid. In this case, the British Government was not accused of being financially responsible for the fitting out of the ship or of having willingly assisted it in any way. It was a case of negligence only, and yet the British Government had to pay a substantial amount as damages. Cf. Cobett, Pitt., Leading Cases on International Law (London, Sweet & Maxwell, 1924) II, 451-455.
foundation because "the assistance to the rebels during the
Civil War in Russia was given quite intentionally, and from
governmental sources". (18) Referring to the charge against
Russia that she had not paid her debts to the United States,
a former Governor of New York (Smith) wrote,

It turns out that we sold considerable material
to the Kerensky Government on the supposition,
which proved to be a poor guess, that Kerensky
would last. . . . The amount involved is not great.
It is true also that private property of American
citizens was taken by the Soviet Government after
the revolution. So was all other private proper-
ty. As against this, we must not forget that we
maintained armies in Russia and Siberia which did
considerable damage and cost the natives much money,
at a time when we were not at war with Russia, and
had no possible excuses under international law for
keeping troops on her territory. In any adjustment,
this army invasion must be balanced against whatever
Russia owes us. (19)

Senator Brookhart of Iowa expressed the same opinion
when in a letter to Rev. John H. Hopkins he wrote,

... the countries that hold [Czarist] obligations
sent armies into Russia unlawfully against the
Soviet Union. These armies assisted the counter-
revolutionists and the damages they wrought is much
more than all the debts of the Czar and Kerensky
combined. Under international law our country and
the others are all liable for these debts. (20)

The nearest approach to an agreement on the debt issue
was the Soviet offer to recognize Russia's debts if they were

(19) New Outlook, April 1933, quoted in 77 CR (73: 1,
1933) 1545.
(20) Senator Smith W. Brookhart to Rev. John H. Hopkins,
August 21, 1933, NA, RG 59, file E/TFV 861.01/1944.
scaled down. Other conditions were *de jure* recognition and adequate financial assistance to Soviet Russia to enable her to meet her obligations. The Soviet delegates at the Genoa Conference also expressed the willingness of the Soviet Government to restore to foreign nationals the use of their seized property wherever it would be possible to do so without seriously contravening Soviet social and economic policies. It expressed its willingness to lease such property to its former owners. The Soviet delegates added that the Soviet regime would also be willing to satisfy by friendly agreement with the former proprietors, such claims of foreign ex-owners as it recognized to be just. (21) The Soviet Government was evidently prepared to bargain for a settlement and to abandon in some measure its policies of confiscation and repudiation in return for a foreign loan and for Allied recognition of its counter claims.

The Allied Governments stated their position in final form in a memorandum submitted to the Russian delegation on May 3, 1922. In it the Allied Governments offered to reduce their immediate claims on condition that Russia renounced all counter-claims and recognized its obligation to fulfil all financial engagements which it or its predecessors had

(21) Cf. NA, RG 59, file 861.01/1773.
contracted with foreign nationals. Russia was also required to "reduce or compensate all foreign interests for loss or damage caused to them" by the confiscation of their property. (22)

Chicherin's reply of May 11 to these proposals ended all hope of a settlement. Without credits for Russian economic reconstruction and the recognition of Russian counter-claims, all discussions were futile. Chicherin asserted it as a principle that "governments and systems that spring from revolution are not bound to respect the obligations of fallen governments." (23)

He pointed to the French and other revolutions and the proclamation of the French Convention of December 22, 1792, that "the sovereignty of peoples is not bound by treaties of tyrants". In accordance with this declaration, revolutionary France not only tore up the political treaties of the former regime with foreign countries, but also repudiated her national debt. Chicherin, however, stated that his government was prepared to "accept liability for the payment of public debts provided that the damages caused to Russia by the Allied intervention and blockade be recognized." But


he made it clear that the war debts could never be paid, for "Russia having withdrawn from the war without participating in the division of its advantages could not assume its costs." (24)

Soviet Government's Difficulties in Meeting Obligations

The Soviet Government's adherence to this position was perhaps as much the result of practical difficulties in the way of meeting its obligations as to the theoretical considerations upon which the policy of repudiation was originally based. It was generally agreed that it was economically impossible for Russia, at that stage, to discharge her debts even if she wished to honour them. (25) The Soviet Government was quite aware of this difficulty and hence insisted upon extensive loans for the rapid reconstruction of Russia's shattered economic life. Without such reconstruction, past obligations could not be met, and until they were met, or at least recognized, loans were not forthcoming. It was this vicious circle that doomed the Genoa Conference to failure.

(24) Ibid. In this connection, it may be pointed out that Russia was not alone in her refusal to honour her obligations to the United States. With her in the camp of repudiation stood all United States' European Allies. As the Nation wrote editorially, "France, Italy and other debtors to the United States have been more canny, they said they could not pay. But the result is the same." Cf. Nation (January 2, 1924) 118.

A high Soviet official once stated to the correspondent of the New York Times that,

the Soviet Government on more than one occasion has expressed its willingness to enter into negotiations for funding the old Russian debts provided that its creditors agreed to take into considerations Russia's losses and sacrifices in the Great War. . . . The United States Government has shown in its discussions . . . with the debt funding commissions of various European states that it is prepared to accept the principle of the debtor's capacity to pay. . . . The Soviet Government therefore feels justified in hoping that the United States will show the same spirit towards Russia.(26)

The Soviet leaders took the position that nothing could be achieved by acknowledging responsibility for debts which they were physically incapable of paying. The American Government, on the other hand, insisted that past obligations had to be recognized as an evidence of good faith. Russia's capacity to pay could be considered in subsequent negotiations to fix the terms of payment. Until an obligation was acknowledged and willingness to pay was manifested, no negotiation was desirable or possible.

In a note addressed to President Coolidge, on December 16, 1923, Chicherin declared that his government was fully prepared to negotiate for the settlement of all questions of claims "provided that such a settlement is based on the principle of reciprocity". (27) This suggestion, however,

(27) Degras (n. 15) 418.
brought forth a sharp rebuff from Secretary of State Hughes who stated in reply,

...If the Soviet authorities are ready to repeal their decree repudiating Russia's obligations to this country and appropriately recognise them, they can do so. It requires no conference or negotiations to accomplish these results, which can and should be achieved at Moscow as evidence of good faith. (28)

Stekloff, editor of *Izvestia*, explained that Hughes' haughty refusal of Chicherin's offer was due to the former's "hopelessness of making out a case against Russia's counter-claims". (29) In December 1925, Chicherin again expressed his government's willingness to discuss the debt question stating that,

the Soviet Government is still ready, as it declared when President Coolidge took office, to examine without prejudice all questions in dispute...including the question of loans granted to Kerensky. (30)

Early in 1926, Litvinov also expressed the willingness of the Soviet Government to commence negotiations with the United States for the settlement of the debt question. (31) In August 1926, this proposal began to assume more definite form, apparently as a consequence of the Soviet Government's

(28) 2 For. Rela. 1923 (Washington, GPO, 1938) 788.
(29) New York Times (January 5, 1924) 2.
(31) Ibid., 111.
urgent need of more liberal terms of credit for financing of Russian-American trade. (32) It was indicated semi-officially that the Soviet authorities were prepared to send a debt-funding commission to the United States as soon as assurances could be had that it would be received. (33)

The Soviet Government, for the first time, sought to make a distinction between the Kerensky debt and the remainder of the war debt, which was contracted by the Czar's Government with Great Britain and France. The Soviet Government was prepared to recognize the Kerensky debt to the United States (34) even though most of the money had been spent by Bakhmeteff for purposes inimical to Soviet interests. (35)

On May 25, 1927, the American Ambassador to Berlin reported an interview which took place in Moscow between an American citizen, Mr. Felix Warburg, and a prominent member of the Communist Party of the Soviet Union, A.I. Rykov.

So far as American debts are concerned he declared that the Soviet Government stood ready to arrange for their payment. Mr. Warburg enquired how far back the Government would take account of Russian


(34) It may be noted in this connection that the Russian debt to the United States constituted an infinitesimal sum as compared with the debts which Russia owed to most of the European countries which had recognized her government. Cf. 74 CR (71: 3, 1931) 4006.

obligations and Bykov replied that they would recognize those of the Kerensky Government. (36)

The Soviet Government was likewise prepared to discuss compensation and adjustment for property with American investors. It recognized "in principle that it is liable to pay compensation to private persons who have supplied goods or services to Russia for which they have not been paid" (37) when it signed the Trade Agreement with Great Britain in March 1921. The Soviet Government was equally willing to recognize the claims of American citizens and firms. It, however, wished to discharge its obligations of compensating private claimants in an indirect manner such as the grant of a concession or through the payment of excess interest on credit contracts.

At an informal meeting, the Soviet Military Attache in Tokyo discreetly intimated to his American counterpart the Soviet viewpoint on the debt issue. He was reported to have stated,

The Soviets would be glad to pay the small debts owed to America, but that would necessitate the recognition of debts elsewhere, the total of which is very large. Hence instead of recognizing those debts, the Soviets would be glad to arrange something else that would be the equivalent of paying the debts. (38)

(36) Memoranda on Problems pertaining to Russian-American Relations, No. 1, October 20, 1933, NA, RG 59, file 800.51 W89 USSR 134.

(37) Quoted in Ibid., No. 3, NA, RG 59, file 461.11/1984.

(38) McIlroy to Smith, February 23, 1933, NA, RG 59, file 861.01/1853.
The American Ambassador in Japan, Joseph Grew, seemed to have realized the Soviet position when he reported,

'It [Soviet Russia] is able, but cannot agree to repay old Russian debts owing to American citizens because to repay one set of debts would make it necessary to repay all. . . . [Instead] the Soviets are willing to give economic favours and to grant concession in return for the cancellation of old debts. (39)

The Soviet Government did make headway in this respect when it settled the claim of the International General Electric Company (approx. $1,843,543) through the payment of high rates of interest for credits on a contract signed on October 9, 1928. By it, the Soviet Government agreed to purchase electrical apparatus worth $25,000,000 from the International General Electric and the latter agreed to extend long-term credits. The interest rate on the credit acceptances was placed sufficiently high at 9½ per cent, (40) so that the excess over the normal rate might, by the termination of the contract, compensate the Company for its claim against the Soviet Government.

As a matter of fact, the Soviet Union was not at all disinclined to repay the debts owed to the United States, particularly if recognition could be gained thereby. It was, however, apprehensive that this might compel it to recognize the debts owed to other countries as well.

(39) Grew to Stimson, March 9, 1933, NA, RG 59, file 761.94/595.

(40) Cf. Memoranda on Problems pertaining to Russian-American Relations (n. 11) No. 3.
As Litvinov stated "... it is not a matter of the amount. The thing is that, if we recognize the debts to America, other governments will demand of us the payment of debts." (41)

Furthermore, it must be remembered that the freedom of action of the Soviet Government to compensate the American property owners for their losses was seriously hampered by treaty commitments to the European Powers. Under the terms of some of these treaty commitments, the Soviet Government could not meet the American claims on terms more favorable than those it was prepared to grant to other governments.

Thus in the Treaty of Rapallo, which the Soviet Union concluded with Germany on April 16, 1922, it was stated in Art. II,

Germany renounces all claims resulting from the enforcement of the laws and measures of the Soviet Republic as it has affected German nationals or their private rights or the rights of the German State itself, as well as claims resulting from measures taken by the Soviet Republic or its authorities in any other way against subjects of the German state or their private rights, provided that the Soviet Republic shall not satisfy similar claims made by any third state. (42)

It was precisely owing to these restrictions that the Soviet Government sought to satisfy the claims of the International General Electric in an indirect manner by the

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(41) Memoranda on Problems Pertaining to Russian-American Relations, No. 8, November 3, 1933, NA, RG 59, file 861.44 Litvinov/15.

payment of excess interest rates on credit contracts. The debt issue, however, remained unsolved despite the Soviet Government's desire to settle the claims indirectly. It was not until President Roosevelt, in October 1933, invited Michael Kalinin, President of the All-Russian Central Executive Committee, to send a Soviet representative to the United States to discuss with him all questions outstanding between the two countries, and Litvinov's arrival in Washington in November 1933, for this purpose, that the debt issue was finally sought to be thrashed out.