

Report

Of the International Committee of Jurists entrusted by the Council of the League of Nations with the task of giving an advisory opinion upon the legal aspects of the Aaland Islands question.

RESOLUTION OF THE COUNCIL.

At a meeting held on the 12th July, 1920, the Council of the League of Nations, assembled at London, unanimously adopted with the assent of Finland and Sweden, the opposing parties in a dispute as to whether the inhabitants of the Aaland Islands should “be authorised to determine forthwith by plebiscite whether the archipelago should remain under Finnish sovereignty or be incorporated in the Kingdom of Sweden,” the following resolution:

“An International Commission of three jurists shall be appointed for the purpose of submitting to the Council, with the least possible delay, their opinion on the following points:

- (I) Whether, within the meaning of paragraph 8 of Article 15 of the Covenant, the case presented by Sweden to the Council with reference to the Aaland Islands deals with a question that should, according to International Law, be entirely left to the domestic jurisdiction of Finland.

ORGANISATION OF THE COMMISSION.

Professor F. LARNAUDE, Dean of the Faculty of Law at Paris; Professor A. STRUYCKEN, Councillor of State of the Kingdom of the Netherlands; Professor MAX HUBER, Legal Adviser of the Swiss Political Department, were appointed members of this Commission. M. le Doyen F. LARNAUDE was entrusted with the duties of President.

M.G. KAECKENBEECK, of the Legal Section of the Secretariat of the League of Nations, was selected to discharge the duties of Secretary to the Commission, and was further entrusted with the task of supplying the Committee with all the necessary relevant documents, especially those connected with the debates which took place before the Council of the League of Nations at the above-mentioned meeting at London.

DOCUMENTS AND AUDITIONS.

Further, at the invitation of the Council, the Finnish and Swedish Governments supplied the Committee with a statement of their views upon the questions submitted to it.
[4]

These statements were communicated to the Governments concerned and to the Aaland Islands Delegate, Mr. JOHANNES ERIKSSON, and, following upon this, supplementary documents, observations and commentaries written upon these statements were sent to

the Commission by the Swedish and Finnish Ministers at Paris, and by Messrs. JOHANNES ERIKSSON and AUGUSTUS KARLSSON.

Further, the Commission heard, on behalf of Finland, M. ENCKELL, Finnish Minister at Paris, assisted by M. K. G. IDMAN, Finnish Minister at Copenhagen, and, on behalf of Sweden, Count EHRENSVARD, Swedish Minister at Paris, who respectively answered the various questions put to them by the Commission. Messrs. JOHANNES ERIKSSON and AUGUSTUS KARLSSON, representing the inhabitants of the Aaland Islands, were also given a hearing. Major HOLMQUIST also gave the Commission explanations on certain technical points in connection with the demilitarisation of the Islands.

DURATION OF THE SITTINGS.

The Commission, which was summoned to meet at Paris on the 3rd August, held its meetings in the "Salle des Actes" of the Faculty of Law of the University of Paris. The Commission completed its task on the 5th September, and adopted the following statement of opinion:

PARAGRAPH 8, ARTICLE 15 OF THE COVENANT.

1. Paragraph 8 of Article 15 of the Covenant lays down that when a dispute is submitted to the Council of the League of Nations, if one of the parties maintains and if the Council considers that the dispute refers to a question which, according to International Law, falls solely within the domestic jurisdiction of the party claiming that such is the case, the latter must record the fact in a report, but without recommending any solution of the question. This rule amounts to the exclusion of jurisdiction of the Council in certain cases; the Council being competent to decide finally whether it has jurisdiction or not.

The Covenant, by the express adoption of this provision, which might have been left to the application of rules of International Law, has attached particular importance to it, thereby confirming the very definite intention of the Members of the League of Nations to avoid encroaching upon the domestic sovereignty of States.

THE APPLICATION OF THE PARAGRAPH.

The Commission, from the outset, agreed to reject the notion that the fact that a dispute was brought before the Council by a Member of the League of Nations would suffice to invest it with an international character and make it therefore subject to the jurisdiction of the League of Nations, within the meaning and application of paragraph 4 and the following paragraphs of Article 15.

The legal nature of a question cannot be dependent upon the fact that a Member of the League of Nations, which may or may not be a party to the dispute, chooses to submit it to the Council. A question is either of an international nature or belongs to the domestic jurisdiction of a State, according to its intrinsic and special characteristics. The alternative view, moreover, is not logically compatible with paragraph 8 itself, since this paragraph

expressly gives the Council the power of deciding whether a dispute bears upon a question which International Law leaves entirely to the domestic jurisdiction of the party claiming that such is the case. [5]

It is therefore essential to begin by considering the intrinsic and special characteristics of the question raised by the dispute between Finland and Sweden, in order to decide whether the question comes within the jurisdiction of the Council of the League of Nations.

SWEDEN'S CLAIM.

2. The question really takes this form: can the inhabitants of the Aaland Islands, as at present situated, and taking as a basis the principle that peoples must have the right of self-determination, request to be united to Sweden? Can Sweden, on her side, claim that a determination, request to be united to Sweden? Can Sweden, on her side, claim that a plebiscite should take place in order to give the inhabitants of the Islands the opportunity of recording their wish with regard to their union with Sweden or continuance under Finnish rule?

THE PRINCIPLE OF SELF-DETERMINATION AND THE RIGHTS OF PEOPLES.

Although the principle of self-determination of peoples plays an important part in modern political thought, especially since the Great War, it must be pointed out that there is no mention of it in the Covenant of the League of Nations. The recognition of this principle in a certain number of international treaties cannot be considered as sufficient to put it upon the same footing as a positive rule of the Law of Nations.

On the contrary, in the absence of express provisions in international treaties, the right of disposing of national territory is essentially an attribute of the sovereignty of every State. Positive International Law does not recognise the right of national groups, as such, to separate themselves from the State of which they form part by the simple expression of a wish, any more than it recognises the right of other States to claim such a separation. Generally speaking, the grant or refusal of the right to a portion of its population of determining its own political fate by plebiscite or by some other method, is, exclusively, an attribute of the sovereignty of every State which is definitively constituted. A dispute between two States concerning such a question, under normal conditions therefore, bears upon a question which International Law leaves entirely to the domestic jurisdiction of one of the States concerned. Any other solution would amount to an infringement of sovereign rights of a State and would involve the risk of creating difficulties and a lack of stability which would not only be contrary to the very idea embodied in the term "State," but would also endanger the interests of the international community. If this right is not possessed by a large or small section of a nation, neither can it be held by the State to which the National group wishes to be attached, nor by any other State.

The Commission, in affirming these principles, does not give an opinion concerning the question as to whether a manifest and continued abuse of sovereign power, to the detriment of a section of the population of a State, would, if such circumstances arose, give

to an international dispute, arising therefrom, such a character that its object should be considered as one which is not confined to the domestic jurisdiction of the State concerned, but comes within the sphere of action of the League of Nations. Such a supposition certainly does not apply to the case under consideration, and has not been put forward by either of the parties to the dispute.

De facto AND *de jure* CONSIDERATIONS. THEIR INTERNATIONAL CHARACTER.

3. It must, however, be observed that all that has been said concerning the attributes of the sovereignty of a State, generally speaking, only applies to a nation which is definitively constituted as a sovereign State and an independent member of the international community, [6] and so long as it continues to possess these characteristics. From the point of view of both domestic and international law, the formation, transformation and dismemberment of States as a result of revolutions and wars create situations of fact which, to a large extent, cannot be met by the application of the normal rules of positive law. This amounts to a statement that if the essential basis of these rules, that is to say, territorial sovereignty, is lacking, either because the State is not yet fully formed or because it is undergoing transformation or dissolution, the situation is obscure and uncertain from a legal point of view, and will not become clear until the period of development is completed and a definite new situation, which is normal in respect to territorial sovereignty, has been established.

This transition from a *de facto* situation to a normal situation *de jure* cannot be considered as one confined entirely within the domestic jurisdiction of a State. It tends to lead to readjustments between the members of the international community and to alterations in their territorial and legal status; consequently, this transition interests the community of States very deeply both from political and legal standpoints.

SELF-DETERMINATION AS APPLIED TO *de facto* SITUATIONS. ITS FORMS.

Under such circumstances, the principle of self-determination of peoples may be called into play. New aspirations of certain sections of a nation, which are sometimes based on old traditions or on a common language and civilisation, may come to the surface and produce effects which must be taken into account in the interests of the internal and external peace of nations.

The principle recognising the rights of peoples to determine their political fate may be applied in various ways; the most important of these are, on the one hand the formation of an independent State, and on the other hand the right of choice between two existing States. This principle, however, must be brought into line with that of the protection of minorities; both have a common object—to assure to some national Group the maintenance and free development of its social, ethnical or religious characteristics.

The protection of minorities is already provided for, to a very varying extent, in a fairly large number of constitutions. This principle appears to be one of the essential characteristics of liberty at the present time. Under certain circumstances, however, it has been thought necessary to go further, and to guarantee, by international treaties, some

particular situation to certain racial or religious minorities. Thus, in some recent treaties a special legal régime, under the control and guarantee of the League of Nations, has been established for certain sections of the population of a State.

The fact must, however, not be lost sight of that the principle that nations must have the right of self-determination is not the only one to be taken into account. Even though it be regarded as the most important of the principles governing the formation of States, geographical, economic and other similar considerations may put obstacles in the way of its complete recognition. Under such circumstances, a solution in the nature of a compromise, based on an extensive grant of liberty to minorities, may appear necessary according to international legal conception and may even be dictated by the interests of peace.

HISTORICAL DEVELOPMENT OF FINLAND.

4. In the light of the foregoing, the question has to be decided as to whether, from the standpoint of territorial sovereignty, the situation of the Aaland Islands in the independent [7] State of Finland is of a definite and normal character, or whether it is a transitory or not fully developed situation.

In order to answer this question, the principal historical facts marking the development of the political and legal position of Finland and of the Islands must be examined.

Before the proclamation of independence, the legal position of Finland within the Russian Empire was very peculiar and difficult to define.

THE FINNISH CONSTITUTION OF 1809.

In particular, the question arose as to whether the Treaty of Fredrikshamn, of 5th-17th September, 1809, combined with the solemn promise of the Czar Alexander I., given on 29th March of the same year to the formally constituted Diet of Borgå, had or had not constituted these former Swedish provinces into a State in the true sense of the word, which was no doubt incorporated in the Russian State, but nevertheless enjoyed a very wide measure of autonomy and independence except in matters relating to foreign relations as a whole and to certain other matters of internal policy and legislation described as common interests, which, especially since 1899, have led to a great controversy and, at the same time, were the cause of seriously strained relations between the Russian and Finnish authorities.

Even if an affirmative answer be given to the question referred to in the last paragraph, and if, consequently, the view most favourable to the Finnish theory be adopted—which theory, as a matter of fact, has appeared to most jurists who have written on the subject to be most in conformity with the wording and spirit of the settlement of 1809—it remains true, nevertheless, that the State of Finland, which since 1899 was in fact treated by the Russian Government as an ordinary province, had not and also never claimed to have an independent legal existence in external affairs and was indissolubly bound to Russia.

EFFECTS OF THE RUSSIAN REVOLUTION.

This situation did not immediately alter after the Russian revolution of March, 1917, and the disappearance of the monarchical power, which until then had been common to Russian and Finland. The various provisional governments which succeeded one another until the Bolschevik *coup d'état*, continued to send Governor-generals to Finland.

However, the Bolschevik manifesto of the 15th November, 1917, proclaiming the right of self-determination of all the peoples not of Russian race to decide their own future, led to an important alteration in the relations between Russia and Finland.

DECLARATION OF INDEPENDENCE.

At the same time, the Finnish Diet, on the 15th November, 1917, assumed the supreme power and constituted a national Government which, on the 4th December, 1917, sent forth an appeal to the Finnish people exhorting them to make every effort to enable Finland to take her place as an independent nation among the other nations. During the events which followed, this object was ultimately attained.

RECOGNITIONS.

On the 31st December, 1917, the Soviet of Commissaries of the People at Petrograd proposed to the Executive Central Committee of the Soviets of deputies of workmen, soldiers and peasants of all the Russias that the political independence of the Republic of Finland [8] should be recognised. The latter body accepted the proposal on the 4th January. On the 4th January Finland was recognised by the Swedish Government and on the 5th by the French Government; recognition by Denmark and Norway followed on 10th January, and by Switzerland on 22nd February. Numerous other recognitions were given later.

Nevertheless, these facts by themselves do not suffice to prove that Finland, from this time onwards, became a sovereign State.

The experience of the last war shows that the same legal value cannot be attached to recognition of new States in war-time, especially to that accorded by belligerent powers, as in normal times; further, neither were such recognitions given with the same object as in normal times. In many cases they were only recognitions of peoples or nations, sometimes, even, mere recognitions of Governments. The precise determination of the territorial status of these States was usually left to the great diplomatic reconstruction of Europe which would follow the conclusion of peace, just as, in some cases, were certain peculiarities of their political constitution and legislation, especially concerning the protection of minorities, which were thus reserved for international settlement. The special nature of some recognitions which were accorded during this disturbed period is also traceable to the way in which certain Governments regarded such recognition. Thus, Sweden has always shown by her attitude that she was interested in the Aaland Islands question, and she has always acted as if her recognition had been given subject to reservations.

In France, the President of the Council publicly declared from the tribune of the Chamber of Deputies, on the 29th September, 1918, that he considered that the Aaland Islands question was within the scope of the Peace Conference.

As for Russia, which was the first to recognise the Finnish State, the fact must not be forgotten that she was at that time in the throes of a revolution, and that her revolutionary organisations had as yet only been recognised by the Central Powers in the negotiations at Brest-Litowsk.

The Government of Great Britain only recognised Finland as a State much later—on the 6th May, 1919. On the following day it added to this recognition a note expressing the hope that Finland would not refuse, under any circumstances, to accept the decisions of the Peace Conference with reference to her frontiers. It was only on the 21st January, 1920, that the British Government stated that its recognition was given without any reservations whatever.

INTERNAL SITUATION OF FINLAND.

In addition to these facts which bear upon the external relations of Finland, the very abnormal character of her internal situation must be brought out. This situation was such that, for a considerable time, the conditions required for the formation of a sovereign State did not exist.

In the midst of revolution and anarchy, certain elements essential to the existence of a State, even some elements of fact, were lacking for a fairly considerable period. Political and social life was disorganised; the authorities were not strong enough to assert themselves; civil war was rife; further, the Diet, the legality of which had been disputed by a large section of the people, had been dispersed by the revolutionary party, and the Government had been chased from the capital and forcibly prevented from carrying out its duties; the armed camps and the police were divided into two opposing forces, and Russian troops, and after a time Germans also, took part in the civil war between the inhabitants and between the Red and White Finnish troops. [9]

It is, therefore, difficult to say at what exact date the Finnish Republic, in the legal sense of the term, actually became a definitely constituted sovereign State. This certainly did not take place until a stable political organisation had been created, and until the public authorities had become strong enough to assert themselves throughout the territories of the State without the assistance of foreign troops. It would appear that it was in May, 1918, that the civil war ended and that the foreign troops began to leave the country, so that from that time onwards it was possible to re-establish order and normal political and social life, little by little.

It follows from all these facts that the formation of an independent State of Finland in 1917 and 1918, whatever may have been the legal status of Finland formerly under the Russian Empire, must be considered, at any rate in several aspects, as a new political phenomenon and not as a mere continuation of a previously existing political entity.

THE AALAND ISLANDS BEFORE 1917.

5. The special situation of the Aaland Islands must now be considered from the same point of view.

Until the year 1809, except for a short period of Russian domination at the beginning of the 18th century, the Aaland Islands were part of the kingdom of Sweden. In 1808 and 1809 they were conquered by Russia; on the 17th September, 1809, the King of Sweden, in the Treaty of Fredrikshamn, renounced all his rights and titles to the Islands in favour of the Emperor of all the Russias, as well as his rights to continental Finland.

Nevertheless the union of the Aaland Isles to the Russian Empire was not carried out in the same way as that of continental Finland. After the Emperor's Declaration on 28th March, 1808, proclaiming that he had taken possession of Finland, the Finns accepted their new sovereign, and on the 22nd March, 1809, and the days following, at the Diet of Borgå which was summoned at their request, took the oath of fidelity to the Emperor of all the Russias, Grand Duke of Finland, and co-operated in the constitutional organisation of their country within the Russian Empire. The population of the Aaland Islands, on the contrary, refused to be separated from Sweden; they made great efforts to drive the Russian troops from the Islands; they even succeeded in keeping them at a distance for a considerable time, and they only resigned themselves to the change of sovereign and nationality after the territory had been ceded by their King in the Treaty of 17th September.

Consequently, although from an international point of view the transfer of sovereignty over the Aaland Isles to the Emperor of Russia took place at the same time as that of the sovereignty of Finland, internally and from a constitutional standpoint, Finland was already part of the Russian Empire before the Aaland Islands were annexed to it.

THE PURPORT OF THE FINNISH DECLARATION OF INDEPENDENCE.

The Aaland Islands were undoubtedly part of Finland during the period of Russian rule. Must they, for this reason alone, be considered as definitely incorporated *de jure* in the State of Finland which was formed as a result of the events described above?

The Commission finds it impossible to admit this. The extent and nature of the political changes, which take place as facts and outside the domain of law, are necessarily limited by the results actually produced. These results alone form the basis of the new legal entity which is about to be formed, and it is they which will determine its essential [10] characteristics. If one part of a State actually separates itself from that State, the separation is necessarily limited in its effect to the population of the territory which has taken part in the act of separation. Though the political projects leading to the separation may be manifested in different ways in different parts of the territory, nevertheless these projects all have an equal value as a foundation for the new legal order, though of course only in so far as those who adopt them are able to maintain them. It may even be said that if a separation occurs from a political organism which is more or less autonomous, and which is itself *de facto* in process of political transformation, this organism cannot at the very moment when it transforms itself outside the domain of positive law invoke the principles

of this law in order to force upon a national group a political status which the latter refuses to accept.

By the application of a purely legal method of argument it might be said that a kind of acquired right exists in favour of the Aaland Islands which would be violated if Finland were allowed to suppress it retrospectively. Of course the expression "acquired right" can only be used figuratively, but even with reference to a *de facto* situation it should be possible to invoke, if not the actual principle of non-retrospective action (*principe de non-rétroactivité*), at any rate the primary reason on which it rests, which is dictated by justice and equity.

For these reasons, Finland cannot claim that the future of the Aaland Islands should be the same as hers simply because of the one fact that the Islands formerly formed part of the Finnish political organisation in the Russian Empire.

THE AALAND ISLANDS AFTER THE RUSSIAN REVOLUTION.

As has been done in the case of continental Finland, so also in the case of the Aaland Islands the course of their political transformation, after the Russian revolution, must be traced.

There can be no doubt that this transformation did not occur in the same way as in continental Finland.

It is true that the population of the Islands took part in the movement which led to the separation of Finland from Russia, and that in a general way it continued to live under the same legal régime as Finland. The Aaland Islanders, however, could not act otherwise. They could not, on the one hand, attach themselves directly to Sweden, and, on the other hand, they did not wish to, and, besides, they could not form an independent State. They simply awaited a settlement by means of negotiations between Sweden and Finland.

Many important incidents which occurred in the Islands prove that the transformation of their political status assumed, from the outset, quite a different character and direction from that taken in continental Finland.

Two series of incidents are worth calling to notice: on the one hand, the political expressions of the wishes of the people and, on the other, military events which took place in the Islands.

As soon as the Russian revolution had broken out, the population of the Islands openly expressed their wish to be separated from Russia and to be attached to Sweden.

THE ATTITUDE OF THE AALAND ISLANDERS.

As early as the 20th August, 1917, the Delegates of the Communes of the Islands assembled at Finström and decided to bring to the notice of the Swedish Government and Parliament that the population of the Aaland Islands, for special reasons, keenly desired that the Islands should be reunited to the Kingdom of Sweden. This resolution was communicated to the Swedish Government on 27th November. [11]

In December, at about the time when Finland declared its independence, the Aaland Islanders were preparing to take a plebiscite in favour of their reunion with Sweden. This plebiscite took place on 31st December; every man and woman of age was given the right to take part. More than 7,000 Aaland Islanders expressed the wish that the Islands should be reunited to the Kingdom of Sweden. On the 3rd February, 1918, a deputation was received by the King of Sweden and communicated the results of this plebiscite to him.

In the meantime, on the 16th January, 1918, the King of Sweden, in the Speech from the throne delivered to the Riksdag, had expressed his conviction that the independence of Finland would facilitate a satisfactory settlement of the Aaland Islands question; this was, in view of the speeches in Parliament and articles in the Swedish Press at the time, and even considerably before, to be taken to mean that the independence of Finland would facilitate the reunion of the Islands to Sweden.

In June, 1919, a new plebiscite was taken in the Islands. About 95 per cent. of the population declared in favour of reunion with Sweden.

The Aaland Islanders have not ceased to do all in their power to attain the realisation of their national hopes. First of all in March, 1918, they approached the Finnish Senate, the King of Sweden and the Emperor of Germany. They made another appeal in November, 1918, to the President of the United States, to the President of France, and to the Government of Great Britain. Lastly they sent a delegation to the Peace Conference on 31st January, 1919, and to the Council of the League of Nations in July, 1920. With the same object they even formed, contrary to law, a popular representative body, the "Landsting," composed of delegates from the various municipal councils, which was to be a centralised means of interpreting the will of the inhabitants.

THE ATTITUDE OF SWEDEN.

The Swedish Government has upheld and defended their cause everywhere, in the most energetic way, and has adopted it as its own. After private negotiations, it addressed a formal request to the Finnish Government in November, 1918, to arrange for a plebiscite to take place with full guarantees of sincerity and independence, in order to decide the political fate of the Islands.

The Finnish Government did not answer until June, 1919, and then replied in the negative. Since then the Swedish Government has taken the dispute before the Peace Conference and has defended its views before the Council of the League of Nations.

THE ATTITUDE OF FINLAND.

The Finnish Government, on the other hand, has only taken very belated coercive measure to prevent or check the various popular demonstrations of the Aaland Islanders intended to bring about the reunion of the Islands with Sweden, though it sent a "serious warning" in March, 1918, to the Aaland Islanders at the time of their appeal to the Finnish Senate, the King of Sweden and the Emperor of Germany. This warning had no effect; the demonstrations continued and the Finnish Government did not take effective steps to

prevent them. The attempt made to satisfy the inhabitants by means of a special law giving the Islands an extensive measure of autonomy did not succeed, though the President of the Council and some other Ministers went to Marienhamn to meet the delegates of the inhabitants of the Islands and to explain the provisions of the law. The Assembly refused to take part in the discussion of the law and, after having once more expressed the wish of the inhabitants to determine their own political future, broke up. [12]

It should be added that the inhabitants of the Islands refused to perform compulsory military service in the Finnish Army, and a large number of conscripts deserted and went to Sweden.

COMPARISON BETWEEN THE POLITICAL ATTITUDE ON THE MAINLAND OF FINLAND AND ON THE ISLANDS.

From the above facts it may be seen that the populations of the Aaland Islands and the mainland of Finland, though they acted together in order to separate themselves from Russia, have, from the outset, expressed quite different hopes for their ultimate political future. The population of the mainland wished to form an independent State, the inhabitants of the Aaland Islands wished to reunite with Sweden, and they expressed this wish in such a way that, even if the disturbed condition of Russia and Finland at first had a considerable influence upon the aspirations of the Islanders, nevertheless, this wish can be looked upon as an unanimous, sincere and continued expression of feeling.

The demonstrations on the part of the Islands which followed one after the other, each one more emphatic and decided than the last, which the Government of Finland either could not or would not, for a long time, prevent, must be considered as factors of the first importance in connection with the change in the political status of the Islands, more especially as they took place at the same time as the transformation *de facto* of the political organisation of which the Islands formed part. The Aaland Islands agitation originated at a time when Finland was undergoing a process of transformation. The fact that Finland was eventually reconstituted as an independent State is not sufficient to efface the conditions which gave rise to the aspirations of the Aaland Islanders and to cause these conditions to be regarded as if they had never arisen. These arguments are emphasised by the fact that the population of the Islands, which is very homogeneous, inhabits a territory which is more or less geographically distinct; further, the population is united by ties of race, language and traditions to the Swedish race, from which it was only separated by force, whereas the population of the Finnish mainland is, for the most part, of Finnish origin, and the small portion of Swedish which has become mingled with it to a large extent shares the ideal of the majority with regard to an independent State of Finland. It must be added that the population of the Islands had no means of asserting its nationalist aspirations during the period of Russian rule.

MILITARY EVENTS.

A few words must be said with regard to the military events which took place in the Aaland Islands.

After the declaration of Finnish independence, Russian troops continued to occupy the Åland Islands and even received considerable reinforcements. The Finnish Government made no serious attempt to dislodge them; in February, 1918, there were hardly 500 Finnish "White" troops in the Islands. Most of these, even, arrived unarmed.

The Islands were eventually freed from the Russian troops by Swedish military action, at the request of the inhabitants; the Russians would not return to Russia unless the Finnish White troops also left at the same time. The latter consented to abandon their weapons before leaving the Islands, at the request of the Swedish Commander, whom they believed to be in agreement with the Finnish Headquarters. Later, the German troops occupied the Islands until October, 1918.

This military intervention on the part of the Swedish Government was doubtless only [13] occasioned by motives of humanity, but, nevertheless, it follows from all that occurred that during this period, quite apart from the disturbances arising from its internal condition, Finland on several occasions exercised absolutely no sovereign rights over the Åland Islands.

RUSSIA AND THE QUESTION OF THE ÅLAND ISLANDS.

The international nature of the question of the Åland Islands, which is shown by the arguments set forth above, is further strengthened by the special position of Russia with regard to the archipelago.

The legal position of Finland with regard to Russia was not exactly the same as that of the other States which evolved from the disintegration of the Russian Empire, when the question of its recognition was raised. Whatever opinion, however, may be adopted concerning the legal and political status of Finland within the Russian Empire before the declaration of its independence, there is no doubt that very close legal and political ties united the two countries. By the Proclamation of Independence, which was also in conformity with the general declaration of the Soviet Government with reference to the peoples not of Russian race in the old Russian Empire, the link which bound Finland to it was broken.

There is, also, no indication in any of the documents known to the Committee that the Soviet Government attached any condition to its recognition of Finland. A few days after the latter had proclaimed its independence, the Soviet Government—on the 31st December, 1917, and the 4th January, 1918—put into force, as is expressly stated in the document which constituted the first step in this recognition, the principle of self-determination of peoples.

It can be seen, however, from two wireless messages sent out by the Soviet Government, which were read on the 10th July, 1920, at the Council Meeting, that this Government has never ceased to take an interest in the Åland Islands question.

In the first of these messages, dated 3rd October, 1919, the Soviet Government questions the qualifications of the Peace Conference to intervene in the Åland Islands question. It states that the Åland Islands can only be allotted to Finland by a treaty between the latter and Russia, with reference to the frontiers of Finland, and declares, on

the other hand, that the Islands cannot be handed over to Sweden without Russia's consent, in view of their importance in connection with Russian communications.

In the second message, dated 1st July, 1920, which is based on the same arguments and addressed to the Allies as well as to Finland and Sweden, the Soviet Government refuses to admit that a decision or agreement upon this point can have any value unless Russia has participated in it. The Press has lately reported the contents of another wireless message based on the same ideas and alluding to the Finnish claims in connection with Eastern Carelia and Petchenga.

EFFECTS OF THE ABNORMAL SITUATION OF RUSSIA.

It must, however, be remembered that the Soviet Government has not yet been definitely recognised by any Power.

If the Soviet Government were deemed qualified to intervene in the question, the international nature of the dispute would thereby be definitely acknowledged, without in any way prejudging the question as to whether the Soviet's arguments are well founded in law; it would indeed appear that the Soviet Government, by recognising Finland, has given up all Russian rights over this part of the old Empire. [14]

The international nature of the question, however, also appears if it be held that the Soviet Government has no title to represent Russia, for, under such circumstances the League of Nations could not entirely neglect the interests of a State which, according to this view, should be considered as incapable in the eyes of the other Powers, at present, of entering into valid legal relations. It may be seen that this last argument is strengthened by the fact that Russia is undeniably one of the Powers most interested in the Aaland Islands question.

On the other hand, the abnormal position of a Power such as that of Russia can hardly prevent the other States interested from undertaking the settlement of a question which also affects them and which requires as speedy a settlement as possible; Russia, as soon as it possesses a recognised Government, will be free to give its adherence to the agreement.

Thus, from whatever standpoint the question of the Aaland Islands be regarded, it is clear that it oversteps considerably the bounds of a question of pure domestic law.

It is obvious and hardly needs mentioning that the arguments set out above do not in any way affect Finland as such, since she had already, some time ago, acquired a thoroughly well-founded legal and political status; on the other hand, following from that which has been said above, the position of the Islands is not yet clearly defined.

CONCLUSIONS.

The Commission, after consideration of the arguments set out and developed in the preceding report, have arrived at the following conclusions:—

- (1) The dispute between Sweden and Finland does not refer to a definitive established political situation, depending exclusively upon the territorial sovereignty of a State.
- (2) On the contrary, the dispute arose from a *de facto* situation caused by the political transformation of the Aaland Islands, which transformation was caused by and originated in the separatist movement among the inhabitants, who quoted the principle of national self-determination, and certain military events which accompanied and followed the separation of Finland from the Russian Empire at a time when Finland had not yet acquired the character of a definitively constituted State.
- (3) It follows from the above that the dispute does not refer to a question which is left by International Law to the domestic jurisdiction of Finland.
- (4) The Council of the League of Nations, therefore, is competent, under paragraph 4 of Article 15, to make any recommendations which it deems just and proper in the case.