

THE DIPLOMATIC NEGOTIATIONS LEADING TO THE
ESTABLISHMENT OF AMERICAN BASES IN NEWFOUNDLAND
JUNE 1940 - APRIL 1941

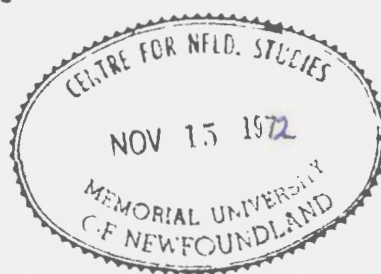
CENTRE FOR NEWFOUNDLAND STUDIES

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THE DIPLOMATIC NEGOTIATIONS LEADING TO THE
ESTABLISHMENT OF AMERICAN BASES IN NEWFOUNDLAND

June 1940 - April 1941

by



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PREFACE

The purpose of this paper is primarily expository. It was made possible by the availability of sources of material not previously available to researchers, primarily in the files of the Provincial Archives of Newfoundland and those of Government House in St. John's. Documentation available in the National Archives in Washington on this subject has, as far as is known, not previously been exploited for research as was done in Parts II and III of this paper. The historical monograph before the reader is therefore not designed to establish or argue a new theory of history or to reinforce the works of others but to place on record the series of events leading to the Agreement of March 27, 1941. If the views of other authors are incidentally challenged by the record itself, a useful additional point may have been made but this is by no means the prime intent. One such author is S.J.R. Noel who in Politics in Newfoundland¹ states that the United States negotiated an agreement with Britain in September 1940 "ignoring the apprehension of the Newfoundland Commissioners" of the Commission of Government. It will be seen that the Newfoundland Commissioners, together with those who had been sent from Britain, had no real apprehensions about the September 1940 accord; the concerns that developed came much later when the detailed agreement was being negotiated. The Noel sentence gives credence to an additional myth popular in Newfoundland, namely, that there was a vast difference of approach on this issue between those Commissioners who were native Newfoundlanders and those

¹S.J.R. Noel, Politics in Newfoundland (Toronto: University of Toronto Press, 1971), p. 243.

who were sent from Great Britain. This is a popular misconception; the author heard it from a number of individuals orally during his research. Yet there is nothing in the record to reflect this point of view; on the contrary, all of the views, objections and misgivings that were expressed by the Commissioner for Justice and Defense, a native Newfoundland, were forwarded over the name of the Governor with no substantial change.

The period from June to September 1940, during which agreement in principle was reached on the so-called "destroyer-for-bases" deal between the United States and Great Britain has been discussed by a number of historians and in this portion of the paper a large number of secondary sources have therefore been used. Little new light could be introduced except for the reception of the proposal in St. John's for which new primary sources became available. This section of the paper (Part I) is, therefore, primarily intended to furnish a setting for the period which followed. Part II describes the developing of positions in St. John's, Washington and London, and to some extent in Ottawa, as it became clear that the granting of base rights required very detailed arrangements in many fields. Part III describes the London negotiations themselves from their beginning to their successful conclusion. The documentary references in this last part will be found to be largely American in origin and a word of explanation may be needed. The American delegation in London worked with very short reins, all their decisions were ad referendum Washington. There is, therefore, a full record. The Newfoundland delegation, on the other hand, had the full powers which two of the six members of the Commission of Government were bound to

have. Their reports to St. John's, as a result, were very few, many of them of such a technical nature that they were found to be extraneous to the purpose of this paper.

The author is indebted to His Honor, E. John A. Harnum, Lieutenant Governor of Newfoundland, for access to Government House files, to Mr. B. Gill for the opportunity to use the Provincial Archives during strange and unusual hours, to the librarians of the various libraries in St. John's for their assistance throughout the period of research, and to Miss Catherine Murphy for endless patience in the preparation of the manuscripts. Financial assistance was made available by the Foreign Service Institute, Department of State, Washington, D.C. The valuable guidance received from Professor J. Tague at Memorial University deserves special mention; he was particularly patient and willing to discuss ideas with me at odd hours of day and night when my schedule permitted it.

PART I - AGREEMENT IN PRINCIPLE

The diplomatic negotiations which led to the establishment of American bases in Newfoundland culminated in two agreements: an agreement in principle which was set forth in an exchange of notes on September 2, 1940, and a detailed agreement relating to the bases signed in London on March 27, 1941.

To understand the negotiations which led to the first of these, the Agreement of September 2, 1940, it is necessary to understand the political setting in which this agreement was negotiated, the political attitudes which surrounded it, and the statesmanship which was brought to bear to make the agreement possible. The agreement was, it must be noted, one negotiated between a belligerent in a war --Great Britain -- and a non-belligerent or ostensibly neutral country --the United States. The action of the United States could hardly be considered anything like the traditional action of a neutral but rather developed, as shall be shown, into the activities of a state committed to one side of a conflict in every way short of the actual participation in war. It was a far-reaching action. President Roosevelt compared his action with that of the purchase of Louisiana and while this may have been a somewhat exaggerated view of the import of his action, the statesmanship required had a great deal of similarity.¹

It is, therefore, important that the setting in which this action could take place be fully in mind: the status of the war at the

¹"Message of President Roosevelt to the Congress, September 3, 1940" in: Department of State, Peace and War: United States Foreign Policy, 1931-1941 (Washington: United States Government Printing Office, 1943), p. 565.

time, the political situation particularly in the United States and, of course, in Newfoundland. All these had a bearing on the nature of the agreement and must therefore be examined before the agreement itself can be analysed.

The significant negotiations leading to the so-called "destroyer-bases" deal took place during three months of mid-1940: June, July and August. This was a momentous period in the life of Europe. On May 10, Nazi Germany, without warning, had invaded the Netherlands, Belgium and Luxemburg. That same day Winston S. Churchill replaced Neville Chamberlain as British Prime Minister.² By May 17, the German armies had driven deeply into France. On June 10, Italy entered the war and by June 13 Paris had fallen. The armistice surrendering France to the German onslaught was signed on June 22 and the fall of France was completed.³ During July, the Germans intensified their air attacks on British cities, communications and shipping, and in early August opened their air offensive in earnest. This was the period of Britain's heroic resistance and it was in this atmosphere, this most serious period of the assault on Britain, that the negotiations about to be examined took place.

With the outbreak of World War II, the dangers of the spread of the war had been recognized in the United States. It was with this danger in mind that the United States attended the Conference of Foreign

²William L. Langer (ed.), An Encyclopedia of World History (Boston: Houghton Mifflin Co., 1952), p. 1146.

³Ibid., p. 1148.

Ministers of the American Republics in Panama in the fall of 1939 and proposed the declaration of Panama which delineated a Western Hemisphere security concept.⁴ Because the United States and the other American Republics were acutely conscious of the absence of Canada and Newfoundland from the conference and were aware of the special relationship of these countries to the United Kingdom, the security area which was established specifically excluded Canada and Newfoundland. In the Atlantic, the northern boundary was set at 44° 46' 36" N "except the territorial waters of any part of Canada"⁵ and, in a map drawn by the Department of State geographer and annotated by the President, Newfoundland was specifically excluded.⁶ It must therefore be concluded that the United States Government did not seek to incorporate Newfoundland into the general Western Hemisphere security belt, particularly since the Act of Habana, again warning against European encroachment on the Western Hemisphere (and concluded during, and published after, the destroyer-bases deal) also failed to include Canada and Newfoundland in the security area.⁷

The United States had not yet emerged from its period of isolation, neutrality laws were still on the books and sentiments for a neutral America still pervaded the country. Although the President himself may have been one of the more realistic leaders, knowing the United States would not be able to keep out of the war for any lengthy

⁴Department of State, Foreign Relations of the United States (Diplomatic Papers) Vol. V (1939): The American Republics (Washington: United States Government Printing Office, 1957), p. 36.

⁵Ibid.

⁶Ibid., p.35 .

⁷Department of State, Foreign Relations of the United States (Diplomatic Papers) Vol. V (1940): The American Republics (Washington: United States Government Printing Office, 1961), p. 252.

period of time, he instructed James Farley as late as July 9, 1940, in the drafting of the Democratic party platform to state: "We do not want to become involved in any foreign war. We are opposed to this country's participation in any wars, unless for protection of the Western Hemisphere. We are in favor of extending aid to democracies in their struggle against totalitarian powers, within the law."⁸ The forces of isolation were strongly represented in the Senate particularly by men such as Senator Burton K. Wheeler⁹ and in the country at large by influential publicists such as Colonel Robert R. McCormick and the Chicago Tribune. "America First" movements under the leadership of such men as Gerald L.K. Smith were able to enlist the support of national heroes such as Charles K. Lindberg. The country was only just beginning to recover from the depression and its general sentiment was the desire to keep out of the war. In an election year (1940), this type of political attitude at the grassroots was not to be lightly disregarded.

But other forces were also at work. On May 17, a bi-partisan Committee to Defend America by Aiding the Allies was founded.¹⁰ Some of the most respected members of America's "establishment" were sufficiently concerned to participate in the group: William Allen White, the editor of the Emporia (Kansas) Gazette, a renowned journalist and

⁸ William L. Langer and S. Everett Gleason, The Challenge to Isolation (1937-1940) ("Harper Torchbooks"; New York: Harper and Row, 1952), Vol. II, p. 671.

⁹ James MacGregor Burns, Roosevelt: The Lion and the Fox (New York: Harcourt, Brace and Co., 1956), p. 439.

¹⁰ Philip Goodhart, Fifty Ships that Saved the World (Garden City, New York: Doubleday and Co., Inc., 1965), p. 110.

well-known Republican became Chairman; Lewis Douglas, a former Director of the Bureau of the Budget; Francis P. Miller, a member of the Council of Foreign Relations; and Clark Eichelberger, a Middle Western lecturer, became members of its Executive Committee and involved men like Adlai Stevenson who became chairman of the Committee's Chicago Branch.¹¹ This group, as well as its more militant off-spring, The Century Group, were to become a very active lobby as the events of the summer unfolded.

There were other political forces in the United States which also needed to be considered. The Presidential system of government in the United States could not provide for a "national union" government as was possible in Britain and Canada. Yet the impending world emergency made it desirable for President Roosevelt to bring Republicans into the Cabinet which until then had been an exclusively Democratic body. On June 19, the President appointed Colonel Frank Knox to the position of Secretary of the Navy and Henry L. Stimson, who had previously served in the Hoover Cabinet, as Secretary of War.¹² These appointments were also to have major long-range effects on the conduct of the coming negotiations between the United States and Great Britain to trade bases for destroyers.

The legal basis for the establishment of American bases in Newfoundland stemmed from this "destroyer-for-bases deal" between the United States and Great Britain. It is therefore necessary to examine how this "deal" developed, what forces went into its negotiations, and particularly the involvement of Newfoundland.

¹¹ Mark Lincoln Chadwin, "Warhawks: The Interventionists of 1940-1941" (unpublished Ph.D. thesis, Columbia University, 1966), p. 78.

¹² Langer and Gleason, Challenge to Isolation, p. 510.

There had been agitation for some time among various American groups for the transfer to United States jurisdiction of some of the British bases in the Western Hemisphere. The most vocal agitation for this came from isolationist circles; the Chicago Tribune in particular had been proposing that some of the British islands in the Western Hemisphere be transferred to the United States in payment of World War I war debts.¹³ Military considerations had also led some strategists to the conclusion that such bases might be desirable. The United States wanted more naval bases to implement the defense of the Panama Canal and the Atlantic Coast.¹⁴ In August 1939, the United States Navy had received permission from Britain to operate patrols from the islands to Trinidad, St. Lucia and Bermuda and the Navy was desirous of additional bases.

It is not clear to what extent, if any, these desires influenced later developments; apparently there is no record that a trade between destroyers and bases was ever proposed by professional naval personnel.¹⁵

Politically, moreover, little thought had been given to American bases in the off-shore islands and no serious negotiations toward this end had been undertaken when the quest for destroyers came to dominate

¹³ Langer and Gleason, Challenge to Isolation, p. 746.

¹⁴ Samuel Eliot Morrison, History of U.S. Naval Operations in World War II, Vol. I: The Battle of the Atlantic, September 1939 to May 1943 (Boston: Little, Brown and Company, 1946), p.33.

¹⁵ Daniel S. Greenberg, "U.S. Destroyers for British Bases - Fifty Old Ships Go to War," United States Naval Institute Proceedings, Vol. LXXXVIII (Nov. 1962), 73.

the United States-Britain relationship. The first reference to the transfer of destroyers to Britain came, curiously enough, in a conversation at Warm Springs, Georgia, between President Roosevelt and Canadian Prime Minister W. L. MacKenzie King. King had taken his usual spring vacation in the southern United States and was invited to visit Roosevelt before his return to Canada on April 23, 1940. The Nazi invasion of the Low Lands had not yet taken place--Europe was still in the grip of the period known as the "phony war." Yet Roosevelt told King that there was some defense equipment belonging to the United States Navy which might be useful to Canada in its east coast defense measures and spoke of the "possibility of finding it necessary to send destroyers to assist the British."¹⁶

One of the earliest decisions made by Winston Churchill after he became Prime Minister was to request the United States to make just such destroyers available for the defense of Britain. On May 15, 1940, the American Ambassador, Joseph Kennedy, had his first interview with the new Prime Minister. "I asked him," he reported, "what the United States could do to help that would not leave the United States holding the bag for a war in which the Allies expect to be beaten... He said it was his intention to ask for the loan of thirty or forty of our old destroyers and whatever airplanes we could spare right now."¹⁷ And indeed Churchill followed the interview that same day with the first

¹⁶ J.W. Pickersgill, The MacKenzie King Record, Volume I, 1939-1944 (Toronto: University of Toronto Press, 1960), p. 108.

¹⁷ Department of State, Foreign Relations of the United States (Diplomatic Papers) Vol. III (1940): The British Commonwealth, The Soviet Union, The Near East and Africa (Washington: United States Government Printing Office, 1958), p. 29.

of many telegrams that were to be exchanged between him and the President. In it he listed his immediate needs and leading the list was "the loan of forty or fifty of your older destroyers to bridge the gap between what we have now and the large new construction we put in hand at the beginning of the war. This time next year we shall have plenty."¹⁸ On May 16, Roosevelt replied that "a step of this kind could not be taken except with the specific authorization of the Congress and I am not certain that it would be wise for that suggestion to be made to the Congress at this moment."¹⁹ Roosevelt also doubted that American defense requirements would permit him to dispose of the destroyers even temporarily.²⁰ The turn-down was apparently firm. A week later, Arthur Purvis, head of the British Purchasing Mission in Washington, noted: "Destroyers No. Quite firm."²¹

In this situation, and with the war fortunes of Britain steadily deteriorating, various people sought to find a way to reverse the President's decision. On May 24, Lord Lothian, then Britain's Ambassador to the United States, sent a cable from Washington recommending that the British Government make a formal offer to lease airfields in Trinidad, Newfoundland and Bermuda to the American Government. Having not yet made the connection of a possible trade of such rights for the badly-needed destroyers, the British Cabinet shelved the idea.²² There was

¹⁸ Winston S. Churchill, Their Finest Hour (Boston: Houghton Mifflin Company, 1949), p. 24.

¹⁹ Department of State, Foreign Relations, III (1940), 49.

²⁰ Ibid.

²¹ Goodhart, Fifty Ships, p. 70.

²² Ibid., p. 100.

no motion in the American Government either, and on May 29, Secretary of the Treasury Morgenthau, one of the "hawks" in the Roosevelt Cabinet, confirmed to Purvis that destroyers were "out."²³ However, only five days later, Morgenthau told Purvis that he thought the President was personally convinced about the need for action but had as yet taken no decision.²⁴ The disappointment was keenly felt in Britain. On June 5, Churchill, in a telegram to MacKenzie King, sounded this note when he said, "We have not expected them [the Americans] to send military aid, but they have not even sent any worthy contribution in destroyers or planes.... Any pressure which you can apply in this direction would be invaluable."²⁵ The same day the British Government instructed Purvis, its purchasing agent, to keep up a steady pressure on the President as a confidential report had been received at Whitehall that the President might be willing to reconsider his attitude.²⁶ Outside of Government, a number of men felt the need to enter the arena and try to move the negotiations off dead-center. On June 10, a group was founded, many of whose members were previously associated with the Committee to Defend America by Aiding the Allies, to take direct action and to focus attention on the need for a transfer of United States destroyers to the British Navy. This association, known as the Century Group, included such men as Dean Acheson, Walter Lippmann, Joe Alsop, Dr. James Conant, Elmer

²³ Ibid., p. 70.

²⁴ Ibid.

²⁵ Churchill, Finest Hour, p. 146.

²⁶ Goodhart, Fifty Ships, p. 71. No information as to the source of this report is given.

Davis and Allen Dulles.²⁷ On Sunday June 11, the Century Group placed an advertisement, drafted by Robert Sherwood, in major newspapers across the country. Under the heading "Stop Hitler Now" it called itself a "Summons to Speak Out" and constituted the first clear call for American participation in the war effort by a group of reputable citizens. That day, Churchill again cabled Roosevelt: "... But even more pressing is the need for destroyers.... Nothing is so important as for us to have thirty or forty old destroyers you have already reconditioned.... They will bridge the gap of six months before our wartime construction comes into play. We will return them or their equivalents to you if at any time you need them. The next six months are vital." ²⁸

The war situation worsened. On June 13, Paris was evacuated. On June 14, the Government of Canada decided that the commitment it had made to Britain earlier that year to provide some forces to protect Bell Island, Newfoundland, from German attack needed to be taken seriously. It therefore decided to base one flight of fighter aircraft at Gander along with an Infantry Battalion for ground protection. These troops had to come from Canada's hard-pressed Second Division--it's only source of trained troops. ²⁹

²⁷ Ibid., p. 112-114. See also Chadwin, The Interventionists.

²⁸ Department of State, Foreign Relations, III (1940), 52.

²⁹ Colonel C. P. Stacey, Official History of the Canadian Army in the Second World War, Vol. I., Six Years of War: The Army in Canada, Britain and the Pacific (Ottawa: Queen's Printer, 1955), p. 179. Bell Island's iron ore mines were considered a particularly vulnerable industrial installation.

On June 16, Prime Minister King cabled Churchill that "the United States should be afforded opportunities to get bases at Iceland, Greenland, Newfoundland and the West Indies and supply (sic) the inadequacy of the defense of our own coasts...."³⁰ This preoccupation with the dangers of an attack on Newfoundland was no passing matter. A few days later, the American Minister to Ottawa, J. Pierpoint Moffat, recorded: "... The Canadians are definitely worried about an air raid.... The most important and vulnerable point is of course the great airfield in Newfoundland [Gander]. The Canadians have troops there but they have no artillery and no anti-aircraft guns.... The Newfoundland Government is asking the Canadians with increasing urgency for assistance, notably in protecting her four main harbors. The Canadians will want to discuss the whole Newfoundland situation in Washington."³¹

During these same trying days, Churchill despatched yet another appeal to Roosevelt, calling the supply of thirty-five destroyers "a definite practical and possibly decisive step which can be taken at once and I urge most earnestly that you weigh my words."³² But isolationist sentiment remained the order of the day in the United States, particularly in the Senate. There the Naval Construction Bill was being debated. The sentiment was strongly in favor of preventing the

³⁰ Pickersgill, The MacKenzie King Record, p. 125. Considering later jealousies over American dominance of the defense of Newfoundland, this statement takes on added significance. See p. 49 below.

³¹ Nancy Harvison Hooker (ed.), The Moffat Papers (Cambridge: Harvard University Press, 1956), p. 315. There is no confirmation available of this request by the Newfoundland Government.

³² Department of State, Foreign Relations, III (1940), 54.

transfer of any ships to any other country. The Committee Chairman handling the bill, Senator David I. Walsh (D.-Mass.) had inserted language to that effect and it was only through some adroit parliamentary maneuvers by Senator Lister Hill (D.-Ala.) that the original, completely restrictive wording was altered to provide an opening which later became most important. As finally passed, Section 14(a) of Public Law 671, June 28, 1940, provided that "no military or naval weapon, ship, boat or aircraft ... to which the United States has title shall hereafter be transferred ... unless the Chief of Naval Operations shall first certify that such material is not essential to the defense of the United States."³³

As the German armies, poised across the Channel from Britain, prepared for their effort to defeat that island empire, pressure in the United States for delivery of the destroyers continued. In a meeting between William Allen White and the President on June 29, White again spoke of Britain's needs and urged the President to reconsider. According to some reports, it was he who first linked the idea of bases and destroyers.³⁴ While Lord Lothian's biographer, J.R.M. Butler, appears unsure of his sources of this conversation, he stated that "it is idle to ask who originated the idea, dozens claimed credit later."³⁵ In any

³³ Congressional Record, June 21, 1940, pp. 13369-13371. (Italics supplied by author.) For a discussion of the passage of the Act see also Herbert W. Briggs, "Neglected Aspects of the Destroyer Deal," American Journal of International Law, Vol. XXXIV (1939-1940), 569-587. See also Goodhart, Fifty Ships, p. 91. For the later authorization by the Chief of Naval Operations, see p. 32 below.

³⁴ J.R.M. Butler, Lord Lothian (Philip Kerr) 1882-1940 (London: MacMillan and Co., Ltd., 1960), p. 294.

³⁵ Ibid.

case, British pressure continued. On July 1, there was a dinner at the British Embassy. Columnist Joe Alsop was one of those invited. As later reported by Harold Ickes, the British said that "without more boats (sic) England could not hold the Channel against Hitler and that Britain needed some of the old United States destroyers desperately."³⁶ This word got to Harold Ickes, then Secretary of the Interior and one of the President's close confidants. He reported that he "spent a lot of time arguing with the President that, by hook or by crook, we ought to accede to England's request."³⁷ In light of this pressure, a telegram from Ambassador Kennedy dated July 5 throws an interesting sidelight on the story. He reported that Lord Halifax, then Britain's Secretary of Foreign Affairs, had shown him a message from Churchill to Lord Lothian requesting Lothian again to take up the question of the destroyers. "I think that Churchill was making too much of a demand on the President... and that he would settle it in his own time and that to try to give him the 'hurry up' or to point out the dangers to America would not influence him very much."³⁸ Credence must be given to the thought that the link between bases and destroyers originated, or at least found a ready home, with the pro-Allied pressure groups in the United States because there are reliable reports that at the meeting Century Group on July 11 this idea was again discussed.³⁹ In any case, the idea took hold. Whether it was Lord Lothian's telegram of May 24,⁴⁰

³⁶ Harold L. Ickes, The Secret Diary of Harold L. Ickes, Vol. III, The Lowering Clouds: 1939-1941 (New York: Simon and Schuster, 1955), p. 233.

³⁷ Ibid.

³⁸ Department of State, Foreign Relations, III (1940), 55.

³⁹ Goodhart, Fifty Ships, p. 147; Chadwin, The Interventionists, p. 101.

⁴⁰ p. 8, above.

MacKenzie King's appeal or some private communication from a top-level American, the idea of bases jelled on July 13. That day there was a Circular Telegram to the Governors of various British Dominions from the Secretary of State for Dominion Affairs stating that the British Government had learned from informal discussions in Washington that the United States Government desired to obtain air facilities to meet its immediate national defense needs. Among these was the right to conduct occasional training flights to a Newfoundland airport.⁴¹ Sir Gerald Campbell, then British High Commissioner at Ottawa, informed Prime Minister King of the request and asked his views. King lost no time in expressing the view that it would be highly desirable to have the facilities made available to the United States.⁴² This general enthusiastic response was also the case in Newfoundland which immediately responded that it had no objection.⁴³

Pressure in Washington kept building. One of those whose help the British Embassy had solicited was Benjamin Cohen, a trusted personal friend of the President. On July 19 Cohen wrote the President arguing that authority to transfer the destroyers existed without additional authorization from Congress "if the release would ... strengthen rather than weaken the defense position of the United States."⁴⁴ On July 22,

⁴¹This information is based on information obtained under a special, privileged arrangement from the files of Government House, St. John's, Newfoundland. No direct quotes were permitted but the substance is essentially as here reported. References to these files will henceforth be annotated as GH Files.

⁴²Pickersgill, The MacKenzie King Record, p. 128.

⁴³GH Files.

⁴⁴Goodhart, Fifty Ships, p. 152. Secretary Knox's response is not recorded.

Roosevelt sent the memo to his Secretary of the Navy with a note doubting that Cohen's point of view would stand up. He also feared that Congress would be in no mood to allow any form of sale.⁴⁵

Part of the reason for the delay in American reaction to the British pleas had been the holding of the Democratic National Convention. On July 19, Roosevelt accepted his Party's nomination for an unprecedented third term. As soon as the convention was over, Lord Lothian again started to build pressure. In a broadcast over an American radio network on July 22 he stated that Britain most urgently needed destroyers and armed motor boats; "one hundred of these now might make the difference between success and failure."⁴⁶

On July 30, the Century Group, disappointed but not discouraged by the President's failure to respond to their private and public pleas, launched a national press advertisement campaign urging Americans specifically to write or telegraph their President, their Senators, their Congressmen urging the United States to "sell over-age destroyers and give other material aid to Britain - and give it immediately before it is forever too late."⁴⁷ As if to reinforce this dire warning, Churchill again cabled Roosevelt on July 31 that it had become most urgent "for you to let us have the destroyers." He cited the large losses Britain was sustaining and ended with the eloquent appeal:

⁴⁵ Ibid.

⁴⁶ Butler, Lord Lothian, p. 291

⁴⁷ New York Times, July 30, 1940, p.13.

"I am confident now that you know exactly how we stand, that you will leave nothing undone to ensure that 50 or 60 of your oldest destroyers are sent to me at once.

Mr. President, with great respect I must tell you that in the long history of the world this is the thing to do now." ⁴⁸

Lord Lothian, whose efforts during July had been very intense, now again approached Secretary of the Navy Knox, assuming that the Churchill appeal would be discussed at the Cabinet meeting scheduled for August 2. Lothian was at his most effective in private conversation and had continually set out forcefully the danger to America of not supporting Britain. And when asked how America could best help he would say, "Give us your old destroyers." ⁴⁹ The day before the Cabinet meeting, a delegation from the Century Group went to the White House, saw the President and urged the release of the ships. They reported a noncommittal and unenthusiastic response. ⁵⁰

In the history of the "destroyer-bases" deal there are two key dates on which vital decisions were made: August 2 and August 13. Pressures for American action had been building all during July. Churchill's latest, emphatic appeal was in hand. Private pressures, channelled to members of the Roosevelt Cabinet, were mounting. Thus, for instance, another effort was made on August 1 to reach the President and Secretary Knox through Harold Ickes who was known to be sympathetic to the pro-British view. On the day of the Cabinet meeting, Ickes wrote yet another memorandum to the President. In it

⁴⁸ Department of State, Foreign Relations, III (1940), 58.

⁴⁹ Butler, Lord Lothian, p. 292.

⁵⁰ Chadwin, The Interventionists, p. 117.

he attributed to Knox the idea that naval and air bases off the Atlantic Coast might be made available to the United States fleet.⁵¹

Roosevelt himself reported the Cabinet meeting that afternoon for the record:

".... Long discussion in regard to devising ways and means to sell directly or indirectly, fifty or sixty World War old destroyers to Great Britain. It was the general opinion, without a dissenting voice, that the survival of the British Isles under German attack might very possibly depend on their getting these destroyers.

It was agreed that legislation to accomplish this is necessary.

It was agreed that legislation, if asked for by me without any preliminaries, would meet with defeat or interminable delay in reaching a vote."⁵²

It was therefore decided that Roosevelt, through William Allen White, would seek the support of the Republican nominee, Wendell Willkie, and through him the support of the Republican leadership in the Congress, particularly the Senate.⁵³ There is no reference to the idea of bases in the Roosevelt Memorandum, but Ickes reports that this was discussed and that it was agreed that joint use of the bases was acceptable.⁵⁴ The idea apparently was raised by Knox and supported by Stimson and Ickes.⁵⁵ In any case, legislation seemed to be required

⁵¹ Ickes, Secret Diary, pp. 283-284.

⁵² Department of State, Foreign Relations, III (1940), 58.

⁵³ Elliott Roosevelt (ed.), F.D.R. - His Personal Letters, 1928-1945, Vol. II (New York: Duell, Sloane and Pearce, 1950), p.1050.

⁵⁴ Ickes, Secret Diary, p. 292

⁵⁵ Chadwin, The Interventionists, p. 118; see also Butler, Lord Lothian, p. 294.

and Judge Hackworth, the State Department's Legal Adviser, submitted a draft that evening.

Since Roosevelt had recognized the need for preparing Congress for legislation, it may be assumed that the public pressures now being built had his tacit blessing. The Century Group swung into even more effective action and on the evening of August 4 arranged for a broadcast by General of the Armies John J. Pershing, the World War I hero. This speech, drafted primarily by Walter Lippman,⁵⁶ specifically stressed the destroyer issue. "We have an immense reserve of destroyers left over from the other war If there is anything we can do to help save the British Fleet ... we shall be failing in our duty to America if we do not do it."⁵⁷ The speech obviously made a major impact if only to judge by the adverse reaction. The Chicago Tribune warned that the sale of destroyers to a nation at war would be an act of war.⁵⁸ But the most interesting reaction came from the German Foreign Office. In a telegram to its Embassy in Washington it noted the speech, indicating that, should the United States seriously intend to make warships available to England, the question would arise whether this should not be cause of warning to the United States on violation of its neutrality.⁵⁹ But the German Embassy rejected the seriousness of the speech. Pershing was characterized as one of the internationalist circle, Roosevelt as being unable to obtain the required Congressional authorization, and

⁵⁶Chadwin, The Interventionists, p. 124.

⁵⁷Goodhart, Fifty Ships, p. 160.

⁵⁸Burns, The Lion and the Fox, p. 439.

⁵⁹Akten zur Deutschen Auswaertigen Politik, 1918-1945, Die Kriegsjahre (Series D, 1937-1945, Part X, Volume 3), p. 363.

the United States as having an insufficient number of destroyers for its own defense. In any case, a German protest was considered to be counter-productive since "the feverish hate-clique would make the most of the warning and thereby perhaps obtain Congressional authorization."⁶⁰

For the next few days, the idea of base rights and the sale of destroyers moved along parallel lines but not necessarily linked. Thus, for instance, Sir Gerald Campbell informed Prime Minister King on August 3 that the air facilities which the United States desired in Newfoundland and the West Indies were being offered by Britain. That same day, Canada's Minister in Washington reported that the link between destroyers and bases was being made in Washington.⁶¹ On what basis Sir Gerald made his statement is not clear since no such information reached Newfoundland until a week later and it could hardly be expected that the British Government, which was keenly aware of its relations with the Dominion, should have so overlooked Newfoundland.

During most of July, Secretary of State Hull had been away at the Habana Conference. He had now returned and Lord Lothian called on him on August 4 to bring him up-to-date. He expressed his Government's "urgent desire" to purchase a number of older destroyers. He also told him that he had recommended that Britain cede or lease some of its bases in the Western Hemisphere to the United States.⁶² The next day, Lord Lothian submitted a memorandum to the President listing

⁶⁰ Ibid., p. 375.

⁶¹ Pickersgill, The MacKenzie King Record, p. 129.

⁶² Cordell Hull, The Memoirs of Cordell Hull (London: Holder and Stoughton, 1948), Vol. I, p. 831.

the facilities Britain was prepared to offer. Among these was the offer to authorize United States Army aircraft to make occasional training flights to Newfoundland and to make use of the airport there -- an offer to which Britain had received Newfoundland's consent on July 14. There was no immediate reaction to the Lothian Memorandum, only a promise to study it further.⁶³

Meanwhile, however, the public pressure was beginning to show results. "Americans are at last beginning to realize that if Britain were to go this autumn, they would immediately lose the Pacific to Japan, South America to Hitler Hence the growth of the demand to send us fifty destroyers now," Lord Lothian wrote to Lady Astor on August 7.⁶⁴ To keep up the pressure, the Century Group now called on Admiral Standley, one of the World War I naval commanders, and had him deliver an appeal, this one drafted by columnist Joe Alsop.⁶⁵ But the most decisive action of the Group came on Sunday, August 11, when four prominent lawyers, Charles C. Burlingham, Thomas D. Thacher, George Rublee and Dean Acheson, published a long and closely reasoned letter in the New York Times analyzing the existing legal situation, particularly the Act of June 28, 1940,⁶⁶ and attempted to demonstrate that the sale of destroyers to Britain could be fitted into the existing legal framework. In other words, they argued that no new legislation was necessary and that the

⁶³Department of State, Foreign Relations, III (1940), 63.

⁶⁴Butler, Lord Lothian, p. 296.

⁶⁵Chadwin, The Interventionists, p. 125.

⁶⁶p.12 , above.

President could and should act on his own responsibility without asking the Congress for new legislation.⁶⁷

It was the President himself who, on August 13, in a meeting with Morgenthau, Stimson, Knox and Welles, drafted the essential principles of the agreement which was finally reached.⁶⁸ Roosevelt, in his telegram to Churchill stated that it might be possible to furnish at least fifty destroyers but that this could only be done if the American people and the Congress frankly recognized that in return therefor the national defense and security of the United States would be enhanced. To accomplish this, he requested (1) an assurance that the British Fleet would not be surrendered or sunk but sent to other parts of the Empire for its continued defense; (2) an agreement authorizing the use of Newfoundland, Bermuda, the Bahamas, Jamaica, St. Lucia, Trinidad and British Guiana as naval and air bases by the United States in the event of attack; and (3) in the meantime the right to establish such bases and use them for training and exercise purposes, the land to be acquired by purchase or ninety-nine year lease. All specific details were to be worked out later.⁶⁹ The reply from London was prompt and affirmative, preferring the long-term lease to outright sale. Actually, the President also favored the lease arrangement. He was well aware of the "penurious conditions" of the native population of most of the

⁶⁷ Langer and Gleason, Challenge to Isolation, p. 757.

⁶⁸ Henry L. Stimson and McGeorge Bundy, On Active Service in Peace and War (New York: Harper and Bros., 1947), p. 356.

⁶⁹ Department of State, Foreign Relations, III (1940), 65.

islands and consequently did not want to assume the burden of administering these populations.⁷⁰ Churchill did, however, throw in one caveat because of his awareness of the sensitivities of various parts of the Empire. "It will be necessary," he wired, "for us to consult the Governments of Newfoundland and Canada about the Newfoundland base, in which Canada has an interest. We are at once proceeding to seek their consent."⁷¹ Churchill was thus not only acknowledging the Dominion status of Newfoundland but also the special defense responsibilities which Canada was about to assume with respect to Newfoundland. At the very time of exchange of these telegrams, the Canadian Air Minister was in Newfoundland making mutual defense arrangements.⁷²

In a telegram on August 15 from the Secretary of State for Dominion Affairs to the Governor of Newfoundland the destroyer-bases deal was described. It was pointed out that Roosevelt needed to make certain concessions to Congress. It was also stated that the use of Newfoundland (and certain West Indian islands) was essential as a naval and air base in the event of an attack on America and that in the meantime the Americans would expect to be allowed to use Newfoundland for naval and air training programs. The President was reported to wish to secure these rights by purchase or by 99-year lease and no doubt the latter would be easier from Newfoundland's point of view.

⁷⁰ Hull, Memoirs, p. 834.

⁷¹ Churchill, Finest Hours, p. 407.

⁷² C.P. Stacey, Arms, Men and Government, The War Policies of Canada, 1939-1945 (Ottawa: The Queen's Printer for Canada, 1970), p. 357.

The Governor was asked to explore the reaction of Newfoundland public opinion to the proposal and was told that, subject to his concurrence, Britain proposed to agree to the proposal.⁷³ On August 16, the next day, Governor Walwyn replied that there was no public opinion problem in Newfoundland and that Newfoundland was agreeable to either lease or sale.⁷⁴ Actually the Newfoundland Government was not quite as certain of its public opinion as it pretended. Commissioner Emerson, handling the portfolios of Justice and Defense for Newfoundland's Commission of Government, suggested to the editors of St. John's two daily newspapers that they launch a trial balloon by writing careful editorials indicating the possibility of an approach by the Americans for bases in Newfoundland. This they did and there is no record of any adverse public reaction.⁷⁵

On August 16, perhaps overly optimistic considering the hurdles still to be mastered, Lord Lothian wrote Lady Astor: "I think the trick has been done. At least the President told me on the telephone this morning that he thought it was."⁷⁶ Breckenridge Long, then Assistant Secretary of State in Washington, was much more skeptical. He recorded the plan and stated "it would work if England wins or the destroyers were sunk - but would not be so good if Germany got the destroyers."⁷⁷

⁷³ GH Files.

⁷⁴ Ibid.

⁷⁵ St. John's Daily News, August 17, 1940, p. 4. See also "Wayfarer" St. John's Daily News, October 28, 1969, p.4. The original endorsement is quite strong, urging the Government of Newfoundland to advise the British Government that "Newfoundland would be happy to let the Americans have bases here." See also St. John's Evening Telegram August 17, 1940, p.4.

⁷⁶ Butler, Lord Lothian, p. 297.

⁷⁷ Fred L. Israel (ed.), The War Diary of Breckenridge Long (Lincoln: University of Nebraska Press, 1966), p. 123.

But there is no doubt that the major problem, that of American public acceptance, had been met. Had Roosevelt been in the habit of showing off public opinion polls as some of his successors did, he could have pointed to one taken on August 17 showing approval of -- the yet unpublished -- destroyer-bases deal by 62% of those polled.⁷⁸

On August 17, Roosevelt, during an inspection tour of troops in upstate New York, invited Canada's Prime Minister King to confer with him at Ogdensburg, New York. This meeting resulted in the establishment of the Permanent Joint Board on Defense, **Canada-United States (PJBD)**, whose most immediate task was to plan for the defense of the vulnerable parts of Canada and the United States, particularly the northeast area. At a later date, the Board was to play a considerable role in the planning of defense bases in Newfoundland. At the Ogdensburg meeting, however, Canada's pre-occupation with her Newfoundland defense commitments was also demonstrated in other forms. Prime Minister King, for example, presented Roosevelt with a list of munitions needed for Newfoundland's defense, including 15 PBV flying boats for the Canadian naval air force working out of Newfoundland.⁷⁹ King and Roosevelt also discussed the

⁷⁸ Dexter Perkins, "Was Roosevelt Wrong?" Virginia Quarterly Review, Vol. XXX (Summer, 1954), 362.

⁷⁹ Arthur Cheever Cressy, Jr., Canadian - American Co-operation in World War II, (Unpublished Ph.D. Thesis, Fletcher School of Law and Diplomacy, Boston, 1951), p.33. Dean Acheson, then an active member of the Century Group, records in Morning and Noon (Boston: Houghton Mifflin Co., 1965, p. 224) that he approached the Canadian Chargé in Washington, Loring Christie, urging him to have MacKenzie King put further pressure on Roosevelt to sell the destroyers. Christie refused. Acheson then saw Lord Lothian and asked him to write to King. While sympathetic to the idea, Lord Lothian did not think he could do this through normal channels. Acheson then suggested a handwritten note which Acheson would mail through normal postal channels and Lord Lothian "was delighted with the conspiracy."

projected United States bases in Newfoundland and King emphasized Canada's immediate geographic and defense interests.⁸⁰ King told Roosevelt that the British and Canadian Governments would both have to deal with the problem of establishing bases in Newfoundland.⁸¹

The founding of the PJBD finally stirred the otherwise blasé German Embassy. The German Chargé in Washington, Dr. Hans Thomsen, now wired Berlin that the value of bases which might be acquired could remove Congressional objection to the delivery of the destroyers, perhaps by delivering them ostensibly to Canada. Thomsen felt Roosevelt, as Commander-in-Chief, could overrule the Chief of Naval Operations but that such action would end the position of the United States as a neutral.⁸²

While there were still many hurdles, the August 13 formula developed its own momentum and on August 19 the President approved the draft of an agreement under which Britain would make available to the United States, for the immediate establishment thereof, naval and air base facilities in the islands named for a period of ninety-nine years.⁸³ It was now necessary for Mr. Churchill to advise the House of Commons of the negotiations but his speech on August 20 nearly placed an insuperable roadblock in the way of consummation of the deal. The trade of old destroyers for bases seemed obviously one-sided in favor of the

⁸⁰ Hooker, Moffat Papers, p. 329.

⁸¹ Pickersgill, The MacKenzie King Record, p. 132.

⁸² Akten, Volume cited, p. 418.

⁸³ Langer and Gleason, Challenge to Isolation, p. 763. In addition to Newfoundland these rights were made available in Bermuda, Jamaica, St. Lucia, Antigua, Trinidad and British Guiana.

United States; particularly if one discounted the really important but unspoken British objective of committing the United States to participate in the war, to lose its "neutral" status. It seemed preferable to Mr. Churchill, therefore, to grant the bases as an outright gesture, rather than as an uneven trade. But this attitude lost sight of the fact that it was precisely the idea of pointing to a trade to enhance United States security which had been inherent in Roosevelt's August 13 proposal. The resolution to this problem was to come later. On August 20, Churchill informed the House that "we have decided spontaneously, and without being asked or offered any inducement, to inform the Government of the United States that we would be glad to place ... defense facilities at their disposal by leasing suitable sites in our Transatlantic possessions for their greater security against the unmeasured dangers of the future."⁸⁴ Churchill ascribed to Roosevelt, without reference to the destroyers, a desire "to discuss with us and with the Dominion of Canada and with Newfoundland, the development of American naval and air facilities in Newfoundland and in the West Indies.... We feel sure that our interests and interests of the colonies themselves, and of Canada and Newfoundland, will be served thereby."⁸⁵ Roosevelt backed Churchill's ploy by being equally cagey that day at a Press Conference. Asked about talks for bases he said these were going

⁸⁴ Winston S. Churchill, Blood, Sweat and Tears (New York: G.P. Putman's Sons, 1941), p. 351.

⁸⁵ Churchill, Their Finest Hours, p. 409

satisfactorily; asked about the sale of destroyers he suggested the reporter "better not speculate on it." ⁸⁶

The die had now been sufficiently cast for the military planners to go into action. On that same August 20, the United States Army-Navy Joint Planning Committee was directed by Secretaries of War and Navy to begin its investigation of desired base sites. ⁸⁷ With the possibility thus in the offing that the United States would establish bases in Newfoundland, Canada, which had consistently viewed Newfoundland as part of its "sphere of influence," was motivated to try to establish its pre-eminence in the field. On August 20, an official Canadian mission arrived in St. John's headed by C.G. Power, Canada's National Minister of Defense for Air, to achieve broad agreement on the co-ordination of defense measures with the Government of Newfoundland. ⁸⁸

As negotiations continued within the American Government it was again Stimson, Knox, Morgenthau and Welles who insisted on the execution of the original August 13 formula. Stimson reported that not all advisors were equally bold: at a meeting on August 21 there was some timidity among Cabinet members, some who wanted to use the subterfuge of giving the destroyers to Canada for use in convoy duty rather than to turn them over

⁸⁶ Samuel I. Rosenman (ed.), The Public Papers and Addresses of Franklin D. Roosevelt, Vol. IX: War and Aid to Democracies: 1940 (New York: Russell and Russell, 1968), p.333.

⁸⁷ Stetson Conn, Rose C. Engleman and Byron Fairchild, United States Army in World War II: The Western Hemisphere: Guarding the United States and Its Outposts (Washington: Office of the Chief of Military History, Department of the Army, 1964), p.79.

⁸⁸ Stanley W. Dziuban, United States Army in World War II: Military Relations between the United States and Canada, 1939-1945 (Washington: Office of the Chief of Military History, Department of the Army, 1959), p. 29.

directly to Britain. But Stimson's strong objection to this type of cosmetics carried the day.⁸⁹

There was yet another concern in Washington, the attitude of Congress. The President continued to be concerned about adverse Congressional reaction; it was, after all, an election year. On August 23 he therefore despatched a letter to Senator Walsh in which he tried to convince Walsh of the propriety of his action. He cited a mythical Dutchess County (N.Y.) farmer who said to him:

"Say, ain't you the Commander-in Chief? If you are, and own 50 muzzle-loadin' rifles of the Civil War period, you would be a chimp if you declined to exchange them for seven modern machine guns, wouldn't you?"

More seriously, Roosevelt reminded Walsh that United States weakness had lain in the fact that from Newfoundland to Trinidad, the sole off-shore protection was in Puerto Rico, St. Thomas and St. Croix

"If for fifty ships, which are on their last legs anyway, we can get the right to put in naval and air bases in Newfoundland, Bermuda, the Bahamas, Jamaica, St. Lucia, Trinidad and British Guiana, then our operating deficit is largely cured ... I do hope you will not oppose the deal."⁹⁰

The Act of June 28⁹¹ had made it impossible to give the destroyers away, yet Churchill on August 20 had made it difficult to arrange a

⁸⁹Stimson and Bundy, On Active Service, p. 358.

⁹⁰Elliott Roosevelt, FDR Letters, p. 1056.

⁹¹p. 12, above.

trade of destroyers for bases by stating that they would be a spontaneous gift. Lord Lothian pointed out that Churchill had to oppose a trade "because the British Government might incur the charge of defaulting on its share of the bargain [i.e. not receiving an adequate quid-pro-quo]... Mr. Churchill feels that British public opinion would not support a bargain of this kind if it was presented as a contract." ⁹²

It was at this point that Judge Hackworth found the saving solution. He suggested that there might be a compromise after all between Churchill's desire for reciprocal gifts and the United States legal position. Since the British had not stated precisely what bases they intended to lease, the bases could be divided into two parts. The first would comprise the bases in Newfoundland and Bermuda. These Britain could lease as an outright gift. The second would consist of the bases around the Caribbean, strategically more important to the United States because of their proximity to the Panama Canal. These could be leased in consideration of the cession of fifty destroyers. ⁹³

The drafting of this compromise solution now started in earnest. Long ⁹⁴ reported lengthy conferences, with Hull, Knox, Stimson and Lothian all in on the drafting sessions. "It has all been kept very confidential and even certain phases of it have not been typewritten but have been drafted and carried in longhand." "We agreed," he reported, "that the transfer of fifty destroyers to England would be a violation of international law and that Germany might take umbrage at it. We are

⁹² Hull, Memoirs, p. 836.

⁹³ Ibid. p. 837.

⁹⁴ Israel, Breckenridge Long Diary, p. 125.

not so much worried on that account because we approached the subject from the point of view of national defense." Long continued:

"We have tried to distinguish between strict neutrality and that necessary latitude which must exist in any independent government to permit it to defend itself.... On the same philosophy, if we consider our neutrality as a thing apart, we will be prevented from employing measures necessary to our self-defense ... being prevented from buying certain bases now belonging to England and paying for them in a manner agreeable to us." ⁹⁵

By August 28, the compromise was agreed to. In a note to Hull that day, Roosevelt agreed to the idea. ⁹⁶ By this time, the Army-Navy Joint Planning Committee had made its preliminary report and had listed the bases in Newfoundland as of priority importance for strategic reasons. It saw a real danger of Newfoundland falling into hostile hands and posing a danger to Canada and New England. It recommended that two reinforced infantry battalions be stationed in Newfoundland, one each in St. John's and Gander. ⁹⁷

Also on August 28 the Secretary of State for Dominion Affairs informed the Governor of Newfoundland that the idea of 99-year leases had been agreed to. Not a word was mentioned of the destroyer part of the deal. But the Government of Newfoundland was becoming a bit restive. The Canadians had taken to speaking for Newfoundland in the

⁹⁵ Ibid.

⁹⁶ Elliott Roosevelt, FDR Letters, p. 1061.

⁹⁷ Conn, Engleman and Fairchild, Guarding the United States and Its Outposts, p. 79.

discussions with the United States⁹⁸ and to ward off such pro-consular activities on the part of Canada, Newfoundland asked to attach an observer to the British Embassy in Washington. It was never granted.⁹⁹

The agreement was hammered out during the next few days. It took the form of an exchange of notes between the British Ambassador in Washington and the United States Secretary of State. The notes were dated September 2, they were transmitted to the Congress, and thereby made public, with a message from the President on September 3. The opening paragraph of Lord Lothian's note took account of the friendly and sympathetic interest of the British Government in the national security of the United States and its desire to strengthen American ability to defend the Western Hemisphere and to secure to the United States "freely and without considerations," leases for the "immediate establishment and use of naval and air bases and facilities for entrance thereto and the operation and protection thereof, on the Avalon Peninsula and on the southern coast of Newfoundland"¹⁰⁰ All the bases were to be leased for 99 years, free from all rent and charges other than compensation for private property owners. Questions of the exact location of the bases and those of jurisdiction within the areas were to be determined by later agreement.¹⁰¹

⁹⁸ see also Dzuiban, United States-Canada Military Relations, pp. 19 - 30.

⁹⁹ GH Files.

¹⁰⁰ Department of State, Peace and War, pp. 565-566. For text see Appendix A.

¹⁰¹ Ibid.

On September 3, Roosevelt was aboard his train, returning to Washington. He held a news conference to fill the White House press corps in on the news. He was obviously elated, delighted with the formula that had been found and again compared his action with the Louisiana Purchase, which, he pointed out, was also done without the consent of the Senate.¹⁰² Roosevelt displayed his knowledge of Newfoundland's geography--he described Newfoundland to the reporters and, for example, made clear to them that Botwood (which was known to be a Canadian base) was not on the Avalon or the southern coast of the Island.¹⁰³

To complete the legal process it was also necessary for the Chief of Naval Operations to certify that there was no diminution of security. This he did in a letter to Roosevelt dated September 3:

"It is my opinion that an exchange of 50 over-age destroyers for suitable naval and air bases on 99-year leases in Newfoundland, Bermuda, the Bahamas, Jamaica, Santa Lucia, Trinidad, Antigua and in British Guiana will strengthen, rather than impair the total defense of the United States. Therefore I certify that on the basis of such an exchange... the fifty over-age destroyers are not essential to the defense of the United States."¹⁰⁴

¹⁰² Rosenman, Roosevelt Public Papers, pp. 375-385.

¹⁰³ Ibid.

¹⁰⁴ Congressional Record, Sept. 3, 1940, p. 17279. This statement was apparently drafted either prior to or without consideration of the Hackworth formula - lending further credence to the fact that this division of the bases into two parts was only a political expedient.

With his message to Congress, President Roosevelt transmitted a lengthy opinion by the Attorney General ¹⁰⁵ justifying the legal position that the agreement did not require Congressional consent nor violate existing legislation. It is a long, involved opinion and there may well be doubt about its legality in retrospect. But at the time, public opinion generally supported the President's action and so there was no appreciable debate.

There was debate by the writers of learned articles. Edwin Borchard, for example, held in October 1940 that "there is no possibility of reconciling the destroyer deal with neutrality, with United States statutes, or with international law. It can only be explained by the legal fact that the United States is now, and has been for some time, in a state of war." ¹⁰⁶ Herbert Briggs emphasized the same point - holding the supplying of the vessels to have been "a violation of our neutral status, a violation of national law and a violation of international law." ¹⁰⁷ Quincy Wright, on the other hand, justified the action and felt that the United States should not have to worry about having violated its neutrality -- the United States, he contended, was not a neutral but a supporting state -- one which

¹⁰⁵ Department of State Bulletin, September 7, 1940, p. 201. For a description of the Attorney General's role, see also Eugene C. Gerhart, America's Advocate: Robert H. Jackson (Indianapolis: The Bobbs Merrill Co., Inc. 1958).

¹⁰⁶ Edwin Borchard, "The Attorney General's Opinion on the Exchange of Destroyers for Naval Bases," The American Journal of International Law, Vol. XXXIV (1939-1940), 697.

¹⁰⁷ Herbert Briggs, "Neglected Aspects of the Destroyer Deal," 587.

assisted a defending state without armed force. 108

The Government of Newfoundland, now informed by telegram from London of the far-reaching nature of the Agreement, issued a public statement on September 3:

"... In assenting to the making of this agreement, the Government of Newfoundland has been impressed with the urgent needs of the moment. The agreement is indivisible [i.e. bases for destroyers] and the release of war materials to Great Britain of paramount importance.

No question of sovereignty arises. In certain harbors, yet to be chosen, sufficient land will be leased for construction and operation of bases by the United States naval and air forces in a manner somewhat similar to that followed in the granting of rights to industrial enterprises. Considerable negotiations still remain to take place, and the force of the views expressed by the Newfoundland Government regarding the representation in these discussions of Newfoundland interest is fully appreciated by the Government of the United Kingdom. We have been assured that the wishes of this country will be taken into account in these discussions.

... The establishment of American naval and air bases in Newfoundland will be of utmost importance to Newfoundland whose geographical position is such that she would be exposed to the first attack by an aggressor from the East having designs on the North American continent." 109

108 "The Transfer of Destroyers to Great Britain," American Journal of International Law, Vol. XXXIV (1939-1940), 685. In a letter to Charles Cheney Hyde on October 22, 1940, Judge Hackworth supported the essence of the Attorney General's view. He held that "the United States could not fail to take advantage of an opportunity to improve its defense... by acquiring air and naval bases at strategic points. This fact justified the turning over of the destroyers." (Marjorie M. Whiteman, Digest of International Law, Vol. XI, Washington: United States Government Printing Office, 1968, p. 253.)

109 St. John's Daily News, September 4, 1940, p.3.

The reaction of the Newfoundland public was favorable. It was led by the Daily News which opined that "no elected Government would have failed the Mother Country in this perilous hour and in a matter of such vital urgency." But the editors looked ahead, anticipated that at the end of the war there might be some other indirect return to lighten the lot of the people. They also urged the Government to insist on its right of representation in the PJBD whenever questions concerning Newfoundland were discussed and urged the Government to be tough negotiators in the period immediately ahead.¹¹⁰ Public reaction generally followed this lead; in any case any qualms were suppressed by the hope that the construction of the bases would bring with it undreamt of chances of employment and prosperity.¹¹¹

In the United States, too, there was general acclaim. Justice Felix Frankfurter wrote the President, congratulating him and noted that the achievement had an even bigger significance because of the effects it might have in Latin America, on the opinion in countries like Spain, Greece, Turkey, Egypt and even Russia.¹¹²

The German Embassy was very upset. Roosevelt's action was termed illegal, dictatorial, duping the public.¹¹³ The Italian Foreign Minister, Count Ciano, records "a great deal of excitement

¹¹⁰ Ibid., p.4

¹¹¹ St. John Chadwick, Newfoundland - Island into Province (London: Cambridge University Press, 1967), p. 179.

¹¹² Max Freedman (ed.), Roosevelt and Frankfurter, Their Correspondence 1928-1945 (Boston: Little, Brown and Co., 1967), p. 542.

¹¹³ Akten, Part XI, Volume 4.1, p. 78.

and indignation in Berlin." 114

Dexter Perkins may have summed up the meaning of the agreement most succinctly when he said that it showed the intention of the Roosevelt Administration to defend the outposts as well as the mainland of the North American continent.¹¹⁵ In light of this, the actual value of the destroyers must be considered negligible and we may therefore disregard Anthony Eden's unhappiness over the bargain because the destroyers were in such poor condition that they made unexpectedly large demands on British shipyards.¹¹⁶

Lord Lothian's evaluation of this episode may most poignantly sum up its value. He believed it meant American acceptance of the British fleet based on Britain as America's outer line of defense. To strengthen this outer line, the Americans contributed destroyers. The offer of bases in the British trans-Atlantic islands was Britain's recognition that these islands were the inner line of America's defense.¹¹⁷

¹¹⁴Hugh Gibson (ed.), The Ciano Diaries, 1939-1943 (Garden City: Doubleday & Co., 1946), p. 103.

¹¹⁵Dexter Perkins, "Bringing the Monroe Doctrine Up to Date " Foreign Affairs, Vol. XX (Jan. 1942), 257.

¹¹⁶Earl of Avon (Anthony Eden), The Eden Memoirs: The Reckoning (London: Cassell & Co., Ltd., 1965), p. 133. Several of the destroyers saw immediate action and most of them were in active service by the Spring of 1941. Actually, delivery of the destroyers began at once. British crews took over the first eight at Halifax on September 6 and the others followed soon thereafter. See Dziuban, United States - Canada Military Relations, p. 165, and Goodhart, Fifty Ships.

¹¹⁷Butler, Lord Lothian, p. 298.

SHOWING THE LOCATION OF AMERICAN BASES

▲ OTHER LOCALITIES
MENTIONED IN THE
CONSIDERATIONS
LEADING TO THEIR
ESTABLISHMENT

AVALON PENINSULA

5. BAY

Arnold's Cove

Carbonear
Hr. Grace
Roberts

CONCEPTION BAY

St. John's

ARGENTIA

Whitbourne

Placentia

ST MARK BAY

0 5 10 15 MILES

A map of White Bay, showing the coastline and the bay itself. The text "WHITE BAY" is written across the map.

C. ST. JOHN BAY
NOTRE DAME BAY

Fogo Is

**BONNE
BAY**

*BAY
OF
ISLANDS*



GRAND LAKE

HARMON
AFB

St. George's

ST. GEORGE'S
BAY

C. Ray Port aux Basques

Miquelon

3 St. Pierre

FORTUNE BAY

A map of the southern tip of South America, specifically showing the coastline of Argentina. A point on the coast is marked with a dot and labeled 'PLACENCIA BAY'. To the right of the map, the word 'ARGENTINA' is written. The map is oriented with North at the top.

BONAVISTA
BAY

Gander

GAMBO R.

10

Butward

EXPLOITS

0 15 30 MILES

PART II - JOCKEYING FOR POSITION

Once agreement in principle had been reached, two major problems remained to be solved before the bases could actually be established and become a part of the defense of North America. It was necessary to decide on the exact location of the bases in the various off-shore islands, and a detailed agreement needed to be negotiated setting forth the conditions under which the bases would be operated.

The planning staffs of the various military services of the United States had, during the period of negotiation of the Agreement of September 2, been giving considerable thought to the exact location of the bases. They had recommended the lease of existing naval air facilities at Botwood and Gander Lake; naval facilities at St. John's; the Gander Airport; plus sites at St. John's and on the Southeast coast for an Army and a Navy base respectively.¹ Inasmuch as Canadian units were already stationed at Gander, any American base there was ruled out by the President prior to the exchange of notes of September 2 and the words "on the Avalon Peninsula and the Southern coast of Newfoundland" were specially included in the text.²

Two days after the exchange of notes granting the United States the right to establish bases in the off-shore islands, the United States Government announced that it would send a mission of

¹ Stanley W. Dziuban, United States Army in World War II: Military Relations between the United States and Canada, 1939-1945 (Washington: Office of the Chief of Military History, Department of the Army, 1959), p. 165.

² See Appendix A.

experts, under the direction of Rear Admiral John W. Greenslade, to the various islands to survey the situation and recommend exact locations for the base sites. In addition to Admiral Greenslade, the mission consisted of the following: Captain Russell S. Crenshaw, USN, from the Office of the Chief of Naval Operations; Captain D. W. Rose, USN, of the Bureau of Supplies and Accounts; Commander K. B. Bragg, USN, of the Bureau of Yards and Docks; Commander Calvin T. Durgin, USN, of the Bureau of Aeronautics; Lt. Colonel Omar T. Pfeiffer, USMC; Commander Harold Bieseemeier, USN, of the Office of the Judge Advocate; Brigadier General J. L. Dever, USA, Commanding Officer of the Washington Provisional Brigade; Colonel A. J. Maloney, USA, then assigned to the Army War College and Major T. Griffin of the Army Air Corps.³ Commander Bieseemeier and Colonel Maloney were to play key roles in the later negotiations.⁴

Thinking on the exact location of the bases was now also progressing both in London and St. John's. On September 6, the Secretary of State for Dominion Affairs cabled Governor Walwyn requesting the Commission's views on the location of the bases. For its part, the British Government believed that locations on Conception Bay, Bell Island and the City of St. John's should probably be excluded from considerations as base sites. London also wanted to be certain that there was no relinquishment of British control of the cable stations at Bay Roberts, Harbour Grace, Hearts Content, Arnold's Cove, Colinet,

³New York Times, September 4, 1940, p. 3.

⁴see below, p. 83.

Placentia and Port aux Basques.⁵

In response, Commissioner Puddester, then Acting Chairman of the Commission of Government, indicated that the Commission saw no reason to exclude the possibility of the establishment of American bases in the Conception Bay area. While something might be said for the exclusion of American presence in highly populated areas in the vicinity of the capital, the Commissioners believed that the bases should be attracted to the area because of the economic benefits they might bring to it.⁶

The first indication of specific American plans came to St. John's from Hamilton, Bermuda on September 9. Hamilton was the first stop of the survey mission headed by Admiral Greenslade. The British Commander-in-Chief America and West Indies, located in Hamilton, cabled the Foreign Office, with copy to St. John's, that the Greenslade mission contemplated a Naval Base at Placentia with an alternative winter site at Mortier Bay, Burin.⁷

Shortly thereafter, the United States Consul General at St. John's, Harold B. Quarton, was asked to make arrangement for the cruiser U.S.S. St. Louis, carrying the Greenslade Mission, to dock at St. John's and for two Navy patrol planes to land at Botwood to be

⁵ Telegram No. 715. See Archives of the Province of Newfoundland and Labrador, Files of the Commission of Government, Box S-4-2-1 Folder M. (Files of Commission of Government, of which extensive use was made in the research of this paper will be abbreviated FCG, followed by box and folder number, e.g. FCG S-4-2-1,M.)

⁶ Telegram No. 591, September 12, 1940, FCG S-4-2-1,M.

⁷ Telegram, September 9, 1940, FCG S-4-2-1,M.

available to the survey mission. Both were welcomed.⁸

The Greenslade Mission arrived aboard the cruiser U.S.S. St. Louis on September 16 and the admiral and his party immediately called at Government House and presented a proposal embodying the American requirements: The United States needed a naval base, or facilities in an existing harbour, possibly at St. John's. There was need for a naval air base, and locations at St. Mary's, Argentia, Mortier Bay and Long Harbour were considered although the location at Mortier Bay was nearly immediately excluded because of the lack of a good anchorage. As for the Army, it required facilities for a Reinforced Battalion of Infantry which would have three functions: defend the naval air base, defend the naval facility and assist in the defense of the city of St. John's. Admiral Greenslade left a Memorandum containing these points with the Governor.⁹

Other points were discussed with various staff members. In his report to the Secretary of State for Dominion Affairs, Governor Walwyn stressed the cordiality of the meeting, and noted that in addition to the facilities formally requested, the Americans were seeking a supply base, possibly at Whitbourne, and emergency landing places for aircraft between Port aux Basques and St. George's on Newfoundland's

⁸Telegram, Secretary of State (Washington) to American Embassy London, September 13, 1940; Telegram, USS St. Louis to American Consulate General, St. John's, September 15, 1940; Diplomatic Note, Commission of Government (Commissioner Woods) to American Consulate General, September 14, 1940. FCG S-4-2-1,M.

⁹Memorandum of Conversation, Members of the Greenslade Mission with the Commission of Government, Government House, St. John's, September 16, 1940. FCG S-4-2-1,M.

southwest coast and somewhere between Gander and St. John's.

Consul General Quarton, in his report to Washington, also reported on the cordiality of the welcome extended to the Greenslade Mission but reported that Admiral Greenslade had been careful not to mention any specific sites for fear that land prices would increase. Quarton felt the need to explain that "the tendency is in Newfoundland to exploit foreign interests, be it an alien government or manufacturing or industrial interests."¹⁰ This view of Quarton undoubtedly contributed to later difficulties in the agreement on land expropriation; whether based on actual fact or not, it tended to influence Washington's views.

On September 20, Admiral Greenslade and his colleagues returned from their survey and proposed the following installations to the Commission of Government:

- A seaplane base on the Argentia Peninsula;
- a small naval base site in the Harbour of St. John's;
- an army base on a 160 acres site south of St. John's in the vicinity of the Southern Shore Road and the Old Petty Harbour Road;
- an additional base for the training of a division of American troops of 2.8 square miles south of Little Placentia Harbour.¹¹

¹⁰ Despatch No. 1012, September 17, 1940. Most of the American documents which will be cited are taken from File No. 811.34544 (United States Naval Bases in British Possessions) of the National Archives and Records Service, Washington, D.C. Each document is indexed by an identifying number, thus 811.34544/112. All documents in this series will be cited as NARS followed by the document number, for example NARS No. 112, which applies to the despatch here cited.

¹¹ Memorandum, Admiral Greenslade to Governor Walwyn, September 20, 1940. FCG S-4-2-1,M.

Consul General Quarton reported after the meeting at which the report of the Greenslade Mission had been presented and explained that the small naval base in the Harbour of St. John's was to consist of 1500 feet of waterfront property on the harbour's southside. As for the proposal for an army base south of St. John's, Quarton reported that both the Commissioner for Natural Resources (Mr. Woods) and the Secretary for Natural Resources felt that the Old Bay Bulls Road was difficult to keep clear in winter and therefore thought it would be more practicable to obtain property on the North Side of Quidi Vidi Lake. Sanitation would also be better there.¹² The next day, Governor Walwyn, on behalf of the Commission of Government wrote to Admiral Greenslade and accepted his proposals of September 20 in principle.¹³

The acceptance in principle was followed by another meeting between the Greenslade Mission and the Commission of Government. Admiral Greenslade at this meeting again mentioned the need for two emergency landing fields and accepted the recommendation, now jointly forwarded by the Commission, that the location at Quidi Vidi would be preferable to the one on the Southern Shore Road. At this meeting also, a point arose which had to be reiterated at frequent intervals thereafter: the American intention with regard to the use of local labor. Admiral Greenslade stated flatly that local labor would be used to as great an extent as possible.¹⁴

¹² Despatch No. 1017, September 20, 1940. NARS No. 119.

¹³ Letter, Governor Walwyn to Rear Admiral Greenslade, September 21, 1940. FCG S-4-2-1,M.

¹⁴ Minutes of the Meeting of the United States Mission with the Commission of Government, September 21, 1940, 11:00 a.m., at Government House, St. John's. FCG S-4-2-1,M.

Governor Walwyn reported the Greenslade proposal to London on September 22 and on September 27 was informed that from a strategic point of view, His Majesty's Government saw no objection to the proposed naval facilities at Argentia and in the harbour of St. John's, the St. John's "suburban" army base, a military training area in the vicinity of Placentia and a Canadian or American airfield near St. John's.¹⁵

Three of the four American bases locations were now fairly well established: a naval air base at Argentia (with nearby Army facilities for its protection, later known as Fort McAndrew), a naval facility in the harbour of St. John's, and an army base on the North Shore of Quidi Vidi Lake (later known as Fort Pepperrell). The fourth installation, later known as Harmon Field was not proposed until November 20. At that time, the United States authorities informed the British Embassy at Washington that they were now anxious to obtain further facilities, namely "a staging point for land aircraft in the vicinity of St. Georges."¹⁶ The Commission of Government saw no objection¹⁷ and this area became part of the 99-year lease property.

The negotiations for the agreement which would set forth the conditions under which the bases were to operate -- the rights, duties

¹⁵ Telegram No. 781, Secretary of State for Dominion Affairs to Governor Walwyn, September 27, 1940. FCG S-4-2-1,M.

¹⁶ Telegram No. 2744, British Embassy, Washington, to the Foreign Office, London, November 20, 1940. FCG S-4-2-1,C.

¹⁷ Telegram No. 755, Governor Walwyn to Secretary of State for Dominion Affairs, November 22, 1940. FCG S-4-2-1,C.

and authorities of the United States Forces and their relationship to the surrounding community -- were considerably more difficult than choosing the sites. Essentially, these negotiations fall into two periods: the period from September 2, 1940 to January 28, 1941 when actual negotiations began in London, and the period covering those negotiations to their conclusion on March 27, 1941. The first period was used for the development of positions on various issues, particularly within the Government of Newfoundland, and was marked by minor skirmishes over seemingly insoluble problems; the second involved the detailed negotiations of the clauses of an agreement awarding rights for 99-years and negotiated in the broader setting of United States relations with Great Britain during the period when the Lend-Lease Bill was before Congress, the United States had not yet entered the war and the Churchill Government was hoping, by every means possible, to obtain maximum American support.

Immediately following the signature of the agreement in principle (the exchange of notes of September 2), the Secretary of State for Dominion Affairs at London sent a telegram to the Government of Newfoundland stating that preliminary consideration was being given to the maximum concessions which could be made in each of the areas where the United States had acquired base rights and invited the various dependent governments to comment. It was assumed that the United States would make a preliminary survey (the Greenslade Mission) and that, in the case of Newfoundland, the results of the American survey would be communicated both to Canada and Newfoundland, because of Canada's special role in Newfoundland's defense. Expert discussions

were to follow and it was hoped that during negotiations which would take place in London both the Government of Newfoundland and the Government of Canada would send special representatives.¹⁸ London also suggested to the Newfoundland Government that Commissioner L. Edward Emerson represent Newfoundland at any London talks.¹⁹ The Governor agreed to the appointment of Mr. Emerson but added the name of the Commissioner for Finance, John H. Penson, because of the financial, customs and fiscal considerations which would be involved in the negotiations.²⁰

Consul General Quarton was pleased with the Newfoundland Government's initial reaction to the September 2 agreement and reported two days later that "the fact that the Commission of Government has so promptly given its approval to the negotiations which were concluded between Great Britain and the United States on September 2 is evidence of the good feeling which exists between the Government of this Island and the American Government."²¹ He believed that the Government of Newfoundland would continue to be cooperative when the actual bases had been located and the pros and cons considered. He accurately predicted that some months would elapse before the negotiations could be completed and the actual purchase of private property

¹⁸ Telegram No. 703, Secretary of State for Dominion Affairs, London, to Governor Walwyn, September 4, 1940. FCG S-4-2-1,M.

¹⁹ Telegram, Secretary of State for Dominion Affairs to Governor Walwyn (Private and Personal), September 6, 1940. FCG S-4-2-1,M.

²⁰ Telegram, Governor Walwyn to Secretary of State for Dominion Affairs, September 7, 1940. FCG S-4-2-1,M.

²¹ Despatch No. 1001, September 4, 1940. NARS No. 65.

for the prospective bases could take place.²²

London's initial telegram, with its references to the Canadian involvement, once again raised the spectre of a British-Canadian agreement without due consultation of the Government of Newfoundland. The Commission was quick to respond and on September 6 advised London that it desired to have an opportunity to communicate its views on all issues in the negotiations to London before comments were solicited from the Government of Canada. It also requested that it be represented on the Canada-United States Permanent Joint Board on Defense (PJBD) in the discussion of all issues bearing on the defense of Newfoundland.²³ On the same day, the Commission informed Ottawa of its desire to be represented on the PJBD.²⁴ The issue of Canada's involvement was one of the most irksome during these early days of developing negotiations. In a telegram to London a few days later, the Commission returned to it once more, pointing out that the interests of Newfoundland and Canada were not necessarily identical. "We hope," they addressed themselves to the Secretary of State for Dominion Affairs, "that you will do everything possible to disabuse the Canadians of any idea that they are in a position to settle the destinies of Newfoundland in negotiations with the United States."²⁵

²² Ibid.

²³ Telegram, Governor Walwyn to Secretary of State for Dominion Affairs, London, September 6, 1940. FCG S-4-2-1,M.

²⁴ Telegram, Governor Walwyn to Secretary of State for External Affairs, Ottawa, September 6, 1940. FCG S-4-2-1,M.

²⁵ Telegram No. 591, Governor Walwyn to the Secretary of State for Dominion Affairs, London, September 12, 1940. FCG S-4-2-1,M.

In spite of this, reports continued to reach Newfoundland of further discussions of the defense of Newfoundland by the PJBD without the participation of Newfoundland. Indeed, this was the case. In its meeting of August 27, 1940, the Board had adopted as its Second Recommendation a statement on the defense of Newfoundland which stated, inter alia, that

"The Board considers that the defense of Newfoundland should be materially strengthened by:

- (a) Increasing the strength of the Canadian garrison immediately;
- (b) Establishing, as soon as practicable, and not later than the Spring of 1941, a force of aircraft of suitable types adequate for patrolling the seaward approaches to Newfoundland and Canada and for the local defense of the Botwood area;
- (c) Selecting and preparing, as soon as practicable, bases permitting the operation of United States aircraft, when and if circumstances require, in numbers as follows:
 - (1) a minimum of four squadrons of patrol planes (48 planes),
 - (2) a minimum of one composite group of land planes (73 planes);
- (d) Completing, as early as practicable, and not later than the Spring of 1941, the installation of appropriate defense for the port of St. John's, Newfoundland, for Botwood, and for other points as required;
- (e) Taking such additional measures as further examination of the defense problem and local reconnaissance show to be necessary." 26

²⁶ Dziuban, United States-Canada Military Relations, p. 348.

It is probably significant that the Canadian Section of the PJBD, which would probably have been sensitive to intra-Empire relationships to a greater extent than the United States Section, was able to endorse such a far-reaching recommendation. Some explanation may be found in the memorandum written by Dr. O. D. Skelton, Canadian Minister of Defense in the Cabinet of W.L. McKenzie King, which he wrote to the Prime Minister on August 22, 1940. "In view of the definite possibility," he wrote, "of a movement on the part of Newfoundland to enter Confederation, the question arises whether we should seek to have any arrangement made by the United States as regards the establishment of American bases in Newfoundland brought into harmony ... with the Canadian arrangements."²⁷ In the Canadian Ministry of Defense there would appear to have been a very strong feeling that Newfoundland would soon become part of Canada and the absence of any inhibitions to speak for Newfoundland on the part of the Canadian Section of the PJBD may to some extent be explained by this atmosphere. But the ire of the Newfoundland authorities was considerably increased when the PJBD at its meeting of September 11 again took note of the problem of the defense of Newfoundland and passed its Eighth Recommendation, reading as follows:

²⁷ C.P. Stacey, Arms, Men and Government: The War Policies of Canada, 1939-1945 (Ottawa: The Queen's Printer for Canada, 1970), p. 358.

"That the United States initiate as expeditiously as practicable such portions of the increased defense of Newfoundland, covered by the Second Recommendation of the Board ... as may be found to fall within the limits of bases now being acquired by the United States." ²⁸

The result was a vigorous protest from St. John's to London and Ottawa.

"When we agreed with the Government of the United Kingdom," the telegram to Ottawa read, "that they should offer on our behalf to the Government of the United States of America the lease of areas in Newfoundland for naval and air bases, we did not contemplate the disposition of our facilities and the settlement of the rights to be granted either to your Government or the American Government without consultation with this Government." ²⁹ Exactly what happened in Ottawa on arrival of this telegram is not clear but on October 1 the Secretary of State for External Affairs wired Governor Walwyn stating that the views of the PJBD were only recommendations to the Governments and did not represent Government policy. The Newfoundland Government was also invited to be represented whenever Newfoundland problems were discussed in the PJBD. ³⁰ London was informed that the Commission found the role of the PJBD "which appears to have defined the defense roles as between Canada and the United States without reference to the Government of Newfoundland" unacceptable. ³¹ London at once went on record to reassure the authorities in St. John's that their point had been made; Canada was to be

²⁸ Dziuban, United States-Canada Military Relations, p. 350.

²⁹ Telegram, Governor Walwyn to the Secretary of State for External Affairs, Ottawa, September 17, 1940. FCG S-4-2-1,M.

³⁰ Telegram, October 1, 1940. FCG S-4-2-1,M.

³¹ Telegram No. 602, Governor Walwyn to the Secretary of State for Dominion Affairs, September 17, 1940. FCG S-4-2-1,M.

brought into the discussions only from the point of view of military strategy which necessarily needed to be coordinated; His Majesty's Government assured the Commission that it would not agree to anything with the American Government without first consulting the Government of Newfoundland. ³²

On October 2, the PJBD itself decided to make the necessary amends. It invited the Government of Newfoundland to send representatives to the next meeting of the Board at Halifax on October 4 ³³ which was promptly accepted and Messrs. Emerson and Penson were designated to represent the Commission. ³⁴ A Canadian Air Force plane was made available to fly the delegates to the meeting. ³⁵

The preliminary skirmish between St. John's and Ottawa had obviously filtered through to the PJBD for Messrs. Penson and Emerson, in reporting on the meeting, stated that

"it became clear that the interest of the PJBD was mainly concentrated on defense measures designed to meet the present emergency They were thus a good deal concerned with the speed with which the proposed United States defensive measures were likely to take effect. They regarded the present threat as being such as to warrant the utmost possible expedition in carrying out of United States proposals The political problems [of occupying bases in another country] had scarcely been envisaged." ³⁶

³² Telegram, Secretary of State for Dominion Affairs to Governor Walwyn, September 22, 1940. FCG S-4-2-1,M.

³³ Telegram, Chairman of the PJBD to Governor Walwyn, October 2, 1940. FCG S-4-2-1,M.

³⁴ Telegram, Governor Walwyn to Secretary of State for Dominion Affairs, October 3, 1940. FCG. S-4-2-1,M.

³⁵ Telegram, United Kingdom High Commissioner at Ottawa to Governor Walwyn, October 3, 1940. FCG S-4-2-1,M.

³⁶ Report No. J.59 - '40, from the Commissioner for Justice and Defense to the Commission of Government, October 6, 1940. FCG S-4-2-1,X.

As for the establishment of the bases themselves, it became clear at the PJBD meeting in Halifax that the American proposals did not vary substantially from the Greenslade report. The American authorities were, however, anxious to receive title to the property to be leased since they did not wish to undertake construction work outside the United States unless proper title was vested. At this point, the Newfoundland authorities, impressed by the need for speedy action, suggested a simple 99-year lease as soon as the boundaries of the proposed bases were delineated and a deferral of the solution of the major problems of the status of the bases to a later date. Had this view been upheld, many of the problems of the next few months could undoubtedly have found easier solutions.³⁷

While this jockeying for position between Canada and Newfoundland was in progress, officials and influential private individuals in St. John's began to develop thoughts as to some of the reciprocal rights and protective measures which might be built into any agreement between Great Britain and the United States which was to spell out the American base rights in more detail. As early as September 6, less than a week after the initial exchange of notes, the St. John's Daily News demanded the repeal of United States Public Law 600 which limited the importation of fish which had been filleted or processed outside the United States. In the same editorial the Daily News also demanded that a separate

³⁷ Telegram No. 651, Governor Walwyn to the Secretary of State, for Dominion Affairs, October 8, 1940. FCG S-4-2-1,M.

immigration quota be established for Newfoundland. ³⁸

In his despatch to Washington reporting these demands by the Daily News, Consul General Quarton held both to be unrelated to the bases issue.³⁹ In this view, Quarton was supported by Leonard C. Outerbridge (later Sir Leonard), a director of a large St. John's commercial house, Harvey and Company, who felt that any effort to obtain a repeal of the processed fish import legislation would be undignified in view of the wartime situation which had brought about the American base rights, and would in any case fail. He recommended that the attempt not be made. ⁴⁰

On September 12, 1940, the Commission of Government itself started to make known to London its first, tentative concerns about the nature of the permanent arrangements. As was the case in the relationship with Canada, the Commission's first concern was with its own status. "We hope," they wired, "that no negotiations with the United States which affect Newfoundland will be contemplated by His Majesty's Government unless the proposals under negotiation have been communicated to us and we have had an opportunity of offering our comments." ⁴¹ Certain general rights were then considered. "As no question of sovereign rights will arise, the broad basis upon which such an agreement with the

³⁸ St. John's Daily News, September 6, 1940, p. 4.

³⁹ Despatch No. 1006, September 6, 1940. NARS No. 78.

⁴⁰ Letter to the Editor, St. John's Daily News, September 10, 1940, p. 5.

⁴¹ Telegram No. 591, September 12, 1940, Puddester (Vice Chairman of the Commission) to the Secretary of State for Dominion Affairs, FCG S-4-2-1,M.

United States should be approached is much the same as that applicable to private applicants seeking rights in an underdeveloped country such as this and it will be helpful if this attitude is maintained by our Governments in negotiation even if it is not so expressed to the other party."⁴² This attitude did little to show that the Commission understood the grave nature of the conflict seen at that moment in London or the desperate need which London felt to commit the United States to support Britain more actively in its war effort. Compared with the all-out war effort then being made in Britain, the Commission's more detailed concerns seemed puny. The Commission, for example, conceded the right of the United States to navigate in the air and sea free from administrative restrictions; the right to import construction materials duty-free; and the remission of port fees "seemed proper." Other customs and fiscal concessions were to be judged on their merits and special "serious" consideration would have to be given to liquor control and the application of immigration regulations. Military courts would be given jurisdiction over military offenses, but the Commission assumed that otherwise the base areas would remain under the jurisdiction of the ordinary courts of Newfoundland.⁴³

In these early stages of the negotiations, before the United States had made known its views of the rights it expected to exercise, there was no real objection to quick movement toward the establishment

⁴² Ibid.

⁴³ Ibid.

of the bases. On October 11, Lord Lothian reported to the Foreign Office that United States Secretary of the Navy Knox wanted to begin on the bases and not wait for the results of the detailed negotiations. He asked specifically if it were possible to proceed with the establishment of the base at Placentia [Argentia]. The British Ambassador added: "The United States is now passionately interested in re-armament and operations for defense. If nothing is done in these bases until all minor details are settled for all eight Islands and legal agreements reached in London, there will be months delay and danger of exasperating American public opinion."⁴⁴ Lord Lothian's telegram was also sent to Governor Walwyn for his information. The next day, St. John's responded by advising London that it agreed with Lothian's views and was prepared to go ahead with an interim arrangement not only at the naval base at Argentia but also at both locations in St. John's and at the Army base near Argentia.⁴⁵ London wanted to be helpful but saw some difficulty in the concept of interim leases. While the Foreign Office on October 13 advised the British Embassy in Washington that it saw no objection to proceeding at Placentia,⁴⁶ the Secretary of State for Dominion Affairs advised St. John's that a simple interim lease could not be approved without some idea of its form.⁴⁷ Then, as later, the Newfoundland Government was aware of the weather factor and urged Lord Lothian to advise the

⁴⁴ Telegram, October 11, 1940, British Embassy, Washington to Foreign Office. FCG S-4-2-1,M.

⁴⁵ Telegram No. 666, Governor Walwyn to Secretary of State for Dominion Affairs, October 12, 1940. FCG S-4-2-1,M.

⁴⁶ Telegram, October 13. FCG S-4-2-1,M.

⁴⁷ Telegram, October 13. FCG S-4-2-1,M.

Americans that they needed to get started prior to the end of November because the construction season would not last into December and would not resume before mid-May.⁴⁸

The need for some type of interim arrangement became even more clear when Lord Lothian received the first draft of the American proposal for a permanent lease. This draft, which had originated in the Navy Department and had been passed to the British Embassy in Washington is frequently referred to as the Knox draft. The draft was not only too far-reaching and too loosely drafted; it's terms were so sweeping as to build immediate resentment in both the British Government and the Governments of the dependent areas where the bases were to be located. The Knox draft would have accorded to the United States "rights, power, authority and control" beyond anything previously envisaged. For example, it proposed to give the United States "rights, power and authority to assume military control and conduct military operations within any part of Newfoundland and surrounding waters and air space to the extent which may be necessary or convenient for the protection of the properties, instrumentalities and activities of the United States or otherwise to safeguard its national interests...."⁴⁹ Among other, obviously objectionable proposals was the proposed paragraph (k) which would have

⁴⁸ Telegram, Governor Walwyn to British Embassy, Washington, October 13, 1940. FCG S-4-2-1,M.

⁴⁹ "Lease to the United States of America by His Majesty's Government in the United Kingdom of Certain Areas of Land and Water in Newfoundland," as reproduced as an enclosure to Memorandum, L.E. Emerson, Commissioner for Justice and Defence to Governor Walwyn, November 6, 1940. FCG S-4-2-1,C., p.2.

given the United States "the right, power and authority to use all public lands, areas, sites, airfields, ports, docks, piers, quays, berths, ships, repair facilities, arsenals, magazines and hospitals to the extent which may become necessary or convenient for the protection of the property, instrumentalities and activities of the United States, or otherwise to safeguard its national interests without compensation other than reimbursement of any additional cost directly resulting from such use." ⁵⁰ Two problems which were to provide major stumbling blocks later were dealt with in an equally sweeping manner. In the area of customs, the draft demanded free entry on all goods destined for military or civilian personnel and their dependents subject only to the prohibition of resale; in the area of jurisdiction, the United States demanded the right to try anyone arrested on the base, regardless of nationality, and on the other hand demanded that United States military or civilian personnel be delivered to the American authorities for trial regardless of the nature of the offense or the locale in which it was committed. ⁵¹

On the receipt of the draft, Lord Lothian immediately called on President Roosevelt and Secretary of the Navy Knox. He objected to the draft, called it "too legalistic" and reported to London that it had

⁵⁰Ibid., p.3.

⁵¹Ibid., p.4.

been withdrawn by mutual consent.⁵²

In the same conversation, Secretary Knox pointed to the need for some interim agreement beyond the agreement of September 2 because it was the opinion of the United States Government that at least interim title had to be transferred before funds appropriated by Congress could be spent.⁵³ In view of the early end of the construction season in Newfoundland, such an interim arrangement there now assumed first priority. The Naval Attaché of the British Embassy in Washington and the Embassy's legal advisor met with United States Navy officials on October 19 and agreed that a simple letter from the Ambassador to the Secretary of the Navy naming the area to be leased would be sufficient; the exact boundaries could be set forth in the later, more formal agreement.⁵⁴ Both London and St. John's concurred with the proposed exchange of letters, making only minor suggestions.⁵⁵ A draft was forwarded from the Washington Embassy to London on

⁵² Telegram No. 2307, British Embassy Washington to Foreign Office October 15, 1940. FCG S-4-2-1,M. It is interesting to note that Lord Lothian was so convinced that the Knox draft had been withdrawn, and realized that its circulation would cause considerable uproar among the Government's affected, that he refused to forward the draft to St. John's. It was only after numerous requests by the Commission of Government that the British Embassy finally forwarded the draft. It was received in St. John's on November 4.

⁵³ Ibid.

⁵⁴ Telegram No. 2349, British Embassy, Washington to Foreign Office, October 19, 1940. FCG S-4-2-1,M.

⁵⁵ Telegram No. 685, Governor Walwyn to Secretary of State for Dominion Affairs, October 19, 1940, FCG S-4-2-1,M and Telegram No. 2821, Foreign Office to British Embassy Washington, October 27, 1940, FCG S-4-2-1,M.

November 2 and it took yet another prod from Washington to get final approval. On November 9, asking for authority to send its letter, the British Embassy once more averred to the mood in Washington. "The United States Government," it wired, "are obviously apprehensive regarding the Atlantic and I think the more we can meet them in the rapid, practical application of the Bases Agreement, the less likely they will be to do any hasty weakening of their naval forces in the Pacific."⁵⁶ The letters were exchanged on November 11, 1940, the substantive letter being sent by Mr. Neville Butler, the British Chargé in Washington, to the Secretary of the State. It read as follows:

"Dear Mr. Secretary:

Pending the settlement of the terms of a formal lease of the areas to be used as bases under the agreement contained in the exchange of notes between the Government of the United States and His Majesty's Government on September 2, 1940, I have been authorized to inform you that His Majesty's Government in the United Kingdom and the Commission of Government of Newfoundland confirm that it has been agreed as follows as regards the areas to be leased in Newfoundland:

1. The base shall comprise the area set out in the schedule hereto, the exact boundaries of which shall be embodied in the said lease;
2. It is hereby agreed that the said area shall be leased to the United States for the term of 99 years subject to the terms and conditions in the said lease;
3. The United States Government is hereby authorized to commence any works in the said area necessary to the establishment of the said base;
4. The United States Government shall forthwith take steps to agree with the Government of Newfoundland on a procedure to be adopted for the

⁵⁶ Telegram No. 2612, British Embassy Washington to Foreign Office, November 9, 1940, FCG S-4-2-1,C.

settlement and payment by the United States Government of claims of owners of private property for compensation for loss or damage which may be caused by expropriation.

Schedule

- A. An air base and army training ground on the Argentia peninsula and on two square miles south of Little Placentia Harbour.
- B. A naval base in St. John's harbour.
- C. A site for an Army defence force, 160 acres north of Quidi Vidi Lake." ⁵⁷

On November 28, in a supplementary letter, the following was added to the schedule:

- "D. A staging point for land aircraft in the immediate vicinity of St. Georges." ⁵⁸

Of all the issues which were to occupy the negotiators during the months leading up to the signing of the agreement, none was more hotly debated and more difficult of resolution than the question of jurisdiction of the United States over its own forces and over host country nationals on the one hand, and that of the host Government over Americans on the other. It was raised in early newspaper editorials and touched upon in the Commission of Government's first substantive response to London ⁵⁹ and was, as will be seen, one of the final issues to be negotiated before the Agreement itself was concluded. It was first

⁵⁷ Telegram No. 127S, British Embassy, Washington to Foreign Office, November 2, 1940. FCG S-4-2-1,C.

⁵⁸ Letter, Lord Lothian to Secretary of State Cordell Hull, November 28, 1940. FCG S-4-2-1,C.

⁵⁹ Telegram No. 591, see p. 53 , above.

broached informally by the British Government in a telegram to St. John's on October 30. At that time, the Secretary of State for Dominion Affairs forwarded some preliminary thoughts for comments by the various authorities concerned. In the field of criminal jurisdiction, London believed that inside the leased base areas the United States should have jurisdiction over its own forces. It believed that United States courts should also be accorded jurisdiction over British subjects if the criminal offense was related to the protection of the security of the bases. All other offenses committed by British subjects within the leased areas would be subject to the jurisdiction of the local courts. Outside the leased areas, the rules would be those applied in ports aboard foreign vessels; that is, while local law would in theory apply, commanders would in fact exercise jurisdiction over their own forces unless the criminal act involved local nationals in which case local law would be applied. Local courts would in any case have jurisdiction over all non-United States nationals involved in a case outside the leased base areas. A different approach appeared to London to be warranted in case of civil law suits. Here it was felt that American jurisdiction could be accepted in cases originating in the leased base areas if both parties were United States citizens. If one party was American and the other non-American, London proposed to have the cases tried in the courts of the nationality of the defendant. (This was a particularly curious twist since it would have meant that any Newfoundlander seeking redress in tort against an American serviceman would have had to appear in an American court and vice versa.) For civil cases originating outside the leased areas, London preferred trial in

local courts but was willing to consider having cases involving solely American parties tried in United States courts, and cases involving one American party in the courts of the nationality of the defendant.⁶⁰

As might have been suspected, the reaction in St. John's was swift and vehement. "We apprehend," wired Governor Walwyn, "that there will be grave disappointment and even a sense of betrayal in Newfoundland if the Americans are given such extensive jurisdiction in this country as that contemplated in your Telegram No. 886."⁶¹

The sense of betrayal was already felt among the Commissioners in St. John's. They waxed to their most eloquent heights:

"It is possible that the circumstances may be such that the devotion of the people of this country to the preservation of Great Britain and the Empire would rise superior even to their natural repugnance to such invasions of the sovereignty of their country as those contemplated but we earnestly hope that their devotion will not be put to this severe test if it can possibly be avoided."⁶²

No more eloquent words could have been found if they had been used to oppose sending Newfoundland's forces into battle at Beaumont-Hamel.

For its part, the Commission of Government suggested that the Americans should be given no reason to think that they would be granted the wide jurisdiction contemplated but only such jurisdiction as was

⁶⁰ Telegram No. 886, Secretary of State for Dominion Affairs to Governor Walwyn, October 30, 1940. FCG S-4-2-1,M.

⁶¹ Telegram No. 717, Governor Walwyn to Secretary of State for Dominion Affairs, November 3, 1940. FCG S-4-2-1,C.

⁶² Ibid.

Leaf 62 omitted
in page numbering.

absolutely essential to the safe and effective use of the bases. And then the wounds of Newfoundland's pride bled once more:

"We also venture to suggest that it should be brought to the attention of the American Government that their bases will be situated in a country in which British law has been administered in accordance with British standards for a century and a half and that there will be no need here to protect themselves against the crudeties of law and custom which in the past at least have justified demands for extra-territorial jurisdiction in certain parts of the world." ⁶³

The Commission of Government requested that it be associated with any discussions on this issue so that "there may be no danger of avoidable commitments to the Americans which will provoke protests from the people of Newfoundland and thereby give the enemies of the Empire a pretext for assertions that the rights of a small unit of the Empire have been given away by Great Britain without the consent of those primarily concerned." ⁶⁴

It is not clear from the available record whether London was angered or amused by this outburst of local pride. But it quickly urged St. John's to stop being concerned and to make known its specific objections to the British proposal. It was again emphasized that there was no intention to exclude St. John's from the development of proposals and that the telegram which had brought the strong response had been provisional and hypothetical precisely in order to gain the views of those concerned. ⁶⁵

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Telegram, Secretary of State for Dominion Affairs to Governor Walwyn, November 8, 1940. FCG S-4-2-1,C.

The explosive rejection of what the Commission considered to be far-ranging concessions to the United States in the field of jurisdiction was symptomatic of a re-thinking of Newfoundland's position toward the establishment of the bases. Gradually second thoughts took the place of the initial very favorable reaction to the Base Rights Agreement of September 2. The Commissioner for Justice and Defense, the Honorable L.E. Emerson, a Newfoundlander, was in the forefront of this reconsideration. In a memorandum to the members of the Commission of November 28 he bluntly stated that the Commission of Government would have to come to grips with the real meaning of the September 2nd Agreement. "There appears to be no reason," he held, "based either upon the logical results that follow from the Agreement [of September 2, 1940], nor upon the principle of equity, why, merely because we have freely and generously acceded to the desire of the United States Government to erect in Newfoundland a first line of defense for the United States, we should add a further gift in the nature of monetary contributions." ⁶⁶ But monetary contribution was not really what Emerson had in mind; no one had proposed this. What Emerson objected to were proposals that the United States should be permitted to establish its bases without paying to Newfoundland taxes, duties and fees. "The logical result of the Americans coming here to defend their own land," he continued, "should be that they will obey the laws of this country in all respects, and will pay all the taxes and duties which fall to be paid by any other residents of this country. From the equitable

⁶⁶ Memorandum, November 28, 1940, File J-4-1940. FCG S-4-2-1,X.

point of view," it seemed to him, "that not only should we not make monetary sacrifices, but we should be receiving monetary considerations. It is true that we have waived these, we are not charging rent, but it would be both illogical and inequitable if, having waived the payment of rent, we also gave to the United States the equivalent of actual cash contributions." ⁶⁷

The views of Commissioner Emerson had two direct consequences. One was an effort to send a delegation to Washington to attempt to exact from the United States concessions in unrelated areas. Commissioner Emerson resurrected the proposal originally made by the Daily News ⁶⁸ that representatives be sent to Washington to make preliminary inquiry into the matter of requests for compensating advantages. Primarily, Emerson proposed, Newfoundland should seek opportunities to develop the export of fresh and frozen fish and fish oils and seek the establishment of a separate immigration quota for Newfoundland. ⁶⁹

The Commission approved the idea and the suggestion was embodied in a telegram to London the next day. ⁷⁰ London took a broader view.

⁶⁷ Ibid., p.2. It may be wondered whether Mr. Emerson later shared the views of his successor as Commissioner of Justice and Defense, Hon. H.A. Winter, who wrote in a draft despatch to the Secretary of State for Dominion Affairs on October 5, 1945 that "the large volume of steady employment at high wages upon the Bases during the war years has been responsible, more than anything else, for the present widespread prosperity and national surplus." FCG, Old Box 147.

⁶⁸ see p. 35, above.

⁶⁹ Draft Message circulated to the Members of the Commission, December 19, 1940. FCG S-4-2-1,C. Newfoundland was included as a sub-quota of Great Britain and not entitled to its own quota as had been the case between 1924-1934.

⁷⁰ Telegram No. 800, Governor Walwyn to Secretary of State for Dominion Affairs, December 20, 1940. FCG S-4-2-1,C.

It believed that these requests, while in themselves appropriate subjects for negotiation with the United States, should not become part of the leased bases negotiations, fearing the resulting counter-demands by the United States. London therefore suggested that the St. John's authorities consult with the British Embassy in Washington but saw no point in sending a delegation to Washington until the Embassy felt the time to be propitious.⁷¹ While the Commission of Government immediately seized on this suggestion⁷² the Embassy delayed its reply until it was clear that negotiations for the Agreement were to get underway and then suggested that in view thereof, the despatch of a delegation to Washington was unnecessary.⁷³

Meanwhile, and also as a result of the development of revised attitudes, the Commission of Government had taken steps to prepare for negotiations, should they be authorized. Dr. Raymond Gushue was appointed to head a special committee to look into the possible concessions that might usefully be asked of the Americans. In a report dated December 13, 1940 which apparently did not reach the Commission until after Christmas, Dr. Gushue examined the various proposals which had been made. He recommended against any effort to have the tariff lowered on fresh and frozen fish because Canada would benefit from any such action by virtue of the most-favored-nation clause of the American-Canadian trade agreement and as a result would continue to be able to undersell

⁷¹ Telegram No. 1042, Secretary of State for Dominion Affairs to Governor Walwyn, December 24, 1940. FCG S-4-2-1,C.

⁷² Telegram No. 28, Governor Walwyn to British Embassy, Washington, December 29, 1940. FCG S-4-2-1,C.

⁷³ Telegram, Secretary of State for Dominion Affairs to Governor Walwyn, January 14, 1941. FCG S-4-2-2,M.

Newfoundland exporters. On the other hand, he felt an effort might be made to obtain a specific purchase quota from the United States for fish products. He believed that any effort to obtain a repeal of the processing tax on fish oils would require Congressional approval and therefore be likely to fail. The idea of a purchase quota, however, appealed to Dr. Gushue and he recommended that an effort be made to obtain such a quota for silver and black fox fur exports. He recommended against a push for a separate immigration quota since there was opposition to any wartime transfer of assets by Newfoundlanders and the United States was unlikely to accept prospective immigrants without some personal funds.⁷⁴ In light of Dr. Gushue's analysis, a Newfoundland mission to Washington would undoubtedly have had a difficult time obtaining any meaningful concessions and it would appear that London was wise in throttling the Newfoundland approach. While agitation for compensation in unrelated areas subsided during the remaining period of negotiation, not all elements of the Newfoundland community had accepted the idea. In a formal submission to the Commission of Government, Mr. H. T. Renouf, Secretary of the Newfoundland Board of Trade, held that the acquisition by the United States of bases in Newfoundland presented an "unequalled" opportunity for the negotiation of a reciprocal agreement under which "advantages of great importance to the well-being of the people of this Island may be obtained."⁷⁵ Mr. Renouf, in careful phraseology, suggested that these negotiations should be conducted "with a view of securing such economic and/or financial benefits

⁷⁴ Memorandum, Dr. R. Gushue to Commission of Government, December 13, 1940. FCG. S-4-2-1,X.

⁷⁵ Letter, H.T. Renouf to Gov. Walwyn, January 2, 1941. FCG S-4-2-2,M.

as will be reasonable under the circumstances" and suggested that the Commission establish a consultative committee of local representatives for the purpose.⁷⁶ There is no record that this was done.

Of the questions being considered prior to actual commencement of negotiations, that of legal jurisdiction was, as has been shown, by far the most explosive. Two other issues proved similarly thorny. The first of these was the question of customs. There was little doubt that materials for the construction of the bases and actual military equipment would be admitted duty-free but what items were to be permitted for the individual serviceman, for the contractor employee, for dependents? In the eyes of the Commission of Government, a very guarded approach was necessary. When the first commanding officer of the first American survey party requested to be permitted to import two trucks, one car, survey equipment and some consumables, he was given only temporary permission to import these items duty-free subject to later re-negotiation and was told that no more than 500 cigarettes could be brought in duty-free by anyone.⁷⁷

In reviewing the period of reappraisal and reconsideration characterized by the Emerson memorandum, it appears quite probable that this activity and the resultant attitudes in the field of customs were stimulated not only by the passage of time and the opportunity for reconsideration which it presented but also by the receipt in St. John's of the Knox draft.⁷⁸ The Commission, already sensitive to a possible American assertion of powers beyond those considered to be absolutely

⁷⁶ Ibid.

⁷⁷ Memorandum of Conversation, Commissioner Penson, Major Bruton (U.S. Army), Mr. Sundell, United States Vice Consul, October 16, 1940. FCG S-4-2-1, M.

⁷⁸ see p. 55, above.

essential to the military purposes at hand, rejected the whole philosophy which it saw embodied in that draft. "We do not consider that any useful purpose would be served by comment in detail on the clauses of the draft lease," the Commission wired to London. "Most of them are so wide as to justify their rejection in principle." ⁷⁹ The Commission went further:

"It is our belief that it would be a grave error on the part of the United States Government to press for the extensive powers and privileges contained in the lease. It would mean that they would begin a long period of intimate association with this country in an unfavorable atmosphere which, as the years go by, might develop into antagonism." ⁸⁰

In the area of customs duties, the proposals contained in the Knox draft seemed particularly odious. "We trust," the Commission telegraphed to London,

"that the point of view of the United States Government was not correctly set forth in the Knox draft lease, as the claim in respect to customs duties appeared there in its most extreme form by proposing that United States importations, whether for Government use or for that of any personnel, civilian or military, and for their families, be duty free." ⁸¹

That no American Government could expect, in a wartime situation, that its soldiers would pay customs to a foreign government whose soil they had come to defend seems not to have occurred to the drafters of that telegram at that time for they continued:

"We should regard duty free admission of importations for private use of individuals and their families,

⁷⁹ Telegram No. 814, Governor Walwyn to Secretary of State for Dominion Affairs, December 30, 1940. FCG S-4-2-1,C.

⁸⁰ Ibid.

⁸¹ Telegram No. 809, Governor Walwyn to the Secretary of State for Dominion Affairs, December 28, 1940. FCG S-4-2-1,C.

whether military or civilian, as inadmissible, but anticipate that the United States Government might be persuaded to abandon this claim." ⁸²

Specifically, the Commission opposed duty-free entry of any commodities not directly used in armament or base construction such as food, material for the repair of buildings, fuels, and clothing other than service issue. It claimed that it held this view because any duty-free entry for such goods would be difficult to administer--the goods might end up in the hands of Newfoundlanders; it would be politically difficult for the United States since Newfoundlanders would resent inhabitants of the same Island who obtained goods duty-free when they had to pay; and, finally, it would be financially difficult since Newfoundland needed the money it might collect as duty to "pay for the requirements of the Bases." ⁸³ The attitude of the Commission did not develop very much in the next few weeks for when it communicated its views to the British Embassy in Washington just prior to the start of formal negotiations, it relented to permit soldiers to bring in personal effects (except any cigarettes in excess of 500, liquor or private cars) duty-free on first arrival but to require that parcels or personal effects received later be dutiable. ⁸⁴

⁸² Ibid. Duties would have had to be paid either by the individual serviceman or by the Government of the United States and it would seem impossible for either to have been workable since the Government had no way of controlling, or limiting, parcels shipped from home to a serviceman serving abroad.

⁸³ Ibid.

⁸⁴ Telegram No. 3, Governor Walwyn to British Embassy Washington, January 10, 1941. FCG S-4-2-2,M.

While the attitude in St. John's is understandable in terms of a search for additional revenue, the willingness of the Secretary of State for Dominion Affairs to go along with it is puzzling in light of historic British experience with military forces in foreign areas. In his "preliminary response" the latter felt that, in addition to the free entry of military hardware and construction materials, United States Government stores should be permitted free entry if these were not for resale. He stated that no other customs concessions were being considered. If other goods, such as "canteen goods" were to be allowed customs free entry, customs barriers might have to be established between the bases and the territory in which they were located with the United States bearing the cost of such barriers. ⁸⁵

The projected arrival of the USAT Edmund B. Alexander in late January 1941 required that the issue of customs be at least temporarily brought to a head. A modus vivendi had to be worked out even if temporary and subject to change as a result of the negotiations for a formal agreement about to begin. The suggestion of the London authorities that the Alexander be treated like any other visiting ship ⁸⁶ was obviously not satisfactory since the Alexander had an entirely different mission (it served as a temporary base for the Army garrison) and was expected to remain in port for an indefinite period. The Commission of Government therefore proposed that, on the assumption that any temporary modus vivendi would be without prejudice to the later negotiations and on the further

⁸⁵ Telegram No. 31, Secretary of State for Dominion Affairs to Governor Walwyn, January 13, 1941. FCG S-4-2-2,M.

⁸⁶ Telegram No. 1041, Secretary of State for Dominion Affairs to Governor Walwyn, December 24, 1940. FCG S-4-2-1,C.

assumption that the Knox draft was not acceptable as a basis for discussion, the following arrangement be presented to the United States Government:

1. The Government of Newfoundland was willing to waive harbour and light dues, but not the cost of potable water.
2. The vessel would be subject to the normal quarantine.
3. Duty would be waived on ship's stores.
4. Military equipment could enter duty-free.
5. Consumable stores would be subject to duty but Newfoundland would defer the collection of such duty until the conclusion of the formal negotiations.
6. Personal effects could be brought ashore duty-free except for cigarettes in excess of 500 per person, all liquor and all private cars. Just who might have brought their private cars aboard the Alexander was never made clear.
7. All subsequent parcels received by personnel aboard the troop ship would be dutiable.⁸⁷

Anxious to be able to tell Congressional Committees that American troops had in fact arrived in Newfoundland, and aware of the proviso that the modus vivendi was without prejudice with regard to the final agreement, the State Department in Washington agreed to the Newfoundland proposal on January 22, 1941, only one week prior to the Alexander's arrival in St. John's. By no means had the last been heard of the customs issue.⁸⁸

⁸⁷ Telegram No. 6, Governor Walwyn to British Embassy Washington, January 12, 1941, FCG S-4-2-2,M.

⁸⁸ Telegram, British Embassy Washington to Governor Walwyn, January 22, 1941. FCG S-4-2-2,M.

Equally difficult as the issue of customs was the problem of the acquisition of property for the bases and the concomitant issue of expropriation. During October and November 1940, United States officials in both St. John's and Washington gave frequent expression to their desire to move as quickly as possible toward the establishment of the bases and the negotiations leading to the letter from Mr. Butler, the British Chargé d'Affaires in Washington, to the Secretary of State ⁸⁹ was part of this effort. Until the owners and occupants of the land in question had been moved, however, no actual construction could take place.

In response to the pressure from American officials in St. John's, the Commission of Government advised London on November 23 that it believed that the question of expropriation should be settled quickly not only to let the Americans proceed but also to give the owners maximum notice. The Commission proposed the establishment of a Special Board for this purpose to be presided over by a Justice of the Newfoundland Supreme Court assisted by one man from the field of commerce and one man experienced in land values. ⁹⁰ London asked its Embassy in Washington to obtain the views of the American Government. ⁹¹ Urgency developed as the various forms of expropriation tribunals (use of existing institutions, special boards, one-man commissions, etc.)

⁸⁹ see p.58 , above.

⁹⁰ Telegram No. 760, Governor Walwyn to the Secretary of State for Dominion Affairs, November 23, 1940. FCG S-4-2-1,C.

⁹¹ Telegram No. 990, Secretary of State for Dominion Affairs to Governor Walwyn, November 30, 1940. FCG S-4-2-1,C.

were debated between London and St. John's.⁹² On November 30, the Commission of Government once more expressed its preference for a special independent board and made the suggestion that it proceed to expropriate provided it could be furnished with some advanced funds -- it suggested the United States advance \$20,000.⁹³

On December 13, Secretary of State Hull addressed a letter to the British Chargé, Mr. Butler, as follows:

"It is my understanding that the British and Newfoundland authorities are in agreement that the United States authorities may commence any works on the proposed bases in Newfoundland at once; that the Newfoundland authorities are prepared to institute immediately such condemnation proceedings as may be necessary to acquire title to privately owned property and subsequently to lease such properties to the United States Government in accordance with the provisions of the basic exchange of notes of September 2, 1940. Officers of the United States forces in Newfoundland are being instructed to communicate with the authorities in Newfoundland respecting the relative priorities in which they desire condemnation proceedings to be instituted in these areas in order that construction may be commenced at once and prosecuted without delay."⁹⁴

The urgency of the matter had become of sufficient importance to involve the personal intervention of Secretary Hull. In the same letter, Secretary Hull agreed to the procedure which had been proposed by the Newfoundland authorities for a special board to be constituted to take evidence and advise the Government of Newfoundland on

⁹² The files of the Commission of Government (FCG S-4-2-1,C) indicate some concern in London about establishing a uniform method throughout the territories in the Western Hemisphere where bases were to be established.

⁹³ Telegram No. 815, Governor Walwyn to Secretary of State for Dominion Affairs, November 30, 1940. FCG S-4-2-1,C.

⁹⁴ NARS No. 450a .

the payments to be made to dispossessed owners with the following understanding:

1. Any compensation for privately owned property would be subject to the agreement of the United States Government. This had been specifically provided in the exchange of notes of September 2, 1940. ⁹⁵
2. The United States authorities would be freely afforded facilities to make such investigations as might appear advisable in case of any recommended payments which appeared to the American authorities to be excessive. ⁹⁶

In spite of the urgency of the matter and the obvious importance lent to it by the American Government, Mr. Butler (uncharacteristically) forwarded this letter not by telegram but by mail and it did not reach St. John's until December 22. In order to permit work to progress, especially at Argentia, some condemnation proceedings were conducted in mid-November 1940, and owners were paid the price fixed by the Special Board. In view of the first proviso of the Hull letter, the Newfoundland authorities now were concerned whether the Americans would question the level of compensation already awarded and, possibly, leave Newfoundland saddled with the need to pay the difference. All further efforts to move property owners stopped again, pending resolution of this question. On January 8, Mr. James Dunn, who had been made chairman of the special Interdepartmental Committee within the United States Government for the conduct of the base negotiations, suggested that the families in question be paid an interim compensation without

⁹⁵ See Appendix A.

⁹⁶ See NARS No. 450a. Also see FCG S-4-2-1,C.

prejudice to the final award.⁹⁷ More haggling ensued. St. John's was willing to accept the proposed compromise provided the United States would be willing to accept an award not more favorable than would be acceptable in the United States in comparable circumstances.⁹⁸

By January 15, twenty families had still not been moved from Argentia and work could not proceed. Washington's impatience grew, and it again communicated with the British Embassy. It warned that

"certain none too friendly members of Congress are taking a close interest in the matter and may make trouble if the matters are too long delayed.... As an example of the mischievous interest of certain politicians, the suggestion has been made that an amendment be tacked onto the "Lend-Lease" Bill providing it should not come into operation until His Majesty's Government has paid all expenses in connection with the expropriation of land for the construction of United States bases."⁹⁹

The same day Governor Walwyn concurred¹⁰⁰ with the Washington Embassy proposal that the families be paid without prejudice to a final settlement but the agreement did not reach the State Department in time to stay a personal message from Secretary Hull to the American Chargé d'Affaires in London, Mr. Hershell V. Johnson, reciting the entire background of the events and urging Mr. Johnson "to see the Foreign Secretary [Mr. Eden] at the earliest possible moment and place the ... facts before him." He emphasized that the Secretary of the Navy and the Chief of

⁹⁷ Telegram No. 4, British Embassy Washington to Governor Walwyn, January 8, 1941. FCG S-4-2-2,M.

⁹⁸ Telegram, Governor Walwyn to British Embassy Washington, January 9, 1941. FCG S-4-2-2,M.

⁹⁹ Telegram No. 9, British Embassy Washington to Governor Walwyn, January 15, 1941. FCG S-4-2-2,M.

¹⁰⁰ Telegram No. 10 Governor Walwyn to British Embassy Washington, January 15, 1941. FCG S-4-2-2,M.

Naval Operations expected to have to testify before Congressional Committees in the next few days and that they would undoubtedly be asked about the status of the proposed bases. "It is unnecessary to point out how important it is that they be placed in a position to say that there are no obstacles in the way of the immediate prosecution of construction." ¹⁰¹

On January 18, three of the Commissioners visited Argentina. The occupants demanded not only compensation but insisted on assurances of alternative accommodations. The situation was appraised to be "very difficult" but in view of the pressure for speedy action all were promised help including the possibility that the Government would set them up in abandoned homes nearby, in hotels or boarding houses and supply them with furniture. In spite of the obvious difficulties, the Commission reported to London that it had decided to go ahead "in the belief that from the point of view of the situation of the Empire as a whole this risk [i.e. the risk of not being fully reimbursed by the United States] is preferable to the risk of providing material for opposition to President Roosevelt's policy of aid to Britain." ¹⁰²

Similar explanations were being made in London. Mr. Anthony Eden's first reaction to the Hull telegram (delivered to him by

¹⁰¹ Telegram No. 175, Secretary of State Hull to the Chargé in the United Kingdom, January 17, 1941. Department of State, Foreign Relations of the United States (Diplomatic Papers). Volume III, 1941, The British Commonwealth, The Near East and Africa (Washington: United States Government Printing Office, 1959), pp. 60-61.

¹⁰² Telegram No. 33, Governor Walwyn to Secretary of State for Dominion Affairs, January 18, 1941. FCG S-4-2-2,M.

memorandum from Chargé d'Affaires Johnson on January 20) was to express his regrets at the delay and to assure Johnson that he would do everything in his power to solve the problem.¹⁰³ On January 21 he handed Johnson the following memorandum:

"There has been no desire on the part of the Newfoundland Government to adopt other than a helpful attitude with regard to the initiation of construction work on the bases to be leased to the United States in the Island in spite of the inevitably short time available for making arrangements in regard to the local inhabitants. The memorandum of the 20th of January refers to the question of procedure for compensation to those owners who are dispossessed in order to provide sites for the bases. The sole concern of the Government of Newfoundland in this connection has been to find a procedure which would be equitable to the United States Government. The question of procedure is, of course, one which has to be considered in relation not only to Newfoundland but also to all the colonies concerned and it is proposed to discuss it generally at the forthcoming conference in London. In the meantime, in order that there may be no delay in beginning construction work in the Island, the Government of Newfoundland have agreed that, without prejudice to the general discussions, compensation should be paid to certain numbers of the owners who are being dispossessed immediately, the compensation being provided out of a fund supplied for that purpose by the United States authorities. In order to enable this interim procedure to be rapidly put into effect, they are arranging to provide at once, at considerable expense to themselves, alternative accommodations for the persons concerned.

In the circumstances, the immediate question appears to be satisfactorily disposed of, and it is assumed the United States Government will not think it necessary to discuss before the

¹⁰³ Telegram No. 212, American Embassy London to Secretary of State, January 20, 1941. NARS No. 458.

Congressional Committee⁷ in detail the course of events referred to in the memorandum of 20th January concerning the delay in obtaining the land for base construction in Newfoundland." 104

On January 22, the British Chargé in Washington wired Governor Walwyn that the Embassy had explained the situation at Argentia to the State Department and had suggested that additional sums be made available for temporary quarters. The State Department had expressed its appreciation for the action taken by the Newfoundland authorities and had agreed to provide the additional funds. At this time the final formula for the payment of compensation was also worked out: the Special Board would decide on its award, the award would be approved by the Government of Newfoundland, then by the United States authorities and payment would be made with the United States Government reimbursing the British Government for the payments made. In the case of disagreement with the size of the award the final award would be decided upon by an Arbitration Board set up by the British and American Governments.¹⁰⁵ Construction at Argentia was actually started on December 29, 1940. ¹⁰⁶

¹⁰⁴ Telegram No. 225, American Embassy London to Secretary of State, January 21, 1941. NARS No. 461.

¹⁰⁵ Telegram No. 14, British Embassy Washington to Governor Walwyn, January 22, 1941. FCG S-4-2-2,M. It is interesting to note that in fact all awards recommended by the Newfoundland Board were approved by the United States Government and the Arbitration Board was never activated.

¹⁰⁶ United States Navy, Building the Navy's Bases in World War II: History of the Bureau of Yards and Docks and the Civil Engineer Corps, 1940-1946 (Washington: United States Government Printing Office, 1947) Vol. I, p. 39.

PART III - THE LONDON NEGOTIATIONS

For a while, at least, it seemed as if everything about the negotiations for the proposed Leased Bases Agreement was going to be extremely difficult. There was, for example, no agreement on the place where the negotiations were to be held. From the beginning, the British Government had assumed that they would be held in London; the American Government had consistently assumed that the talks would be held in Washington. The British Government was placed on notice that it would be asked by the Opposition in the House of Commons on November 20, 1940 about the status of the negotiations. In its reply, first checked with the Newfoundland Government and the Colonial Authorities concerned, it stated that the discussions were to be held soon "in London" and that the Government of Newfoundland and certain colonial authorities had already been requested to send representatives.¹ There does not appear in the record any indication that the United States Government was asked before this response was given. On December 13, 1940, however, the Secretary of State, in a letter to the British Chargé, pointed out that the President was keenly desirous that all of the negotiations be carried to a successful conclusion as soon as possible and explained that with that in view an

¹ Great Britain, Parliamentary Debates, Fifth Series, Volume 365, House of Commons Official Report (365 H.C. Deb. 55) (London: His Majesty's Stationery Office, 1940), p. 2030.

informal committee composed of representatives from the interested American Departments had been appointed to handle these negotiations "in Washington." ² On December 20, Ambassador James Dunn, who had been appointed to head this Interdepartmental Committee, again advised the British Embassy that the United States Government desired that the negotiations be held in Washington. "Mr. Dunn made it clear that the Administration felt that in present circumstances, it would not be practicable for American officials with the necessary qualifications to be sent to London to conduct negotiations there." The British Embassy immediately voiced its objections to Dunn's views but promised to report to London. ³ In response to the reaction by the British Embassy, Ambassador Dunn checked his instructions and on the next day, December 21, stated that the view favoring the locale of the talks in Washington was shared by all the Cabinet Ministers concerned and by the President. ⁴

Immediately after the Christmas-New Year's holiday, the British Government made a concerted effort to obtain American agreement to have the talks held in London. On January 3, the British Embassy addressed an Aide-Memoire to the Department of State which Mr. Butler, the Chargé, personally handed to Mr. Sumner Welles, the Under Secretary of

² See Aide-Memoire, British Embassy Washington to the Department of State, January 3, 1941 in Department of State, Foreign Relations of the United States. The British Commonwealth, The Near East and Africa, Vol. III, 1941 (Washington: United States Government Printing Office, 1959), p. 53.

³ Ibid., and Telegram, British Embassy Washington to Foreign Office, December 20, 1940. FCG S-4-2-1,C.

⁴ Telegram, British Embassy Washington to Foreign Office, December 21, 1940. FCG S-4-2-1,C.

State. In the Aide-Memoire, it was pointed out that His Majesty's Government "are ... most anxious that these negotiations be conducted in London They have ... reluctantly come to the conclusion that to hold the negotiations in Washington would present the most formidable difficulties from the point of view of the British authorities."⁵ The Aide-Memoire held further:

"In view of the complexity of the issues involved and of the number of separate administrations concerned, it will be necessary for the British authorities during the discussions to have the advice of representatives from a number of different departments, both civil and military, of legal advisors, and of Colonial experts. A large interdepartmental committee has in fact been sitting in London for some months past to consider the administrative and other questions involved in the leases, and all the necessary personnel is available there. It is, however, feared that it would be quite impracticable for these persons to be spared to visit Washington in present circumstances when so many demands are being made upon their time in connection with the day-to-day conduct of the war." ⁶

The Aide-Memoire also pointed out that it was particularly desirable that Newfoundland and Bermuda and the other colonies should be directly represented during the negotiations and that arrangements to this effect could be made without great difficulty in London but considerable complications would be caused if the discussions were to take place in Washington. ⁷ Butler's presentation was apparently quite persuasive; at any rate, Sumner Welles records that he told Butler only that

⁵ Aide-Memoire, British Embassy Washington to Department of State, January 3, 1941. NARS No. 423¹/₂.

⁶ Ibid.

⁷ Ibid.

"further consideration would be given to the question and he would be promptly advised of our decision in the matter." ⁸

Three days later, the British Government made a similar pitch to the American Chargé in London. Mr. Eden, in conversation with Mr. Johnson, asked that the venue of the discussions be London because the British Government would be unable to send experts to Washington at this time. "Both he and the Prime Minister would be more than grateful if we could help them out of very real difficulty by consenting to have the meeting of experts take place in London," Mr. Johnson reported and, in concurring in the request, advised Washington that Eden's considerations were not overdrawn. ⁹

On receipt of this telegram, Under Secretary Welles informed Chargé Butler that the President had finally, although reluctantly, consented to have American experts proceed to London. ¹⁰ Chargé Johnson was informed of the decision by telegram and of the designation of the following officials to take part in these negotiations:

Mr. Charles Fahy , Assistant Solicitor General,
Department of Justice;
Colonel Harry J. Maloney, FA, United States Army; and
Commander Harold Biesemeier, United States Navy. ¹¹

(Both Maloney and Biesemeier had been members of the original Greenslade

⁸ Memorandum of Conversation by Under Secretary of State, Mr. Welles, January 4, 1941. NARS No. 535.

⁹ Telegram No. 60, American Embassy London to Secretary of State, January 7, 1941. NARS No. 419

¹⁰ Memorandum of Conversation by the Under Secretary of State, Mr. Welles, January 7, 1941. NARS No. 495

¹¹ Telegram No. 102, Secretary of State to American Embassy, London, January 11, 1941. NARS No. 419

Mission.) The appointment of the negotiating team was publicly announced on the same day, along with an indication that the group was to leave for London via Lisbon by clipper plane on January 17.¹²

When the authorities in St. John's learned of the decision to send an American delegation to London, they immediately requested that the Newfoundland delegation (Commissioners Emerson and Penson) be permitted to travel to London on the same aircraft and arrangements were made to this effect, giving the Commissioners time for a short stop in Washington en route.¹³ While they did not have an opportunity to call on any American officials, they did have talks with British Embassy officials who had been carrying on the preliminary discussions and reported that they felt reassured about the formula on expropriation which had just been agreed. One more hurdle had been overcome and negotiations were ready to begin in London on Tuesday, January 28. There were still many obstacles in the way of final agreement.

As the two parties were about to meet in London for the detailed negotiations, the American position was still based on the Knox draft. In spite of Secretary Knox's personal withdrawal of the draft in his conversation with Lord Lothian on October 5, 1940¹⁴ the American delegation had never been informed of its withdrawal.

¹² Department of State Press Release, January 11, 1941. FCG S-4-2-2,M. It is difficult to assess the underlying cause for the disagreement over the venue. In London there was an obvious reluctance to spare the negotiators for any length of time from their other wartime duties; Washington may have been motivated more by bureaucratic inertia than by any other factor.

¹³ Telegram No. 7, Governor Walwyn to Secretary of State for Dominion Affairs, January 12, 1941. FCG S-4-2-2,M. During the period when Britain was at war and the United States was neutral, the Pan-American clipper left from Baltimore and flew to Lisbon via the Azores. The flight then went from Lisbon to London.

¹⁴ see p. 56, above.

Indeed, Ambassador Dunn's letter of December 13 to Mr. Butler indicated as much and Mr. Butler asked his legal advisor to speak to the legal advisor at the State Department.¹⁵ This, however, seems to have had little effect in as much as the instructions to the American negotiators, signed by Secretary of State Cordell Hull and drafted in the State Department by the Director of the Office of European Affairs, John D. Hickerson, authorized negotiations on the basis of draft leases previously handed to the British Government. All changes were subject to Washington's approval.¹⁶

The British delegation, on the other hand, was working from an entirely different document. On December 31, Viscount Cranborne, the Secretary of State for Dominion Affairs, sent a letter to Governor Walwyn enclosing a memorandum prepared as a basis for instructions to the British delegation. He asked for comment thereon by the Government of Newfoundland but Newfoundland's negotiators had apparently left before the letter, sent by mail, was received and no formal comments by the Commission are recorded.¹⁷ The British memorandum which in its preamble suggested it "should serve as a basis for instructions to be given to the British experts who will negotiate ... with the experts designated by the United States Government to settle the terms of the proposed leases" was dated December 17, 1940 and entitled "Administrative Questions." It covered nine major topics and, in an Annex, addressed

¹⁵ Telegram, British Embassy Washington to Foreign Office. December 13, 1940. FCG S-4-2-1,C.

¹⁶ Instructions to the Negotiators, January 15, 1941. NARS No. 505A.

¹⁷ Letter No. 469 (Secret) Viscount Cranborne to Governor Walwyn, December 31, 1940. FCG S-4-2-1,C.

itself in detail to one of these, the question of currency in the American bases.

In the area of immigration, the British proposed that all United States citizens would have to comply with Colonial immigration laws. Those who landed directly on leased land were thought to need only to conform to the local quarantine laws and to ordinary regulations respecting health.

In the area of shipping, which was to cause considerable discussion in the negotiations to follow, the British authorities proposed that United States ships which proceeded directly to ports in the leased areas, without passing through a British port, should be liable to pay harbour dues, light dues and pilotage dues if services with respect to these dues were rendered. The British were adamant that United States coastwise shipping laws could not be applied so as to exclude British shipping from trade between the United States and the leased areas.¹⁸

In the field of customs duties, the draft instructions stated at the outset: "We do not consider that any customs concessions should be granted in respect to goods imported into the leased areas from the United States of America except that exemption should be accorded to

¹⁸ Ibid., Annexed Document, p.1, para.4. It is unclear why there was such a strong point made of this during the entire negotiations although it was a "straw man" since there was never any intention on the part of the United States to exclude British shipping. Great Britain was traditionally opposed to the United States Merchant Marine Act of 1920 (the so-called Jones Act) (46 U S C 861) because it prevented British bottoms from cartage between American ports and therefore was apparently strongly opposed to any extension of its principle, however remote the possibility.

United States Government stores imported otherwise than for resale." ¹⁹

"We therefore trust," the document continued, "that it may be possible to resist the demands for concessions ... in respect of goods imported into United States leased lands for the personal requirements of United States Naval and Military personnel and civilian officials." But even the drafters of this document must have had some doubt as to the acceptability of this course of action for they made provisions that if such a system of customs were not acceptable, customs barriers might have to be established between the leased areas and the territories in which they were located and the United States would have to be asked to defray the cost of any such special arrangement.

Another "straw man" was the establishment of businesses and professions by United States citizens competing with local services to which the British authorities were strongly opposed.²⁰ There is no record of any such attempt having been made.

The British draft proposed the use of local postal and telephone and telegraph facilities except for military purposes.

On the lighter side, Paragraph 15 of the document proposed that Newfoundland or Colonial traffic regulations should be applied to all vehicles using public roads in the United States leased land. This presumably would have meant that even inside the bases, drivers would have to drive on the left. What earthly difference, other than the application of a question of principle, this could possibly have made

¹⁹ Ibid., p. 2, para. 7. Italics in original document.

²⁰ Ibid., p. 2, para. 10.

to the host authorities remains quite unclear. Beyond this point, however, the draft proposed that if United States vehicles based in leased land entered the adjoining territory "they should pay the appropriate taxation."²¹

The British draft recommended the reservation of mineral rights within the leased areas and the right of fishing in the areas adjacent to the leased land. Finally the draft endeavored to find language to ensure that there would be no discrimination on account of color in public vehicles, admission to hotels, etc. While the sentiment was there, the words were not nearly as persuasive as those concerning the collection of customs duties.

A comparison of the two documents -- the Knox draft and the British recommended instructions -- show an overbearing, much too broadly based demand for rights on the part of the Americans and a picayunish effort to disregard the wartime circumstances under which the Americans were to occupy the bases on the part of the British.

The President's Base Lease Commission, as Messrs. Fahy, Maloney and Biesemeier were to call themselves, arrived in London on Saturday, January 25, 1940 and on that day conferred informally with Sir Alan Burns, Assistant Under Secretary of the Colonial Office, who had been designated by the British Government to preside at the business meetings of the negotiations. Negotiations were scheduled to begin the following Tuesday with a formal opening meeting in the morning and the first business session that afternoon. It is interesting to note that Sir

²¹ Ibid., p.3.

Alan assumed that with two business meetings each day it might be possible to conclude the negotiations in two weeks.

Actually, the informal meeting on January 25 turned out to be the first business session as Sir Alan handed the United States Commissioners the suggested agenda for the talks. While a few subjects, of a non-administrative nature, had been added since December 17, the outline of the December 17 background paper is clearly discernable in the suggested agenda:

- "1. Form of the lease or other document.
2. Provision as to satisfactory use of leased territory.
3. Boundaries of sites.
4. Questions relating to the military/services (a) command and policy as to defense, (b) reciprocal use in peace and war of: (1) naval bases, anchorages and dockyards, (2) military airdromes, (c) radio stations, (d) local flying regulations (e) meteorological stations, (f) hydrographic surveys.
5. Jurisdiction.
6. Apprehension and surrender of offenders.
7. Regulations in areas (e.g. health, gambling, etc.).
8. Immigration and Shipping (a) immigration laws; (b) quarantine (including plant quarantine); (c) payments by United States ships of (1) harbour dues, (2) light dues, (3) pilotage dues; (d) nature of lights put up by United States Government; (e) coastwise shipping; (f) harbour facilities in leased areas for British and other shipping.
9. Customs duties.
10. Import and export control in time of war.
11. Financial (a) currency, (b) exchange control.

12. Establishment of businesses and professions by United States citizens and others in leased areas.
13. Employment of local labour.
14. Use of British and local goods.
15. Postal and telegraph (a) postal facilities, (b) cable, wireless and telephone facilities in leased areas, (c) censorship in time of war.
16. Traffic regulations in leased areas.
17. Particular rights to be reserved in leased areas, e.g. (a) minerals and oil, (b) treasure trove, (c) antiquities, (d) fishing and other local industry.
18. Expropriation of private property.
19. Treatment of colored population.
20. Additional costs of administration due to establishment of United States bases.
21. Additional compensation to Newfoundland and the colonies.
22. Civil Aviation.
23. Liability of United States contractors to Newfoundland or Colonial income tax, professional fees, etc." ²²

The draft agenda handed to the American Commissioners by Sir Alan Burns became the basis of further discussions and has for that reason been reproduced here in full. To understand the negotiations that followed it is often necessary to revert to the agenda to see just why a particular item should be creating such difficulty of agreement.

As predicted, the meeting on the morning of January 28, under the chairmanship of Viscount Cranborne, was one of formality and the

²² Telegram No. 294 from the President's Base Lease Commission to the Secretary of State, January 25, 1941. NARS No. 481.

negotiations started in earnest that afternoon. The American Commission requested the addition of five agenda headings:

- "(a) Those items included in the draft leases submitted by the United States.
- (b) The right of an official to employ such legal assistance as he may require to defend himself in suits involving acts done under the authority or color of his office. This assistance covers attorneys who are not members of the local bar.
- (c) The following paragraphs of the draft agenda require clarification in as much as the problem stated is not understood: paragraphs 4(c) [radio stations], 10 [import and export control in time of war], 20 [additional costs of administration due to establishment of United States bases] and 21 [additional compensation to Newfoundland and the colonies].
- (d) Right to make surveys outside the leased areas.
- (e) Upon the signing of the leases immediate possession of the sites shall be given." ²³

Discussions of the agenda items began that afternoon and covered the first nine items. Discussion of the form of the lease (Item 1) was deferred at the request of the American delegation which was seeking instruction on this from Washington. "Provision as to satisfactory use of the leased territory" (Item 2) turned out to be a British proposal that the leased areas revert to the British Government if not used. The Americans held that there could be no reversion except by formal act of the American Government. After some discussion there was agreement that there could be no reversion without formal abandonment by the American

²³ Telegram No. 330, President's Base Lease Commission to Department of State, January 28, 1941. NARS No. 491.

Government and that in turn the United States had the obligation to give reasonable notice of the intention to abandon the base. The question of exact boundaries (Item 3) was referred to a subcommittee. Discussion on Item 4 (questions relating to the military services) was deferred since the agenda item appeared to raise a number of major issues not subject to quick agreement. Items 5 (Jurisdiction), 6 (Apprehension and surrender of offenders) and 7 (Regulations pertaining to health, gambling, etc.) were referred to a jurisdiction subcommittee. Item 8, which had been generally entitled "immigration and shipping," brought the first recorded observation by the Newfoundland delegation. They "questioned the possibility of immigration control between the bases and the adjacent territory unless the bases were subject to the local immigration requirements."²⁴ The American Commissioners maintained that United States Government control over both official and private persons should be sufficient. Sir Alan felt the item seemed to provide only little difficulty and referred it to the Drafting Committee. On quarantine (Item 8b) there was no objection on the part of the American delegation to the application of local regulations. The question of payment by the United States for light, harbor and pilotage dues (Item 8c) was deferred for future discussion. The American delegation agreed in principle with the proposition that any lights installed by Americans would have to be erected in conformity with local requirements (Item 8d) and requested deferment of Item 8e (coastwise shipping) pending instruction from Washington. Similar deferment was given to the remainder of that agenda item.

²⁴ Ibid.

On Item 9 (customs), the Newfoundland representatives, joined by those of Bermuda and Jamaica, "expressed strong opposition to the free importation of articles of general use on the grounds of difficulty of control and of creating a favored class in the community." After some discussion, the item was deferred and the American delegation reported "this item will probably prove troublesome." ²⁵

Washington's initial reaction to the first report of its delegates proved at least two points: the American delegation to London was not instructed very well and the British side had failed, at least in some respects, to read their own telegrams. The lack of instruction to Messrs. Fahy, Maloney and Biesemeier became clear in Washington's surprise at the inclusion of that intricately worded paragraph (b) in the added agenda which only a lawyer of considerable deviousness could have thought up. "We do not understand purpose of item (b) in your [Telegram No.] 330 which you have proposed for discussion since any matter involving action by an American official in his official capacity would be a matter between the two Governments and not one for the local tribunals. As regards your proposed (e) [possession immediately upon signing], the British Government has already agreed to the immediate possession without awaiting the signature of the formal leases." ²⁶

But, as mentioned, the Americans were not the only ones proceeding somewhat confusedly. The United States had on various occasions agreed that it would use local labor and local materials to the

²⁵ Ibid.

²⁶ Telegram No. 303, Secretary of State to the President's Base Lease Commission, London, January 29, 1941. NARS No. 491.

maximum extent practicable in the construction of the bases. This view had been formally conveyed by letter from Secretary of the Navy Knox to the British Chargé in Washington on November 11, 1940 when the United States also agreed that it would pay prevailing local wage rates and that these would be determined in consultation with the local authorities.²⁷ Nevertheless, the British delegation had included items 13 and 14 in its agenda, covering employment of local labor and the use of British and local goods. Washington saw no necessity for including any provision respecting these matters in the leases in view of the assurances previously given.²⁸

On the whole, Washington was somewhat surprised at the mention of certain items in the British agenda and supposed "that they have listed some of these for discussion because of the insistence of the colonial authorities; and that they will therefore not be disposed to press a number of these matters. Should our estimate of the situation prove to be incorrect, we shall have, as you doubtless know, very strong views to communicate to you on a considerable number of these points."²⁹

Two other specific items are worth mentioning at this time. Washington did not believe that questions of command and policy as to defense (paragraphs 4(a) and (b) of the draft agenda) should become part of the lease but rather should be settled by separate agreement if necessary at all. As regards the application of the Jones Act,

²⁷ Telegram No. 1395, British Embassy to Foreign Office, November 11, 1940. FCG S-4-2-1,C.

²⁸ Telegram No. 303, Secretary of State to President's Base Lease Commission, January 29, 1941. NARS No. 491.

²⁹ Ibid.

Washington saw no difficulty but wanted to check further.³⁰

The next afternoon the negotiators met again to continue discussions of the agenda. Items 10 and 11 (import and export controls and currency and exchange controls) were referred to a technical committee. There was quick agreement, as expected, on item 12 when it was stipulated that no private business would be permitted in the leased areas without the consent of the local authorities and that service doctors would not engage in public practice without similar consent.³¹

When Items 13 and 14 (local labor and materials) were raised, the American delegates referred to the assurances already given but the Newfoundland representatives and those of some other territories expressed the desire that these points be included in the Agreement "for local political reasons."³² When renewed assurances were given during the negotiations, the reference was dropped from the final agreement. In Item 16 (traffic) it was agreed that local traffic rules would be obeyed on the islands outside the leased areas, but not in the leased areas themselves. The British delegation made clear that it wished to reserve mineral, treasure trove and antiquity rights. The discussion on expropriation (Item 18) was deferred inasmuch as this subject was simultaneously being discussed between the Department of State and the British Embassy in Washington. There was quick agreement that the leases should omit any references to the treatment of "colored" (Item 19). Items 20, 21 and 22 were deferred for clarification since

³⁰ Ibid.

³¹ Ibid.

³² Telegram No. 350, President's Base Lease Commission to Department of State, January 29, 1941. NARS No. 500.

the American delegation had already questioned the meaning of these items on "additional compensation." When Item 23 (liability of United States contractors to Newfoundland or colonial income tax) was reached, the Newfoundland representatives again participated in the discussions, claiming that an exemption from local taxation for American contractors would give them an advantage over local contractors in being able to bid on construction tenders. When the American delegation pointed out that American contractors were subject to American taxes, the item was deferred for further study. ³³

The next day, having received Washington's comments contained in its telegram No. 303, ³⁴ the President's Base Lease Commission reassured Washington, somewhat prematurely, that it was not worried over the course of the negotiations. The "colonial representatives are having a chance to blow off steam in the full meetings but are comparatively reasonable in the subcommittees and in private discussions." ³⁵

In Washington's next instruction, the British Government's request for reserved rights of minerals, treasure troves and antiquities was accepted and the request for fishing rights in the waters adjacent to the leased areas accepted insofar as they were compatible with military requirements. Washington also realized that one of the problems surrounding the question of customs was a failure of the British side to understand the nature of the American post exchange system.

³³ Ibid.

³⁴ see p. 93 , above.

³⁵ Telegram No. 360, President's Base Lease Commission to Department of State, January 30, 1941. NARS No. 509.

Accordingly it urged the American delegation to make clear that such institutions were not private businesses but enterprises under Government control which were not authorized to sell to anyone not in the service of the United States Government. ³⁶

Items 10 and 11 (control of imports, exports and currency) raised a more important problem as far as Washington was concerned. "We do not feel," the instructions to the London delegation read, "that we need any written understanding to the effect that official personnel shall not be subject to exchange or export and import controls [in the leased areas]." The Knox draft, which the United States was still using as the basis for its negotiations, had envisaged exclusive rights, powers, authorities and control only within the leased areas. Currency exchange and import and export controls were not among these rights because they applied to the areas outside the leased bases. No one had envisaged the need for such controls outside the leased areas since American personnel would in any case have no rights there; on the other hand "any regulations elsewhere in Newfoundland (for example) which might be imposed by the Newfoundland authorities would be without effect in the leased areas." ³⁷

By Friday, January 31, four or five items had been agreed upon but the differences in the two approaches had become painfully clear. Mr. Fahy and his colleagues reported as follows:

"This morning we began discussion of the draft leases [i.e. the Knox drafts] and, after the

³⁶ Telegram No. 319, Secretary of State to President's Base Lease Commission, January 30, 1941. NARS No. 491, p.4.

³⁷ Telegram No. 330, Secretary of State to President's Base Lease Commission, January 31, 1941. NARS No. 509.

first three general paragraphs had been briefly touched, serious disagreement became so apparent that the discussion was adjourned. We knew that the British did not like the drafts and they ... intimated this morning that they understood the drafts were to have been withdrawn." ³⁸

Later the same day the British Foreign Office advised the American delegation as follows:

"Lord Lothian had reported in October a conversation with Secretary Knox in which the former had expressed the belief that the drafts were much too sweeping and the latter had agreed that the drafts would be withdrawn. Mr. Butler had reported in December that the State Department had apparently not been informed of this conversation, that he had accordingly expressed the same views and had been told that the drafts were not to be presented in a take it or leave it spirit and that the United States would consider modifications." ³⁹

The American Commission then commented as follows:

"Discussions of the items of the British agenda have so far not indicated any insuperable difficulties but have indicated a desire on the part of the colonies, particularly Newfoundland and Bermuda, to restrict the freedom of action of our establishments in many ways which would inure to their pecuniary benefits. They seem almost to consider the establishments as groups of individuals who, with certain necessary exceptions, should be subject to local or British laws and regulations rather than as units of the American armed forces based on territory which is being leased to us for 99 years. It will be unfortunate if they carry this attitude over, as they apparently have every intention of doing, into discussions of the rights, powers and authorities necessary for us to establish and operate the bases efficiently." ⁴⁰

³⁸ Telegram No. 383, President's Base Lease Commission to Department of State, January 31, 1941. NARS No. 512.

³⁹ Ibid.

⁴⁰ Ibid.

Nearly all previous communications between Newfoundland and the United States had filtered through British hands, either in London or Washington, or both. Now, for the first time, the American delegation came face to face with the "reappraisal" views expressed in the Emerson memorandum⁴¹ and it came as a distinct surprise.

Mr. Fahy and his colleagues sought immediate further clarification from their British colleagues. In private conversations, Sir Alan Burns, Lord Cranborne and a representative of the Foreign Office saw the principle objections to the Knox draft leases in two major points: the grant of military powers outside the leased areas in normal times as well as in times of emergencies or war; and the extension of rights over unlimited "adjacent waters and air spaces." As they saw it, the problem was to secure practical application of the fourth paragraph of Lord Lothian's note of September 2⁴² not more, but no less.⁴³

This reversion to the original exchange of notes of September 2, 1940 worked both ways, of course, and was brought into play by Washington as well as London. It was used by Washington on February 6, 1941 to make clear the attitude of the American Government toward demands voiced in some of the territories, notably Newfoundland, for non-related compensation for the right to establish the bases. "There have been suggestions in the Bermuda press, as well as in that of Newfoundland and other colonial areas," the State Department advised the President's Base

⁴¹ see p. 64 , above.

⁴² see Appendix A, p. 2.

⁴³ Telegram No. 382 from President's Base Lease Commission to Department of State, January 31, 1941. NARS No. 512.

Lease Commission,

"that the United States should agree to changes in our immigration laws and tariff rates in favor of areas in which we are to have bases as a part of the destroyer-bases exchange. A recent press article in Newfoundland, for instance, pointed out that Britain obtained 50 destroyers of great assistance to her, that the United States obtained bases of inestimable value, and raises the question rather bluntly as to what Newfoundland could get out of this exchange; the article went on to suggest that we change our immigration laws in favor of Newfoundland, and agree to admit fish and other Newfoundland products free of duty." ⁴⁴

The telegram concluded:

"It is hardly necessary for me to inform you that we could not consider for one moment any such request. We decline to recognize that there is even the slightest obligation on the part of the United States to go beyond the obligations which it assumed in the exchange of notes of September 2." ⁴⁵

At about this time, the Newfoundland delegation made its first substantive report to St. John's. Commissioners Emerson and Penson reported to Governor Walwyn that the United States had not yet abandoned the Knox draft, that most matters had been referred to committees and that, while agreement in principle was in sight on questions of quarantine, harbor, pilot and light dues, coastal shipping, immigration, civil aviation, exchange control, the employment of local labor and the establishment of private enterprises outside the leased areas, agreement in principle had not been reached on two items of major importance to Newfoundland: customs and taxes, and jurisdiction. ⁴⁶

⁴⁴ Telegram No. 394, Secretary of State to President's Base Lease Commission, February 6, 1941. NARS No. 517

⁴⁵ Ibid.

⁴⁶ Telegram No. 93, Commissioners Emerson and Penson to Governor Walwyn, February 3, 1941. FCG S-4-2-2,M.

The first real break in the apparent deadlock came with the Harry Hopkins mission to London. Hopkins had arrived in London on January 10 as the President's personal envoy to the British Prime Minister and tried to have the least possible relationship with the every day work of the Embassy and of special missions such as those of Mr. Fahy. However, the United States was without any Ambassador (Ambassador Winant did not arrive until later in February) and those who had become discouraged by the direction in which the negotiations were going sought Hopkins' assistance. Hopkins spoke with Viscount Cranborne on February 2 and Cranborne expressed the hope that the United States would not stick too closely to the [Knox] draft leases. Hopkins explained that the United States merely sought the practical application of the spirit of the September 2 exchange of notes.⁴⁷ The following day there was a private meeting between the three members of the American Commission and Sir Alan Burns in an attempt to draw general lines of a compromise formula. Sir Alan indicated that the replacement of the numerous "rights, power and authority" clauses by an opening provision substantially similar to paragraph 4 of the September 2 note,⁴⁸ followed by an undertaking that the United States would not use the power granted over territorial waters or adjacent air spaces unreasonably, would be reassuring to the colonies and acceptable to the

⁴⁷ Telegram No. 419, President's Base Lease Commission to Department of State, February 3, 1941. NARS No. 519.

⁴⁸ See Appendix A. The paragraph in question reads as follows: "His Majesty's Government, in the leases to be agreed upon, will grant to the United States for the period of the leases all the rights, power and authority within the bases leased, and within the limits of the territorial waters and air spaces adjacent to or in the vicinity of such bases, necessary to provide access to and defence of such bases, and appropriate provisions for their control."

British. The American Commissioners recommended this course of action, thus effectively dropping the arbitrary, sweeping aspects of the Knox draft, and stated that they believed that "careful drafting along this line would enable us to secure substantially all rights, powers and authority given in the draft leases."⁴⁹

The breakthrough nearly collapsed the next day when Sir Alan Burns met privately with the Colonial representatives. They suggested a general amendment to give the Colonial authorities the right to approve the details of application of the powers granted. The United States Commissioners declined to accept this proposition but there was agreement that "in the practical application of the foregoing paragraphs there shall, as occasion requires, be consultation between the Governments concerned."⁵⁰ Even this seemingly innocuous clause was later altered to read "between the Government of the United States and the Government of the United Kingdom."⁵¹

By February 12, Commissioners Emerson and Penson were able to report that while the Knox draft had been virtually abandoned by the American negotiators, progress on reaching agreement remained slow.⁵²

⁴⁹ Telegram No. 519, President's Base Lease Commission to Department of State, February 3, 1941. NARS No. 519.

⁵⁰ Telegram No. 432, President's Base Lease Commission to Department of State, February 4, 1941. NARS No. 525.

⁵¹ Canada, Agreement Concerning Leased Bases in Newfoundland: 1941-1952, Treaty Series 1952, No. 14 (Ottawa: Queen's Printer, 1954), p.8. (This text of the Agreement, readily available in Newfoundland, will be used throughout this paper. It contains several documents but for the purpose of this paper only the first document including its annexes and supplements are of concern. The short-hand reference will be to Agreement of March 27, 1941. It is reproduced in Annex B.)

⁵² Telegram No. 108, Commissioners Emerson and Penson to Governor Walwyn, February 12, 1941. FCG S-4-2-2,M.

Tentative agreement had been reached on the question of jurisdiction which seemed satisfactory to both sides.⁵³ This clause had not yet been translated into a draft agreement and was to cause further problems. While efforts at drafting individual clauses continued in sub-committees, new and previously unforeseen questions needed to be solved. For example, strategy demanded the stationing of some American troops at Gander, Newfoundland, where Canadian forces operated an airfield although this area was clearly not part of the leased area. Could American troops there have the same rights and privileges as those stationed in the leased areas? The President's Base Lease Commission was instructed to obtain agreement to this effect⁵⁴ and received tentative assurances thereon a few days later.⁵⁵ Agreement was reached that one year's notice would be required for abandonment⁵⁶ and that in the case of coastwise shipping and the use of harbor facilities, British vessels should receive the same rights as American vessels.⁵⁷ Continued difficulties beset the effort to reach agreement on the use of American postal facilities when some of the territorial governments, including Newfoundland, thought "their prestige would suffer" if

⁵³ Ibid. See also Telegram No. 432, President's Base Lease Commission to Department of State, February 4, 1941 and Telegram No. 423, Secretary of State to President's Base Lease Commission, February 5, 1941. NARS No. 525.

⁵⁴ Telegram No. 343, Secretary of State to President's Base Lease Commission, February 1, 1941. NARS No. 528.

⁵⁵ Telegram No. 478, President's Base Lease Commission to Department of State, February 7, 1941. NARS No. 538.

⁵⁶ Ibid.

⁵⁷ Telegram No. 479, President's Base Lease Commission to Department of State, February 7, 1941. NARS No. 539.

American postage stamps were used to despatch mail from the leased areas.⁵⁸ The United States, on the other hand insisted on its right to operate post offices in the leased areas and likened the situation to that of vessels in foreign seaports when mail franked with stamps of the ship's flag are accepted by foreign post offices. The cost of transportation of such mail could be offset by use of the formula already in use between Post Offices of various countries.⁵⁹

On February 18 the drafters presented the full committee with a new draft which began to approach the shape of the final agreement. Obviously, the format of the Knox draft had been essentially abandoned; on the other hand there was to be, in Article I, a general description of the rights which was intended to meet the original request for a spelling out of the rights, power and authority of the United States in the leased areas. A draft of such an article was included on February 18 but it was not finally agreed to at this point.⁶⁰ Indeed, when the draft was presented, it was clear that only a limited number of articles had received agreement from all the negotiators. These were Article VI (Article IX in the final agreement) granting the United States the right to employ and use all public facilities in the territories on the same basis as the British Government; Article VII (later Article X) permitting the United States to make topographic and hydrographic surveys outside the leased areas; Clauses (1), (3) and

⁵⁸ Telegram No. 384, President's Base Lease Commission to Department of State, January 31, 1941. NARS No. 510.

⁵⁹ Telegram No. 460, Secretary of State to President's Base Lease Commission, February 12, 1941. NARS No. 546.

⁶⁰ Telegram No. 616, President's Base Lease Commission to Department of State, February 18, 1941. NARS No. 579.

(5) of Article VIII (later Article XI) on lights and navigational aids, and use of American facilities by British vessels and coastwise shipping. In the latter clause, the United States agreed to include in the Agreement a specific statement that "it is understood that a Leased Area is not a part of the territory of the United States for the purpose of coastwise shipping laws so as to exclude British vessels from trade between the United States and the Leased Areas."⁶¹ There was agreement on motor traffic (Article XII of the final agreement) as previously stated; on the use of wireless and cable facilities (Article XV); on the status of forces outside the leased areas (Article XIX); on health measures outside the Leased Areas (Article XX); on abandonment (Article XXI); on the rights of the United States to take away removable improvements (Article XXII); on reservations of minerals, antiquities and treasure trove (Article XXV); and on the right of the United States to negotiate for additional sites during the period of the lease agreement (Article XXVII).⁶² Of the proposed 28 articles, there was agreement on ten, agreement on some clauses of Article VIII and a fair level of understanding on quite a few others. Major disagreement still held on a proposed Article II on the role of the United States in the defense of the territories; on the question of jurisdiction; on postage; on immigration; on customs; on postal facilities; on censorship; on currency; and on income tax. A number of new articles had been proposed by the drafters including a prohibition of the assignment of the rights

⁶¹ Ibid. See Agreement of March 27, 1941, Article XI (4). See p.145 below.

⁶² Ibid.

granted to a third party; an article of definitions and an article on modification of the agreement. The latter was included "to soothe colonial sentiments" and was thought by the American negotiators to offer no difficulty since "it appears innocuous." ⁶³

As might have been expected, especially if the American negotiators had been made aware of the views of the Newfoundland delegation, one of the touchiest of the subjects on which there was still no agreement was the question of jurisdiction. The British negotiators based their objections on the American views as expressed in the original Knox draft and were unwilling to grant to the United States rights of original jurisdiction over British subjects charged with non-military offenses even if these were committed inside the leased areas. ⁶⁴ This was a considerable change from the trial balloon sent up on October 30, 1940 and reflected the reaction of the territorial administrations. In response, Washington agreed to exempt from American jurisdiction those British subjects who were charged with offenses committed outside

⁶³ Telegram No. 617, President's Base Lease Commission to the Department of State, February 18, 1941. NARS No. 580.

⁶⁴ Telegram No. 555, President's Base Lease Commission to the Department of State, February 13, 1941. NARS No. 564. Interestingly enough, the British negotiators did not until much later accept the view reported to them as early as January 13. Following a discussion between a British Embassy official in Washington and Judge Hackworth, the State Department's Legal Advisor, the Embassy reported that "the President had already emphasized that the United States authorities did not desire jurisdiction over local inhabitants and had no intention of setting up American civilian courts. While the United States authorities might claim to exercise theoretical jurisdiction over local inhabitants in respect of offenses arising in the leased areas, in practice such persons would be handed over to the local courts." Telegram, January 13, 1941. FCG S-4-2-2,M.

the Leased Areas and those who committed offenses inside the Leased Areas but escaped from them to the surrounding territory before being apprehended.⁶⁵ What about British subjects charged with non-military offenses inside the Leased Areas? Since only military law applied there, the British delegates held, civilians could not be tried by military courts. Did the United States propose to take these people to the United States to be tried there by a civilian court?⁶⁶

After the draft of February 18 showed continued disagreement on the question, the American negotiators suggested to Washington that it might help to achieve agreement if the British side could be assured that the right to exercise jurisdiction over British subjects would be used only in exceptional circumstances and that all would be tried by jury.⁶⁷ Washington believed it was necessary to go further and indicated its willingness not to exercise jurisdiction over British subjects except as regards offenses committed within the Leased Areas affecting the safety of the area or the security of the United States provided that the British Government would undertake to apprehend and punish all other offenders. If any British subjects were brought to the United States for trial, trial by jury was, of course, mandatory except if martial law were declared within the United States. Washington's telegram added: "We do not desire to extend jurisdiction over civilians

⁶⁵ Telegram No. 505, President's Base Lease Commission to Department of State, February 15, 1941. NARS No. 564.

⁶⁶ Telegram No. 599, President's Base Lease Commission to Department of State, February 18, 1941. NARS No. 574.

⁶⁷ Telegram No. 682, President's Base Lease Commission to Department of State, February 22, 1941. NARS No. 603.

but we do desire to have the right to do so in case of necessity." ⁶⁸

As the issue neared resolution, there were first suggestions of a separate exchange of notes covering the various "attitudes" or "interpretations" with regard to jurisdiction but the entire matter was finally included in the Agreement itself not only in Article IV, entitled Jurisdiction, but also in Articles V, VI, VII and VIII all of which concern themselves with this subject. The United States did retain certain rights of jurisdiction but agreed, if necessary, to convene a civilian court within the Leased Area so as to avoid the possibility of having to transport nationals of the territories to the United States for trial. On this point, in particular, Newfoundland and Bermuda had voiced strong objection and were reported to be "disturbed by the possibility of distant trials. They considered it a fundamental question of civil rights." ⁶⁹ While the United States initially believed that it would require Congressional authorization to establish a court at a leased base for the trial of non-American offenders, it later decided not to follow through on the proposed legislation and as far as is known no such court was ever established, certainly not in Newfoundland.

On February 22, Commissioners Emerson and Penson reported that, although the Knox draft had been withdrawn, the United States still occasionally made demands in similar terms. They reported that in

⁶⁸ Telegram No. 627, Secretary of State to President's Base Lease Commission, February 26, 1941. NARS No. 632.

⁶⁹ Telegram No. 908, Ambassador Winant (London) to President Roosevelt and Secretary of State Hull, March 8, 1941. NARS No. 669.

spite of generous offers by the British side on the question of customs, post office and jurisdiction no agreement was in sight.⁷⁰ The development in the area of jurisdiction has already been described. Just what Commissioners Emerson and Penson held to be "generous" in the field of customs remains difficult to discern for on February 21, following a meeting of the British Cabinet Committee,⁷¹ the British delegation still proposed to give free entry only to personal and household effects (except cars) on first entry and insisted that goods destined for ship's stores and Post Exchanges were dutiable. It reportedly reached this position because of the "desire of all the colonies for increased revenue."⁷²

It was this type of thinking, and the resultant delays, which caused Under Secretary of State Sumner Welles to summon the newly-appointed British Ambassador, Lord Halifax, to his office on February 25. He expressed to Lord Halifax the disappointment of the United States over the delay in the conclusion of the London negotiations. He

⁷⁰ Telegram No. 139, Commissioners Emerson and Penson to Governor Walwyn, February 22, 1941. FCG S-4-2-2,M.

⁷¹ Consisting of Lord Cranborne, Secretary of State for Dominion Affairs; Lord Walter Edward Moyne, who assumed the post of Secretary of State for the Colonies following the death of Lord Lloyd on February 4, 1941; Mr. Arthur Greenwood, Minister without Portfolio; Mr. L.S. Amery, Secretary of State for India; and Mr. R. A. Butler, Under Secretary of State for Foreign Affairs. The members of the committee were reported by Messrs. Emerson and Penson in their Telegram of February 22; for titles refer to Winston S. Churchill The Second World War: Volume III: The Grand Alliance (Boston: Houghton Mifflin Co. 1949), Appendix H.

⁷² Telegram No. 672, President's Base Lease Commission to Department of State, February 21, 1941. NARS No. 598.

explained that the Appropriations Committees in the two Houses of Congress now had before them the request for the appropriations necessary to carry out the defense facilities required in the bases and it "gave rise to a great deal of undesirable conjecture and debate when it had to be admitted that the leases had not yet been agreed upon." ⁷³ Mr. Welles told Lord Halifax that the Department of State was about to recommend to the President that he send a personal message to Mr. Churchill expressing his hope that the leases would soon be agreed upon and explaining the serious situation which was developing on the part of American public opinion with regard to the present situation. Lord Halifax asked that such a message be delayed until he could present a communication from his Government just received. This was agreed.

The next day, Lord Halifax presented a memorandum which rehearsed the major areas of differences (apparently as culled from various communications received by the British Embassy in Washington from the Foreign Office). The tone of the memorandum was, in part, just sufficiently patronizing to raise a distinctly adverse reaction on the part of some members of the State Department. In part, it stated:

"While the British authorities are naturally particularly concerned to protect the interest of the local inhabitants for whose welfare they are responsible, it is felt that it is equally to the advantage of the United States authorities to see that the leases are drawn up in such a manner as to reduce to the minimum the causes of friction between the various parties concerned.

⁷³ Memorandum of Conversation by Under Secretary of State Welles, February 25, 1941. Foreign Relations, III (1941), 68-69.

The leases are to run for a period of 99 years, and that being so, it is clearly necessary that their long term effect upon the wellbeing of the local inhabitants should be taken into account. It would seem, however, that the instruction sent to the United States Delegates in London make it difficult for the latter to pay due account to the interests of the different territories, and their inhabitants, and compel them to put forward demands for concessions or facilities which would not seem to be essential for the defense or control of the bases." ⁷⁴

As examples, the memorandum singled out the question of jurisdiction and the question of shipping. In the latter case, it mentioned both the question of exemption from harbor dues and the question of coastwise shipping. On the last of these, agreement had already been reached with the presentation of the revised draft of February 18 and the British Embassy in Washington, apparently uninformed, had picked a poor example. ⁷⁵

On March 1, after considerable drafting within the State Department, ⁷⁶ Secretary of State Cordell Hull presented Lord Halifax with a memorandum in reply. The prickly short hair on the back of the necks of some Washington diplomats is discernable even in the short covering memorandum which uses such phrases as "I have gone into this matter with great care" and "I have also indicated the tenor of the instructions ... which have already been sent to American delegates in London." ⁷⁷

⁷⁴ Ibid., p. 70.

⁷⁵ see p. 105, above.

⁷⁶ See NARS No. 707.

⁷⁷ Letter, Secretary of State Hull to the British Ambassador, Lord Halifax, March 1, 1941. Foreign Relations, III (1941), 72.

In the attached Memorandum, the United States referred specifically to the issues raised. As to jurisdiction, it expressed the belief that the new instructions sent to the American delegation on February 26⁷⁸ should provide sufficient concessions to assure agreement. The question of harbor and light dues, in which the British had contended that American public vessels should not have greater exemptions than those granted to similar ships of the Royal Navy appeared to take an approach which the United States could not accept. The American argument held first of all that British public vessels of the type corresponding to United States public vessels probably used ports in these outlying possessions only on infrequent occasions and that the payment of light and harbor dues "from one British pocket into another" would be a matter of little consequence. American public vessels, on the other hand, would use the ports constantly and would be paying large sums into the local treasury "for the use of a leased base which under the agreement they would have a perfect right to use without charge."⁷⁹ The memorandum, apparently taking account of the report of the American delegates of February 21⁸⁰ then states:

"It is not clear from the British contention whether some reasonable contributions by American public ships to the upkeep of the local aids to navigation is contemplated

⁷⁸ see p.108, above.

⁷⁹ Memorandum, the Department of State to the British Embassy at Washington, March 1, 1941. Foreign Relations, III (1941), 73.

⁸⁰ see p.109, above.

or whether this is a matter of raising new revenue.

... If new revenue is the point at issue, it is easy to understand how the expenses involved in the use of these bases by American public vessels for light and harbor dues would amount to considerable sums annually and to huge sums over a period of 99 years.

... Furthermore, the British Government seems to have overlooked the statement in the exchange of notes between the Secretary of State and Lord Lothian ⁸¹ wherein it stated that ... 'All the bases and facilities referred to ... will be ... free from all rent and charges other than such compensation to be mutually agreed on to be paid by the United States in order to compensate the owners of private property for loss by expropriation or damage arising out of the establishment of the bases and facilities in question.'

No one ever thought of charges on United States Government vessels for the privilege ⁸² of entering or departing from these bases."

On coastwise shipping, the memorandum referred to the agreement already reached. Finally it came to grips with Lord Halifax's complaint about the absence of broad instructions to the American delegation:

"Every consideration has been given at all times to meet in as far as possible the desires of the local territories, but it must be said that many of the points which have caused delay in the discussions have referred to matters in which apparently it has been the desire of the local authorities to have provisions inserted which would circumscribe the rights considered by the United States Government as necessary and in accordance with the

⁸¹ September 2, 1940, see Appendix A.

⁸² Memorandum of March 1, 1941. Foreign Relations, III (1941), 74.

principles laid down in the exchange of notes of September 2, 1940.

... It would be unfortunate if the British Government, by a continuation of the discussion of such matters as customs, harbor and light dues should cause these Committees [of Congress] to gain an unfavorable impression at a time when the American Government is doing its utmost in an effort to be of assistance in the world situation." ⁸³

At about the same time that Lord Halifax arrived in Washington to assume the duties as British Ambassador, the new American Ambassador to the Court of St. James, Honorable John G. Winant, arrived in London. He was quickly briefed on the negotiations in progress and reported in his memoirs that "negotiations had been delayed and complicated by Colonial and Dominion officials who ... had raised objections to what we thought were necessary concessions to secure the bases. We felt that sufficient recognition was not being given to the over-all defense needs of either Great Britain or the United States." ⁸⁴

He quickly raised the problems involved in the negotiations with the Prime Minister and on March 5 held talks with Lord Cranborne, Lord Moyne and Sir Alan Burns. He reported that the meeting was animated by a desire to reach accord on the outstanding points which represented a real problem for the British. In an effort to meet certain views voiced by the Prime Minister, Paragraph (3) was added to Article I in which the United States pledged itself "that the powers, granted to it outside the Leased Areas, would not be used

⁸³ Ibid., p. 75.

⁸⁴ John Gilbert Winant, Letter from Grosvenor Square (Boston: Houghton Mifflin Co., 1947), p. 33.

unreasonably or, unless required by military necessity, so as to interfere with the necessary rights of navigation, aviation, or communication to or from within the Territories..."⁸⁵ This paragraph was drafted at the specific request of Prime Minister Churchill in response to the views of the Newfoundland delegation which had heretofore blocked acceptance of Article I by the British side because of its concern over the effect of unlimited American powers in the port of St. John's.⁸⁶ In this same conversation, the need to respect the presumed resumption by Newfoundland of its own responsible Government was discussed and it was agreed that there would be a protocol which would assure that on resumption by Newfoundland of the constitutional status it held prior to February 16, 1934, the words "Government of Newfoundland" would be substituted for "Government of the United Kingdom" in the Agreement.⁸⁷

At this stage the British Government tried what appeared to be an end play which, however, was sufficiently clumsy in execution to be bound to fail. On March 3, the British Embassy in Washington asked if it could discuss the questions of jurisdiction, customs and light dues informally with the Department of State. The State Department called the bluff at once:

"We replied that we found it difficult to understand their desire to discuss these questions in Washington; that all of our views had been

⁸⁵ Telegram No. 853, Ambassador Winant to the Department of State, March 5, 1941. NARS No. 660.

⁸⁶ Ibid.

⁸⁷ Ibid. See also p.156 of Annex B.

communicated to our delegation in London and that the members of our delegation were prepared to deal fully and comprehensively with all of these questions; that on the earnest insistence of the British Government the President had sent a delegation to London to handle these negotiations and that obviously it would be impossible to negotiate simultaneously in two places on the same subjects without considerable confusion. We therefore inquired whether it is the wish of the British Government that the negotiations be transferred to Washington; we stated if such is their wish we would have to take the matter up with the President." 88

The British immediately withdrew the suggestion. However, President Roosevelt now seized the opportunity and asked Lord Halifax to call at the White House on March 7. The President discussed with Halifax various topics of the draft agreement, including light and harbor dues, navigational facilities, the restricted use of the waters adjacent to the bases by British vessels (including fishing vessels), jurisdiction, and the exemption from customs and other duties of articles shipped to the leased areas. On all these subjects the President fully and forcefully supported the position of the American delegation.⁸⁹ On one point, the President may have been particularly helpful in breaking the impasse. He assured Lord Halifax of a solemn understanding on the part of the United States, in respect to customs-free entry of goods shipped to the Leased Areas, that any resale of such outside the leased areas would be prohibited under penalty of severe punishment.⁹⁰

⁸⁸ Telegram No. 712, Secretary of State to the President's Base Lease Commission, March 4, 1941. Foreign Relations, III (1941), 76.

⁸⁹ Ibid.

⁹⁰ Telegram No. 777, Secretary of State to the President's Base Lease Commission, March 8, 1941. Foreign Relations, III (1941), 77.

The next day, Ambassador Winant was able to report that there had been a definite speeding up of the negotiations. He voiced here what he later recorded in his memoirs, that "the negotiations had been complicated and delayed by overemphasis on Colonial objections without sufficient recognition by the British of our primary defense needs. I am certain that unnecessary prolongation of negotiations would be no more helpful here than at home." ⁹¹

While both Ambassador Winant and the American Base Lease Commission felt that there had been a distinct speeding up, that impression had not yet been noted by the Newfoundland Commissioners. On the very same day as Ambassador Winant's telegram just cited, Messrs. Emerson and Penson reported that the situation had not improved. They noted that the British Ambassador in Washington had been asked to take up the important items with Secretary of State Hull and that Ambassador Winant had sought an interview with Prime Minister Churchill "who appreciates fully the objections to the United States requirements." ⁹²

In the same telegram, Commissioners Emerson and Penson also alerted the Government in St. John's to a new problem which suddenly appeared on the negotiating scene. The Canadian observer at the London negotiations, Mr. Lester B. Pearson, was unhappy with the predominant position which the draft agreement appeared to be according to the United States in the defense of Newfoundland. He was reporting

⁹¹ Telegram No. 908, Ambassador Winant to President Roosevelt and Secretary of State Hull, March 8, 1941. NARS No. 669.

⁹² Telegram No. 173, Commissioners Emerson and Penson to Governor Walwyn, March 8, 1941. FCG S-4-2-2,M. .

this to Ottawa.⁹³ While the compromise formula finally accepted was forwarded by the British negotiators that same day, this issue nearly scuttled the agreement at the last minute. The British proposed a tripartite exchange of notes with the Governments of Canada and the United States to the effect that nothing in the agreement should be deemed to conflict with the arrangements relative to the defense of Newfoundland already made by the United States-Canada Joint Defense Board.⁹⁴ But Ottawa saw its role in the defense of Newfoundland endangered. The Canadian Chiefs of Staff Committee reported to the War Committee of the Canadian Cabinet that they viewed the trend of the London discussions "with grave concern inasmuch as the United States appeared to be insisting on rights which in an emergency would give them complete control of the whole of Newfoundland."⁹⁵ The Chiefs of Staff recommended that discussions and agreements concerning Newfoundland should be held separately from those connected with other leased bases, a suggestion which C.P. Stacey claims was made by the Newfoundland representatives in London to the Canadian High Commissioner there on February 27.⁹⁶ The Chiefs also proposed that these discussions be held in Canada. They advised that the PJBD should review the recommendations resulting from such discussions before any governmental

⁹³ Ibid.

⁹⁴ Telegram No. 915, President's Base Lease Commission to Department of State, March 9, 1941. NARS No. 673.

⁹⁵ C.P. Stacey, Arms, Men and Government: The War Policies of Canada: 1939-1945 (Ottawa: The Queen's Printer for Canada, 1970), p. 358.

⁹⁶ Ibid. No confirmation of this could be found in the files of the Commission of Government and it seems somewhat out of character.

action of any of the parties to implement them. Finally the Chiefs made it very clear that in their opinion

"Newfoundland represents a most important outpost, and is in fact Canada's first line of defense in this hemisphere, the preservation and protection of which is absolutely vital to her interests." ⁹⁷

The Canadian High Commissioner in London, Hon. Vincent Massey, was instructed to discuss the proposal with the British Government. On March 11 he reported that the British authorities thought separate discussions "would be most difficult now." Ambassador Winant took a similar view. He reported to Washington that he expected to convince the Canadian High Commissioner that any such procedure at this point was out of the question.⁹⁸ Washington agreed fully.⁹⁹ Both the American and British Governments, however, expressed themselves in favor of the tripartite note formula advanced by the British delegation on March 8.¹⁰⁰ The Canadian War Cabinet agreed reluctantly on March 12 to accept that formula. It wired St. John's (and London) as follows:

"The Canadian Government still adheres to the view that discussions in regard to Newfoundland bases should be held separately from those relating to other bases in the Western Hemisphere but in view of the fact that a general agreement has now been almost completed, they have reluctantly come to the conclusion that the expediency of an exchange

⁹⁷ Ibid., p. 359.

⁹⁸ Telegram No. 943, Ambassador Winant to Department of State, March 12, 1941. Foreign Relations, III (1941), 82.

⁹⁹ Telegram No. 849, Secretary of State to Ambassador Winant and President's Base Lease Commission, March 13, 1941, Foreign Relations, III (1941), 82-83.

¹⁰⁰ Ibid. See p.118, above.

of notes between Canada, the United Kingdom and the United States must suffice. The Canadian Government desire that these notes should emphasize the importance of Canada's interest in Newfoundland, and that in any actions resulting from a general agreement between the United Kingdom and the United States relating to Newfoundland, Canadian interests are to be respected. It is desired to stipulate that in any consultations arising out of such a general agreement, the Canadian Government shall enjoy rights of participation therein. Finally it is proposed that the Canada-United States Permanent Joint Board on Defense should review the provisions of the general agreement and that if in any particular the terms of that agreement conflict with recommendations which have been previously made by the Board, and of which the Newfoundland Government has been kept informed, the recommendations of the Board shall prevail." ¹⁰¹

In light of previous reaction of the Commission of Government to Ottawa's assertiveness, it is not surprising that the authorities in St. John's responded to the receipt of Ottawa's message by sending it to Commissioners Emerson and Penson in London with a request for their comments "as we find it difficult to appreciate the significance of the message in the absence of information as what has transpired in London." ¹⁰² Perhaps Washington was more aware of the sensitivity felt in Newfoundland about the sovereignty of the country than Ottawa, for on March 22, after the exact wording of the tripartite note exchange had been agreed upon, the State Department wired the American delegation:

"We hope that this text will meet with the approval of the Newfoundland representatives. If you feel there is any reason to do so,

¹⁰¹ Telegram No. 10, Secretary of State for External Affairs, Ottawa, to Governor Walwyn, March 13, 1941. FCG S-4-2-2,M.

¹⁰² Telegram, Governor Walwyn to Commissioners Emerson and Penson, March 14, 1941. FCG S-4-2-2,M.

you may inform the Newfoundland representatives, lest the publication of the foregoing regarding the defense of Newfoundland offend their sensibilities, that the idea of this exchange did not originate in the United States." ¹⁰³

A next text of the Agreement, embodying many of the compromises found in London as well as in the conversations in Washington, was tabled on March 12 following a meeting on March 11 attended by the Prime Minister, Lord Moyne, Admiral Sir Dudley Pound (then First Sea Lord), Sir Alan Burns, Ambassador Winant and the members of the American delegation. It is presumably this meeting to which Ambassador Winant was referring when he recorded in his memoirs that Prime Minister Churchill showed detailed knowledge of the negotiations. "In less than five minutes he had swept away as immaterial three-quarters of the objections which had been raised by his negotiators, but at the same time he questioned the military clauses [Article II] which, because of General [formerly Colonel] Maloney's skillful insistence, had been agreed upon." ¹⁰⁴ Ambassador Winant commented on the Prime Minister's generous attitude in a personal telegram to the President:

"In working out the defense section of the base agreement felt you should know that Certain Naval Person ¹⁰⁵ overruled opinion of his military and naval advisors in order to meet our position. I hope the present draft of the defense clause will be acceptable and thought you might wish to send him word of appreciation." ¹⁰⁶

¹⁰³ Telegram No. 973, Secretary of State to the President's Base Lease Commission, March 22, 1941. NARS No. 697.

¹⁰⁴ John C. Winant, Letter from Grosvenor Square, p. 36.

¹⁰⁵ Roosevelt's pseudonym for Churchill in wartime telegrams.

¹⁰⁶ Telegram No. 947, Ambassador Winant to President Roosevelt, March 13, 1941. NARS No. 681.

The end now seemed finally in sight. Draft texts were telegraphed to Washington and St. John's and Washington insisted on minor wording changes here and there and resisted a final British effort to annex a special confidential exchange of letters on jurisdiction. The Commission of Government in St. John's, on the other hand, was deeply troubled by what it feared would be adverse public reaction in Newfoundland to what it considered to have been sweeping concessions. Accordingly, they addressed a telegram to the Newfoundland delegation on this subject. "While sure that you will have explained fully what is likely to be the trend of public opinion here when the terms of the bases agreement are published," the telegram read, "we wish to suggest as a counteracting measure that you arrange if possible to bring back with you a message to the people of Newfoundland, preferably from the Prime Minister, in which it would be recognized that the acquiescence of Newfoundland in the terms of the agreement is both a valuable contribution to the common cause and a striking example of Empire solidarity." ¹⁰⁷

On the evening of March 18, Commissioners Emerson and Penson saw the Prime Minister. After expressing his regret at the outcome of the negotiations, Mr. Churchill said "he hoped the arrangements would work out in practice better than the terms of the document might indicate." ¹⁰⁸ Emerson and Penson conveyed the concern about public

¹⁰⁷ Telegram No. 153, Vice Chairman of the Commission of Government to Commissioners Penson and Emerson, March 17, 1941. FCG S-4-2-2,M.

¹⁰⁸ Telegram No. 211, Commissioners Emerson and Penson to Governor Walwyn, March 19, 1944. FCG S-4-2-2,M.

reaction to the agreements and the Prime Minister agreed to write a letter conveying a message to the Newfoundland people.

"The Prime Minister went on to say the grant of the bases with the accompanying rights must be regarded not merely as in recognition of the gift of the original fifty destroyers but of the whole of United States cooperation in the present war. This is now on a most generous scale and without it, a satisfactory conclusion of the war would be gravely jeopardized. He spoke emphatically on this." 109

Commissioners Emerson and Penson gave their own assessment.

"We have no illusion," they reported, "as to the character of the terms which are one-sided throughout and often extremely harsh in our view. Taxation clauses [Article XVII] are in addition unworkable apart from further understandings to be reached. The terms were not reached, however, without a long struggle. Both the Secretary of State for Dominion Affairs and in the final stages, the Prime Minister, gave unstinted support to our point of view." 110

The Prime Minister's letter was dated March 22 and telegraphed to St. John's on March 24. While it was made public at the time, it has been largely lost from sight by historians; the events of the war at that time tended to overshadow the efforts surrounding the final accord on the American bases in Newfoundland. For that reason, and because it substantiates the strong feeling on the part of Great Britain to bring about Empire solidarity at a time of real crisis, it is reproduced here in full:

109 Ibid.

110 Ibid.

"Dear Mr. Emerson:

When Mr. Penson and you saw me on March 18 you told me of the apprehension which you felt as to some of the provisions in the proposed agreement with the United States on the leased bases.

I can assure you that both I and those of my colleagues who have been engaged in the negotiations have had fully in mind the great importance which is attached in Newfoundland to the matters dealt with in the Agreement, and I can readily appreciate the feelings which Mr. Penson and you told me might arise that Newfoundland was being asked in this Agreement to give up much which she holds of value.

I need not say how sorry we in this country would be if this should be so. I would only ask the people of Newfoundland, of whose loyalty we have in this tested time as throughout her long and eventful history had ample proof, to bear in mind the wider issues which hang on this Agreement.

The exchange of notes last September providing for the lease of bases in British territories and the transfer of destroyers by the United States was hailed, and rightly so, not only as an act of highest significance in itself but also as a symbol of cooperation between the great democracies in defense of liberty and all that they hold dear. The fruits of that Agreement in this wide sphere are already being made manifest ever more and more as each day passes. During the last fortnight we have seen notable proof of the profound results flowing from it. The present Agreement which gives effect to the general arrangement embodied in the original exchange of notes is not merely a contract. It is one stage in the process of which the exchange of notes was the first step. Without this Agreement it is impossible to say what would be the effect on the prosecution of the war and the whole future of the world. I have every confidence that all those who have to administer the provisions of the instrument in practice will do so with regard not so much to the letter of the documents as to

the spirit animating the Governments who here put their signature to them.

It is with these considerations in mind that, recognizing to the full the considerable sacrifice made by Newfoundland to the cause we all have at heart and her splendid contribution to the war effort, we ask her to accept this Agreement.

It will be yet one more example of what she is ready to do for the sake of the Empire, of liberty and the welfare of all mankind.

Yours very faithfully,

Winston S. Churchill" 111

Mr. Emerson's reply was short but lyrical:

"Dear Prime Minister:

Please accept Mr. Penson's and my thanks for your letter of March 22 in which you are good enough to express your appreciation of the possible feeling of the people of Newfoundland in regard to the proposed Agreement with the United States on the leased bases. We shall take the earliest opportunity of making your views known to our people and feel confident that the personal commendation of acceptance of the Agreement by the Empire's leaders in this crisis will not fail to impress them with the importance of the part they are playing in strengthening co-operation between the two great Democracies in the struggle for the freedom of mankind. Mr. Penson and I have been aware of the great personal interest which you have taken throughout the negotiations in London and on behalf of the Government and people of Newfoundland we wish to express to you our deep sense of gratitude.

Yours faithfully,

L.E. Emerson" 112

111 Telegram, Commissioners Emerson and Penson to Governor Walwyn, March 24, 1941. FCG S-4-2-2,M.

112 Ibid.

There was, in fact, general acceptance of the nature of the Agreement in Newfoundland. Whether the concerns of the Newfoundland delegates were exaggerated or if the reaction might have been different without all the steps they took to influence public opinion may be left to conjecture. They were, however, deeply concerned, partly perhaps because they had been in London for over two months and had not experienced the landing of the first American troops in St. John's aboard the Edmund B. Alexander or the cordial relationship which developed almost at once between American servicemen and the people of Newfoundland. From London, ready to return to Newfoundland via Washington aboard the same clipper aircraft with the American delegates, Emerson and Penson expressed their concern. They regretted their inability to telegraph anything which might be helpful and their inability to be in St. John's to help explain the Agreements when they were first published. They suggested that the Commissioners talk to the newspapers and to influential citizens and explain to them the need to create the proper atmosphere not only because of the Prime Minister's letter but also in order to be helpful in the negotiations in Washington which they envisaged on the return trip. "The future of Newfoundland-United States relations depend on good will," they wired.¹¹³ They suggested that the following points be made: the separate position of Newfoundland was recognized in the Protocol on its status; jurisdiction over British subjects was very limited and might never be

¹¹³ Telegram No. 244, Commissioners Emerson and Penson to Governor Walwyn, March 24, 1941. FCG S-4-2-2,M.

exercised, especially not in Newfoundland; the customs and tax clauses were limited broadly to the leased areas. They believed, and were later proved to be accurate, that the United States had no intention of exercising its rights to the detriment of the Newfoundland Revenue Act or to impose financial or administrative burdens on the country.¹¹⁴

President Roosevelt, having authorized the signing of the Agreement on March 24, indicated he would like to send a message to Congress at noon on March 27 and therefore hoped that the Agreement could be signed on March 26. This, too, failed to come off as planned because it would have provided insufficient notice to the territorial governments. It was finally decided to sign the Agreement at 3:30 p.m. (British Summer Time) on Thursday, March 27 and publish it at 6:00 p.m. (B.S.T.). The following message informed the President who was waiting to send the draft to Congress. It marked the conclusion of two months of intensive negotiation on an Agreement which at various times nearly collapsed:

"To: Secretary of State
Washington

TRIPLE PRIORITY

From London 1194, Twenty-seventh
Agreement signed.

WINANT" ¹¹⁵

In Newfoundland, the Commission of Government issued a communique at the same time as it made public the text of the Agreement

¹¹⁴ Ibid.

¹¹⁵ NARS No. 794.

and the exchange of letters between Prime Minister Churchill and Commissioner Emerson. The communique explained the dangerous situation in which the Empire found itself in September 1940 and then explained that secret negotiations had been in progress since that time to define the terms under which the bases would be leased. It stressed that there had been full and free consultation and that for the final negotiations two members of the Commission had represented Newfoundland at London. The communique then became very defensive about the content of the Agreement, hiding to some extent behind the fact that Great Britain was charged with the conduct of Newfoundland's foreign relations and that, seen in this light, the specific references to Newfoundland both in the preamble and in the special protocol on the effect of the resumption of Newfoundland's normal constitutional status, were seen as acts of recognition of Newfoundland's special position. A lengthy paragraph of the communique was then devoted to the question of jurisdiction and the American assurances that the United States did not intend to exercise the rights granted in this field were nearly lost in a maze of legal phrases. "The Commission of Government are confident," the communique stated, "that no group of persons required to speak on behalf of the people of Newfoundland could have done otherwise than acquiesce in the Agreement."¹¹⁶ In its final paragraph, the communique made the expected appeal to patriotism but also recognized what had already become apparent, the economic benefits which would flow from the presence of the bases:

¹¹⁶ St. John's Daily News, March 28, 1941, p.9.

"The Commission of Government suggest to the people of Newfoundland that the terms of the Agreement are to be viewed not merely as a catalogue of advantages secured by either side, but as constituting in their effect a substantial contribution no less potent because it is indirect to the provision of aid to His Majesty the King in the defeat of the enemy. In the conclusion of this Agreement it has been necessary for Newfoundland to repose great confidence in the intentions of the United States. We have before our eyes the most convincing reasons for not hesitating to give that confidence in the generous measure of assistance which the United States is giving to the Empire in its hour of peril and in the stand which the United States has made in support of the principles of freedom. Looked at in the light of that assistance and in the light of the whole attitude of the United States toward the struggle in which the Empire is involved the concessions made by Newfoundland will be seen in true perspective. It would be feasible to set against the concessions made an imposing array of prospective advantages to the economy of Newfoundland but the Commission of Government do not rely upon these in asking the people of Newfoundland to confirm their acquiescence in the Agreement. Rather they prefer to rely upon the broad consideration set forth in a letter addressed by the Prime Minister of Great Britain to our representative in London at the conclusion of the negotiations in which they participated. The Commission of Government feel that the text of this letter ... will be accepted by the People of Newfoundland as a complete confirmation of the wisdom of the Government's action in acquiescing in the Agreement and that they will endorse the sentiments expressed in Mr. Emerson's reply to the Prime Minister's letter." 117

The Commission also persuaded Lt. Col. Leonard C. Outerbridge, C.B.E., D.S.O., to broadcast on Radio Station VPCM that evening. He

117 Ibid.

pulled out all the stops of Empire loyalty, sacrifice in war, good neighborliness and playing a role in destiny. "May not Newfoundland's sacrifice be in reality a glorious privilege?" he asked. "I know that if the problem [of signing the Agreement] was put to us individually, each one of us, even if it meant a sacrifice, would not hesitate; and as Newfoundlanders with red blood running through our veins, we would sign that agreement with a heart and a half." 118

The newspapers supported the Agreement in similar terms. In an editorial, the Daily News of March 28, 1941 addressed itself to the issue in these terms:

"... There is in fact nothing that might imaginably have been sought by the United States in respect of concessions relating to the controlled areas which has been refused.

... That the terms of the agreement were considered severe is evident from the correspondence between Mr. Emerson and Mr. Churchill and from the somewhat apologetic and defensive attitude of the Commission of Government in its covering communique. On the other hand, with the stark realities of this urgent Imperial necessity confronting them, it would have probably been difficult for any Newfoundland Government to have taken a different course." 119

In Ottawa, Prime Minister W. L. MacKenzie King announced the Agreement in the House of Commons, stressing the Canadian protocol. 120

118 Reprint of the Broadcast by Lt. Col. Outerbridge (St. John's: Long Brothers, 1941), p. 5.

119 St. John's Daily News, March 28, 1941, p.4.

120 Dominion of Canada, Official Report of Debates, House of Commons, Second Session, 19th Parliament, Vol. II, 1941 (Ottawa: Edmond Cloutier, Printer to the King's Most Excellent Majesty, 1941), p. 1904.

In Washington, President Roosevelt transmitted the Agreement to both Houses of Congress with only a short transmittal note. There was no debate in either the Senate or the House of Representatives.

The Newfoundland Commissioners did not return to St. John's until the end of April. In mid-April they wired from Washington that they had seen the Secretaries of State, War and Navy and senior officials. They had been cordially received and all problems raised had received sympathetic consideration. On the question of jurisdiction over British subjects, they had again been authorized to state that the United States had no desire to exercise the rights granted.¹²¹ Two weeks later, Consul General Quarton was directed to advise the Commission the United States Government hoped and expected that if it should ever be necessary to charge British subjects with offenses against the United States in Newfoundland, such cases would be tried in the courts of Newfoundland.¹²²

On April 26, shortly upon his return from Washington, Commissioner Emerson gave a lengthy radio address explaining the nature of the agreement. On the following night a similar address was made by Commissioner Penson.¹²³ It remains an open question whether these speeches and the effort by the Commission to "sell" the Agreement were really necessary. Except for one letter by a constant

¹²¹ Telegram No. 23, Commissioners Emerson and Penson to Governor Walwyn, April 13, 1941. FCG S-4-2-3,Q..

¹²² Note, Consul General Quarton to Commissioner Emerson, April 28, 1941. FCG S-4-2-3-0.

¹²³ For texts see St. John's Daily News of April 27 and April 28, 1941, respectively. Both reports begin on p. 3.

correspondent of the Daily News there would appear to have been no adverse public reaction of any sort. The people, understandably, probably found the terms of the Agreement too technical to comprehend, too wordy to even read. The influx of American money had started, the Americans (from all verbal accounts, at any rate) were at that time considered welcome visitors who spent funds generously and employed large numbers of previously unemployed Newfoundlanders. Even the war seemed to be going better with British victories in the Battle of Britain. As A.B. Perlin wrote many years later: "It is one of the imponderables of local history whether, if Newfoundland had had its own elected government in 1940, a different arrangement would have been made with the Americans for post-war readjustment of the agreements on the bases." 124

124 St. John's Daily News, October 28, 1969, p.4.

CONCLUSION

The rather detailed review of the negotiations for American base rights in Newfoundland, which this paper has attempted, confirms the judgment of a number of historians who have held that the trade of destroyers for bases was the first and most definitive American act in support of Great Britain and her Allies, and was, more than any other, the step which took the United States away from neutrality and toward status as a co-belligerent in the war against Hitler. This is the view held by the historians William L. Langer and S. Everett Gleason,¹ it is also the view supported by military historians like Stetson Conn and Byron Fairchild in their very authoritative history of the military thinking of this period.²

While the major step away from neutrality and toward limited participation in the war had been taken by September 2, 1940, the personal involvement of President Roosevelt, Secretary of State Hull, Secretary of the Navy Knox and Under Secretary of State Welles in the negotiations that followed shed additional light on their desire to see the negotiations succeed. They wanted the momentum which had been generated by the September 2 exchange of notes to continue and to avoid a situation where isolationist sentiment could point to British intransigence in the negotiations as a reason to slow down the

¹ William L. Langer and S. Everett Gleason, The Challenge to Isolation, Volume II (New York: Harper and Row, 1952), Harper Torchbooks Edition, p. 775.

² Stetson Conn and Byron Fairchild, United States Army in World War II, The Western Hemisphere, The Framework of Hemisphere Defense (Washington: Office of the Chief of Military History, 1960), p. 62.

support for the Allies. It is practically redundant to note that similar motives, and a recognition of the residue of neutralist sentiment in the United States, motivated Prime Minister Churchill and his cabinet to override some of the objections from the dependent territorial administrations although many of these would have been disposed of in any case once the military situation itself became a major factor.

It is interesting to note that many of the issues which caused great difficulties in the London negotiations are no longer questioned in agreements between allied countries respecting the stationing of troops on each other's soil. The most notable such agreement, the Agreement between the Parties to the North Atlantic Treaty regarding the Status of Their Forces, signed in London in June 1951,³ makes provisions in such fields as taxes, customs exemption, post offices, and even jurisdiction, very similar to those embodied in the Agreement of March 27, 1941. In this regard, the Agreement negotiated at London in 1941 may well have been a pace setter for future similar agreements.

As for the reflection of the events in Newfoundland, the consistent unanimity of the Commissioners of Government has already been touched upon in the Preface. Their deeply felt concerns were at least partly the result of their fear of the unknown, accentuated in the case of the two negotiating Commissioners by their removal from the scene. Verbal accounts speak of a euphoria of welcome for the American servicemen during the early days of 1941. This euphoria

³ See North Atlantic Treaty Organization, NATO - Facts about the North Atlantic Treaty Organization (Paris: NATO Information Service, 1965), pp. 217-229.

may have worn off in later years but the relationship never deteriorated to create a chasm of dislike between the local population and the American servicemen. It must be admitted in retrospect, however, that the Commissioners were probably unable to predict what that relationship would be and sought those safeguards which they hoped would at least maintain a "proper" basis for the new relations between the two sovereign nations.

Any study of this nature, which focuses on a very short period of time and on a very specific activity, raises numerous questions which are outside its immediate scope and which it cannot hope to answer. It would be interesting, for example, to follow the application of the jurisdiction clauses from early 1941 at least to the end of 1960 when Fort Pepperrell was closed and to determine just how the question of jurisdictional conflict was solved in practical terms. The social historian would probably find a rich field of study in the social impact of a large contingent of American (as well as Canadian and British) troops on the local population. This is directly intertwined with the extent of economic change resulting from the presence of the bases -- an area in which, unfortunately, the Commission of Government kept very few statistics and in which the quantitative historian might find more frustrations than answers. There is also, among these areas for further investigation, a need for some rather detailed biographic history on the men who made up the Commission of Government. All of them are now dead but their descendants are still alive and it might be hoped that they treasure biographic material which could be made

available to historians and preserved. For it is apparent from this study that for Newfoundland, and to a considerable extent for the Western Allies, the Commissioners of Government played a key role in many negotiations during World War II and that the tone they set, the concerns they expressed, and the actions which they took make up a segment of Newfoundland history badly in need of an accurate record.

APPENDIX A

Exchange of Notes September 2, 1940 ¹

BRITISH EMBASSY,

Washington, D.C., September 2, 1940.

SIR:

I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to inform you that in view of the friendly and sympathetic interest of His Majesty's Government in the United Kingdom in the national security of the United States and their desire to strengthen the ability of the United States to cooperate effectively with the other nations of the Americas in the defense of the Western Hemisphere, His Majesty's Government will secure the grant to the Government of the United States, freely and without consideration, of the lease for immediate establishment and use of naval and air bases and facilities for entrance thereto and the operation and protection thereof, on the Avalon Peninsula and on the southern coast of Newfoundland, and on the east coast and on the Great Bay of Bermuda.

Furthermore, in view of the above and in view of the desire of the United States to acquire additional air and naval bases in the Caribbean and in British Guiana, and without endeavouring to place a monetary or commercial value upon the many tangible and intangible rights and properties involved, His Majesty's Government will make available to the United States for immediate establishment and use naval and air bases and facilities for entrance thereto and the

¹ United States Department of State, Peace and War: 1939-1941 (Washington: United States Government Printing Office, 1943), pp.565-567.

operation and protection thereof, on the eastern side of the Bahamas, the southern coast of Jamaica, the western coast of St. Lucia, the west coast of Trinidad in the Gulf of Paria, in the island of Antigua and in British Guiana within fifty miles of Georgetown, in exchange for naval and military equipment and material which the United States Government will transfer to His Majesty's Government.

All the bases and facilities referred to in the preceding paragraphs will be leased to the United States for a period of ninety-nine years, free from all rent and charges other than such compensation to be mutually agreed on to be paid by the United States in order to compensate the owners of private property for loss by expropriation or damage arising out of the establishment of the bases and facilities in question.

His Majesty's Government, in the leases to be agreed upon, will grant to the United States for the period of the leases all the rights, power, and authority within the bases leased, and within the limits of the territorial waters and air spaces adjacent to or in the vicinity of such bases, necessary to provide access to and defence of such bases, and appropriate provisions for their control.

Without prejudice to the above-mentioned rights of the United States authorities and their jurisdiction within the leased areas, the adjustment and reconciliation between the jurisdiction of the authorities of the United States within these areas and the jurisdiction of the authorities of the territories in which these areas are situated, shall be determined by common agreement.

The exact location and bounds of the aforesaid bases, the necessary seaward, coast and anti-aircraft defences, the location of sufficient military garrisons, stores and other necessary auxiliary facilities shall be determined by common agreement.

His Majesty's Government are prepared to designate immediately experts to meet with experts of the United States for these purposes. Should these experts be unable to agree in any particular situation, except in the case of Newfoundland and Bermuda, the matter shall be settled by the Secretary of State of the United States and His Majesty's Secretary of State for Foreign Affairs.

I have [etc.]

LOTHIAN

The Honourable Cordell Hull,
Secretary of State of the United States,
Washington, D.C.

DEPARTMENT OF STATE,

Washington, September 2, 1940.

EXCELLENCY:

I have received your note of September 2, 1940, of which the text is as follows:

[Here follows text of the note printed above.]

I am directed by the President to reply to your note as follows:

The Government of the United States appreciates the declarations and the generous action of His Majesty's Government as contained in your communication which are destined to enhance the national security of the United States and greatly to strengthen its ability to cooperate effectively with the other nations of the Americas in the defense of the Western Hemisphere. It therefore gladly accepts the proposals.

The Government of the United States will immediately designate experts to meet with experts designated by His Majesty's Government to determine upon the exact location of the naval and air bases mentioned in your communication under acknowledgment.

In consideration of the declarations above quoted, the Government of the United States will immediately transfer to His Majesty's Government fifty United States Navy destroyers generally referred to as the twelve hundred-ton type.

Accept [etc.]

CORDELL HULL

His Excellency

The Right Honorable

The Marquess of Lothian, C.H.,

British Ambassador

APPENDIX B

AGREEMENT (MARCH 27, 1941) BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA RELATING TO THE BASES LEASED TO THE UNITED STATES OF AMERICA AND RELATED DOCUMENTS

AGREEMENT

WHEREAS the Government of the United Kingdom of Great Britain and Northern Ireland, in consultation with the Government of Newfoundland, are desirous at this time of further effectuating the declarations made on their behalf by His Excellency the Most Honourable the Marquess of Lothian, C.H., His Majesty's Ambassador Extraordinary and Plenipotentiary, in his communication of the 2nd September, 1940, to the Secretary of State of the United States of America, a copy of which is set out in Annex I¹ hereto and made a part hereof;

And whereas it is agreed that leases in respect of the naval and air bases to be leased to the United States of America in Newfoundland, Bermuda, Jamaica, St. Lucia, Antigua, Trinidad and British Guiana, respectively, shall forthwith be executed substantially in the forms of the leases set out in Annex II hereto, which are hereby approved, and that a similar lease in respect of a base in the Bahamas shall be executed as soon as possible;

And whereas it is desired to determine by common agreement certain matters relating to the lease of the said bases, as provided in the communication of the 2nd September, 1940, and the reply thereto of the same date from the Honourable Cordell Hull, Secretary of State of the United States, set out in Annex I² and made a part hereof;

And whereas it is desired that this Agreement shall be fulfilled in a spirit of good neighbourliness between the Government of the United Kingdom and the Government of the United States of America, and that details of its practical application shall be arranged by friendly co-operation;

The Undersigned, duly authorized to that effect, have agreed as follows:-

ARTICLE I.

General Description of Rights.

(1) The United States shall have all the rights, power and authority within the Leased Areas which are necessary for the establishment,

¹ See Appendix A.

² Ibid.

use, operation and defence thereof, or appropriate for their control, and all the rights, power and authority within the limits of territorial waters and air spaces adjacent to, or in the vicinity of, the Leased Areas, which are necessary to provide access to and defence of the Leased Areas, or appropriate for control thereof.

(2) The said rights, power and authority shall include, inter alia, the right, power and authority:-

- (a) to construct (including dredging and filling), maintain, operate, use, occupy and control the said Bases;
- (b) to improve and deepen the harbours, channels, entrances and anchorages, and generally to fit the premises for use as naval and air bases;
- (c) to control, so far as may be required for the efficient operation of the Bases, and within the limits of military necessity, anchorages, moorings and movements of ships and water-borne craft and the anchorages, moorings, landings, take-offs, movements and operations of aircraft;
- (d) to regulate and control within the Leased Areas all communication within, to, and from the areas leased;
- (e) to install, maintain, use and operate under-sea and other defences, defence devices and controls, including detecting and other similar facilities.

(3) In the exercise of the above-mentioned rights, the United States agrees that the powers, granted to it outside the Leased Areas will not be used unreasonably or, unless required by military necessity, so as to interfere with the necessary rights of navigation, aviation or communication to or from or within the Territories, but that they shall be used in the spirit of the fourth clause of the Preamble.

(4) In the practical application outside the Leased Areas of the foregoing paragraphs there shall be, as occasion requires, consultation between the Government of the United States and the Government of the United Kingdom.

ARTICLE II.

Special Emergency Powers.

When the United States is engaged in war or in time of other emergency, the Government of the United Kingdom agree that the United States may exercise in the Territories and surrounding waters or air spaces all such rights, power and authority as may be necessary for

conducting any military operations deemed desirable by the United States, but these rights will be exercised with all possible regard to the spirit of the fourth clause of the Preamble.

ARTICLE III.

Non-user.

The United States shall be under no obligation to improve the Leased Areas or any part thereof for use as naval or air bases, or to exercise any right, power or authority granted in respect to the Leased Areas, or to maintain forces therein, or to provide for the defence thereof; but if and so long as any Leased Area, or any part thereof, is not used by the United States for the purposes in this Agreement set forth, the Government of the United Kingdom or the Government of the Territory may take such steps therein as shall be agreed with the United States to be desirable for the maintenance of public health, safety, law and order, and, if necessary, for defence.

ARTICLE IV.

Jurisdiction.

- (1) In any case in which-
 - (a) a member of the United States forces, a national of the United States or a person who is not a British subject shall be charged with having committed, either within or without the Leased Areas, an offence of a military nature, punishable under the law of the United States, including but not restricted to, treason, an offence relating to sabotage or espionage, or any other offence relating to the security and protection of United States naval and air Bases, establishments, equipment or other property or to operations of the Government of the United States in the Territory; or
 - (b) a British subject shall be charged with having committed any such offence within a Leased Area and shall be apprehended therein; or
 - (c) a person other than a British subject shall be charged with having committed an offence of any other nature within a Leased Area,

the United States shall have the absolute right in the first instance to assume and exercise jurisdiction with respect to such offence.

- (2) If the United States shall elect not to assume and exercise such jurisdiction the United States Authorities shall, where such offence

is punishable in virtue of legislation enacted pursuant to Article V or otherwise under the law of the Territory, so inform the Government of the Territory and shall, if it shall be agreed between the Government of the Territory and the United States authorities that the alleged offender should be brought to trial, surrender him to the appropriate authority in the Territory for that purpose.

(3) If a British subject shall be charged with having committed within a Leased Area an offence of the nature described in paragraph (1) (a) of this Article, and shall not be apprehended therein, he shall, if in the Territory outside the Leased Areas, be brought to trial before the courts of the Territory; or, if the offence is not punishable under the law of the Territory, he shall, on the request of the United States Authorities, be apprehended and surrendered to the United States Authorities, and United States shall have the right to exercise jurisdiction with respect to the alleged offence.

(4) When the United States exercises jurisdiction under this Article and the person charged is a British subject, he shall be tried by a United States court sitting in a Leased Area in the Territory.

(5) Nothing in this Agreement shall be construed to affect, prejudice or restrict the full exercise at all times of jurisdiction and control by the United States in matters of discipline and internal administration over members of the United States forces, as conferred by the law of the United States and any regulations made thereunder.

ARTICLE V.

Security Legislation.

The Government of the Territory will take such steps as may from time to time be agreed to be necessary with a view to the enactment of legislation to ensure the adequate security and protection of the United States naval and air Bases, establishments, equipment and other property, and the operations of the United States under the Leases and this Agreement and the punishment of persons who may contravene any laws or regulations made for that purpose. The Government of the Territory will also from time to time consult with the United States Authorities in order that the laws and regulations of the United States and the Territory in relation to such matters may, so far as circumstances permit, be similar in character.

ARTICLE VI.

Arrest and Service of Process.

(1) No arrest shall be made and no process, civil or criminal, shall be served within any Leased Area except with the permission of the

Commanding Officer in charge of the United States forces in such Leased Area; but should the Commanding Officer refuse to grant such permission he shall (except in cases where the United States Authorities elect to assume and exercise jurisdiction in accordance with Article IV (1)) forth with take the necessary steps to arrest the person charged and surrender him to the appropriate authority of the Territory or to serve such process, as the case may be, and to provide for the attendance of the server of such process before the appropriate court of the Territory or procure such server to make the necessary affidavit or declaration to prove such service.

(2) In cases where the courts of the United States have jurisdiction under Article IV, the Government of the Territory will on request give reciprocal facilities as regards the service of process and the arrest and surrender of alleged offenders.

(3) In this Article the expression "process" includes any process by way of summons, subpoena, warrant, writ or other judicial document for securing the attendance of a witness, or for the production of any documents or exhibits, required in any proceedings civil or criminal.

ARTICLE VII.

Right of Audience for United States Counsel.

In cases in which a member of the United States forces shall be a party to civil or criminal proceedings in any court of the Territory by reason of some alleged act or omission arising out of or in the course of his official duty, United States counsel (authorized to practise before the courts of the United States) shall have the right of audience, provided that such counsel is in the service of the Government of the United States and appointed for that purpose either generally or specially by the appropriate authority.

ARTICLE VIII.

Surrender of Offenders.

Where a person charged with an offence which falls to be dealt with by the courts of the Territory is in a Leased Area, or a person charged with an offense which falls under Article IV to be dealt with by courts of the United States is in the Territory but outside the Leased Areas, such person shall be surrendered to the Government of the Territory or to the United States Authorities, as the case may be, in accordance with special arrangements made between that Government and those Authorities.

ARTICLE IX.

Public Services.

The United States shall have the right to employ and use all utilities, services and facilities, roads, highways, bridges, viaducts, canals and similar channels of transportation belonging to, or controlled or regulated by, the Government of the Territory or the Government of the United Kingdom, under conditions comparable to and no less favourable than those applicable from time to time to the Government of the United Kingdom.

ARTICLE X.

Surveys.

(1) The United States shall have the right, after appropriate notification has been given to the Government of the Territory, to make topographic and hydrographic surveys outside the Leased Areas in any part of the Territory and waters adjacent thereto. Copies, with title and triangulation data, of any surveys so made will be furnished to the Government of the Territory.

(2) Notification and copies will be given to the United States Authorities of any such surveys carried out by the Government of the United Kingdom or the Government of the Territory.

ARTICLE XI.

Shipping and Aviation.

(1) Lights and other aids to navigation of vessels and aircraft placed or established in the Leased Areas and the territorial waters adjacent thereto or in the vicinity thereof shall conform to the system in use in the Territory. The position, characteristics and any alterations thereof shall be notified in advance to the appropriate authority in the Territory.

(2) United States public vessels operated by the War or Navy Departments, by the Coastguard or by the Coast and Geodetic Survey, bound to or departing from a Leased Area shall not on entering or leaving the Leased Area or the territorial waters in the vicinity thereof be subject to compulsory pilotage or to light or harbour dues in the Territory. If a pilot is taken pilotage shall be paid for at appropriate rates.

(3) British commercial vessels may use the Leased Areas on the same terms and conditions as United States commercial vessels.

(4) It is understood that a Leased Area is not a part of the territory of the United States for the purpose of coastwise shipping

laws so as to exclude British vessels from trade between the United States and the Leased Areas.

(5) Commercial aircraft will not be authorized to operate from any of the Bases (save in case of emergency or for strictly military purposes under supervision of the War or Navy Departments) except by agreement between the United States and the Government of the United Kingdom; provided that in the case of Newfoundland such agreement shall be between the United States and the Government of Newfoundland.

ARTICLE XII.

Motor Traffic.

(1) Standard and test types of motor vehicles as determined by the United States shall not be prevented from using roads in a Territory by reason of non-compliance with any law relating to construction of motor vehicles.

(2) No tax or fee shall be payable in respect of registration or licensing for use in a Territory of motor vehicles belonging to the Government of the United States.

ARTICLE XIII.

Immigration.

(1) The immigration laws of the Territory shall not operate or apply so as to prevent admission into the Territory, for the purposes of this Agreement, of any member of the United States Forces posted to a Leased Area or any person (not being a national of a Power at war with His Majesty the King) employed by, or under a contract with, the Government of the United States in connection with the construction, maintenance, operation or defence of the Bases in the Territory; but suitable arrangements will be made by the United States to enable such persons to be readily identified and their status to be established.

(2) If the status of any person within the Territory and admitted thereto under the foregoing paragraph shall be altered so that he would no longer be entitled to such admission, the United States Authorities shall notify the Government of the Territory and shall, if such person be required to leave the Territory by that Government, be responsible for providing him with a passage from the Territory within a reasonable time, and shall in the meantime prevent his becoming a public responsibility of the Territory.

ARTICLE XIV.

Customs and other Duties

(1) No import, excise, consumption or other tax, duty or impose shall be charged on -

- (a) material, equipment, supplies or goods for use in the construction, maintenance, operation or defence of the Bases, consigned to, or destined for, the United States Authorities or a contractor;
 - (b) goods for use or consumption aboard United States public vessels of the Army, Navy, Coast Guard or Coast and Geodetic Surveys;
 - (c) goods consigned to the United States Authorities for the use of institutions under Government control known as Post Exchanges, Ships' Service Stores, Commissary Stores or Service Clubs, or for sale thereat to members of the United States forces, or civilian employees of the United States being nationals of the United States and employed in connection with the Bases, or members of their families resident with them and not engaged in any business or occupation in the Territory;
 - (d) the personal belonging or household effects of persons referred to in sub-paragraph (c), and of contractors and their employees being nationals of the United States employed in the construction, maintenance or operation and present in the Territory by reason only of such employment.
- (2) No export tax shall be charged on the material, equipment, supplies or goods mentioned in paragraph (1) in the event of reshipment from the Territory.
- (3) This Article shall apply notwithstanding that the material, equipment, supplies or goods pass through other parts of the Territory en route to or from a Leased Area.
- (4) Administrative measures shall be taken by the United States Authorities to prevent the resale of goods which are sold under paragraph (1) (c), or imported under paragraph (1) (d), of this Article, to persons not entitled to buy goods at such Post Exchanges, Ships' Service Stores, Commissary Stores or Service Clubs, or not entitled to free importation under paragraph (1) (d); and generally to prevent abuse of the customs privileges granted under this Article. There shall be co-operation between such Authorities and the Government of the Territory to this end.

ARTICLE XV.

Wireless and Cables.

- (1) Except with the consent of the Government of the Territory, no wireless station shall be established or submarine cable landed in a

Leased Area otherwise than for military purposes.

(2) All questions relating to frequencies, power and like matters, used by apparatus designed to emit electric radiation, shall be settled by mutual arrangement.

ARTICLE XVI.

Postal Facilities.

The United States shall have the right to establish United States Post Offices in the Leased Areas for the exclusive use of the United States forces, and civilian personnel (including contractors and their employees) who are nationals of the United States and employed in connection with the construction, maintenance, operation or defence of the Bases, and the families of such persons, for domestic use between United States Post Offices in Leased Areas and between such Post Offices and other United States Post Offices and Post Offices in the Panama Canal Zone and the Philippine Islands.

ARTICLE XVII.

Taxation.

(1) No member of the United States forces or national of the United States, serving or employed in the Territory in connection with the construction, maintenance, operation or defence of the Bases, and residing in the Territory by reason only of such employment, or his wife or minor children, shall be liable to pay income tax in the Territory except in respect of income derived from the Territory.

(2) No such person shall be liable to pay in the Territory any poll tax or similar tax on his person, or any tax on ownership or use of property which is inside a Leased Area, or situated outside the Territory.

(3) No person ordinarily resident in the United States shall be liable to pay income tax in the Territory in respect of any profits derived under a contract made in the United States with the Government of the United States in connection with the construction, maintenance, operation or defence of the Bases, or any tax in the nature of a license in respect of any service or work for the United States in connection with the construction, maintenance, operation or defence of the Bases.

ARTICLE XVIII.

Businesses and Professions.

Unless the consent of the Government of the Territory shall have been obtained-

(1) No business shall be established in a Leased Area; but the institutions referred to in Article XIV (c), offering

goods, under a prohibition against re-sale, exclusively to the persons mentioned in the said Article XIV (1) (c), shall not be regarded as businesses for the purposes of this Article;

- (2) No person shall habitually render any professional services in a Leased Area, except to, or for, the Government of the United States or the persons mentioned in Article XIV (1) (c).

ARTICLE XIX.

Forces outside Leased Areas.

(1) United States forces stationed or operating outside the Leased Areas under separate agreement with the Government of the United Kingdom or the Government of the Territory shall be entitled to the same rights and enjoy the same status as United States forces stationed within the Leased Areas.

(2) The United States shall be under no obligation to maintain forces outside the Leased Areas by virtue of any such agreement.

ARTICLE XX.

Health Measures outside Leased Areas.

The United States shall have the right, in collaboration with the Government of the Territory and, where necessary, with the Local Authority concerned, to exercise, without other consideration than just compensation to private owners, if any, such powers as such Government and Local Authority and the Government of the United Kingdom may possess of entering upon any property in the vicinity of the Leased Areas for the purpose of inspection, and of taking any necessary measures to improve sanitation and protect health.

ARTICLE XXI.

Abandonment.

The United States may at any time abandon any Leased Area or any part thereof, without thereby incurring any obligation, but shall give to the Government of the United Kingdom as long notice as possible and in any case not less than one year, of its intention so to do. At the expiration of such notice the area abandoned shall revert to the Lessor. Abandonment shall not be deemed to have occurred in the absence of such notice.

ARTICLE XXII.

Removal of Improvements.

The United States may at any time before the termination of a lease, or within a reasonable time thereafter, take away all or any removable improvements placed by or on behalf of the United States in the Leased Area or territorial waters.

ARTICLE XXIII.

Rights not to be Assigned.

The United States will not assign or underlet or part with the possession of the whole or any part of any Leased Area, or of any right, power or authority granted by the Leases or this Agreement.

ARTICLE XXIV.

Possession.

(1) On the signing of this Agreement, leases of the Leased Areas, substantially in the forms respectively set out in Annex II hereto, shall be forthwith executed, and all rights, power, authority and control under such leases and under this Agreement (including transfer of possession where it shall not previously have been transferred) shall thereupon become effective immediately, and pending execution of such Leases they may be exercised ad interim and possession of the Leased Areas shall be immediately given so far as the location thereof is then ascertained. Where the precise location of a portion of any Leased Areas is not ascertainable until more detailed descriptions are available, possession of such portion shall be given as rapidly as possible. This Article shall not require occupiers of buildings in a Leased Area to be removed from such buildings until reasonable notice to vacate has been given and expired, due regard being had to the necessity of obtaining alternative accommodation.

(2) The foregoing paragraph shall not apply in relation to the Bahamas, but a lease of the Leased Area therein, in terms similar to those of the leases set out in Annex II hereto, and subject to such special provisions as may be agreed to be required, will be granted to the United States of America as soon as the location of that area shall have been agreed, whereupon this Agreement shall apply thereto.

ARTICLE XXV.

Reservations.

(1) All minerals (including oil) and antiquities and all rights relating thereto and to treasure trove, upon or connected with the land and water comprised in the Leased Areas or otherwise used or occupied by the United States by virtue of this Agreement, are reserved to the Government and inhabitants of the Territory; but no rights so reserved shall be transferred to third parties, or exercised within the Leased Areas without the consent of the United States.

(2) The United States will permit the exercise of fishing privileges within the Leased Areas in so far as may be found compatible with military requirements, and in the exercise of its rights will use its best endeavours to avoid damage to fisheries in the Territory.

ARTICLE XXVI.

Special Provisions for Individual Territories.

The provisions contained in Annex III hereto shall have effect in relation to the Territories to which they respectively appertain.

ARTICLE XXVII.

Supplementary Leases.

The United States may, by common agreement, acquire by supplementary lease for the unexpired period of the Lease granted in a Territory, such additional areas, sites and locations as may be found necessary for the use and protection of the Bases upon such terms and conditions as may be agreed, which shall, unless there are special reasons to the contrary, be on the basis of those contained in this Agreement.

ARTICLE XXVIII.

Modification of this Agreement.

The Government of the United States and the Government of the United Kingdom agree to give sympathetic consideration to any representations which either may make after this Agreement has been in force a reasonable time, proposing a review of any of the provisions of this Agreement to determine whether modifications in the light of experience are necessary or desirable. Any such modifications shall be by mutual consent.

ARTICLE XXIX.

The United States and the Government of the Territory respectively will do all in their power to assist each other in giving full effect to the provisions of this Agreement according to its tenor and will take all appropriate steps to that end.

During the continuance of any Lease, no laws of the Territory which would derogate from or prejudice any of the rights conferred on the United States by the Lease or by this Agreement shall be applicable within the Leased Area, save with the concurrence of the United States.

ARTICLE XXX.

Interpretation.

In this Agreement, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:-

"Lease" means a lease entered into in pursuance of the communications set out in Annex I hereto, and in

relation to any Territory means a lease entered into in respect to an area therein.

"Leased Area" means an area in respect of which a lease is or will be entered into.

"Base" means a base established in pursuance of the said communications.

"Territory" means a part of His Majesty's dominions in which a lease is entered into in pursuance of the communications set out in Annex I hereto; and "the Territory" means the Territory concerned.

"The United States Authorities" means the authority or authorities from time to time authorised or designated, by the Government of the United States of America, for the purpose of exercising the powers in relation to which the expression is used.

"United States forces" means the naval and military forces of the United States of America.

"British subject" includes British protected person.

Signed in London in duplicate this twenty-seventh day of March, 1941.

On behalf of the Government of the United Kingdom of Great Britain and Northern Ireland:-

WINSTON S. CHURCHILL

CRANBORNE

MOYNE

On behalf of the Government of the United States of America:

JOHN G. WINANT

CHARLES FAHY

HARRY J. MALONY

HAROLD BIESEMEIER

EXCERPT FROM ANNEX II.

FORMS OF LEASES

1. NEWFOUNDLAND

THIS INDENTURE of Lease made the day of
nineteen hundred and forty-one, between His Excellency Sir Humphrey
Walwyn, K.C.S.I., K.C.M.G., C.B., D.S.O., Governor and Commander-in-
Chief in and over the Island of Newfoundland and its Dependencies,
in Commission, hereinafter referred to as the Newfoundland Government,
of the first part, and the United States of America, of the other
part:

WHEREAS by Notes exchanged on the second day of September,
nineteen hundred and forty (copies of which are appended to the
Agreement hereinafter referred to) between His Majesty's Ambassador
at Washington and the Secretary of State of the United States of
America, His Majesty's Government in the United Kingdom undertook to
secure the grant to the United States of America of the lease of
certain Naval and Air bases and facilities in certain localities,
including Newfoundland, for a period of ninety-nine years, free from
all rent and charges other than compensation to be mutually agreed on
to be paid by the United States in order to compensate the owners of
private property for loss by expropriation or damage arising out of
the establishment of the said bases and facilities;

AND WHEREAS in furtherance of the said Notes an Agreement
between the Government of the United Kingdom and the United States of
America was signed on the twenty-seventh day of March, nineteen hundred
and forty-one;

AND WHEREAS in compliance with the undertaking of the Government
of the United Kingdom hereinbefore referred to the Newfoundland Govern-
ment has agreed to demise and lease the several pieces or parcels of
land hereinafter described;

NOW THIS INDENTURE WITNESSETH that in consideration of the
premises the Newfoundland Government hath demised and leased and by
these presents doth demise and lease unto the United States of America
all those six several pieces or parcels of land (hereinafter referred
to as the Leased Areas) described in the Schedule to these presents and
delineated on the plans ³ hereto annexed:

TO HAVE AND TO HOLD the same for the full end and term of ninety-
nine years to begin and to be computed from the date of these presents
free from the payment of all rent and charges other than compensation as
aforesaid.

³ Plans to these forms of Leases not reproduced.

AND the United States of America agrees that it will not during the term hereby granted use the Leased Areas nor permit the use thereof except for the purposes specified and on the terms and conditions contained in the aforesaid Notes and Agreement, which are incorporated in and form part of these presents except such parts thereof as refer specifically to territory other than Newfoundland.

SCHEDULE

(1) Beginning at the intersection of the shoreline northwest of Placentia with latitude $47^{\circ} 16' N.$, thence due east approximately 7,300 feet to longitude $53^{\circ} 58' 18'' W.$; thence in a northeasterly direction approximately 8,200 feet to latitude $47^{\circ} 17' 12'' N.$, longitude $53^{\circ} 57' 25'' W.$; thence in a northwesterly direction approximately 4,200 feet to the intersection of the shoreline with longitude $53^{\circ} 57' 58'' W.$; thence along the shoreline to the point of beginning, including therein the Peninsula of Argentia lying between Little Placentia Harbour and Placentia Bay, the entire site containing approximately 2,610 acres; there is reserved from the foregoing all those areas, contained within a right-of-way of the Newfoundland Railway, its wharf, property and station at Argentia, as may be mutually determined to be essential to the operation of the said Railway.

(2) Beginning at the intersection of The Boulevarde, along the northwest shore of Quidi Vidi Lake, with the road approximately perpendicular thereto at the Rose residence known as Grove Farm Road; thence approximately 600 yards northwest along the road and its extension; thence generally north on an irregular line along, but not including, the southeast edge of the golf course; thence generally north to the junction of the White Hills Roads; thence southeast along the northernmost of these roads to The Boulevarde; thence generally southwest to point of beginning.

(3) An area about 300 feet wide on the eastern boundary of the municipal park between The Boulevarde and the shoreline of Quidi Vidi Lake, the two last above described areas containing approximately 160 acres.

(4) An area of approximately 700 feet by 1,400 feet on the crest of the White Hill about $\frac{1}{2}$ mile east of the White Hills Roads with a connecting strip about 60 feet wide across the property of Arthur Cooke.

(5) Beginning at a point on the shoreline of St. George's Bay eastward of the town of Stephenville and about 1,350 feet southeast of the small natural outlet of Blanche Brook, which outlet is about 16,000 feet northwest of Indian Head Light at the entrance of St. George's Harbour; thence north $50^{\circ} 30'$ east a distance of about 1,285 feet to a point on the west shoreline of Stephenville Pond at its northwest outlet; thence following the general westerly shoreline of Stephenville

Pond northeasterly to a point on said shoreline which bears north $25^{\circ} 15'$ east and is approximately 3,700 feet from the last described point; thence north $7^{\circ} 45'$ east a distance of 1,970 feet to a point; thence north 47° west a distance of 4,220 feet to a point; thence south 43° west a distance of about 6,850 feet to the shoreline of St. George's Bay (this course touches the shoreline of Blanche Brook at a point about 900 feet northeast from St. George's Bay); thence southeasterly following the general shoreline of St. George's Bay for a distance of about 5,000 feet to the point of beginning.

(6) From a point at the intersection of the centre lines of Signal Hill Road and Middle Battery Road; thence south $44^{\circ} 17' 41.3''$ east along Middle Battery Road for a distance of 268.11 feet; thence south $54^{\circ} 9' 41.3''$ east along Middle Battery Road for a distance of 95.36 feet to the point which is the point of commencement; thence from the point of commencement south $18^{\circ} 39' 3''$ and west for a distance of 201.44 feet; thence south $12^{\circ} 4' 2''$ and west for a distance of 12 feet; thence along the north shoreline of St. John's Harbour southward and eastward for a distance of 1,025 feet; thence north $26^{\circ} 26' 47.57''$ east for a distance of 50 feet to the centre line of Middle Battery Road; thence along Middle Battery Road north $57^{\circ} 5' 32.43''$ west for a distance of 246.17 feet; thence north $85^{\circ} 57' 28.49''$ west for a distance of 182.86 feet; thence north $73^{\circ} 16' 50.1''$ west for a distance of 165.95 feet; thence north $55^{\circ} 29' 29.31''$ west for a distance of 243.87 feet; thence north $54^{\circ} 9' 41.3''$ west for a distance of 199.67 feet, to the point of commencement.

The exact metes and bounds of the property generally described in the Schedule hereto shall with all convenient speed be established by Survey conducted by the United States of America, and shall then be described and delineated in a document or documents and a plan or plans in duplicate, which, when agreed and signed on behalf of the parties hereto, shall supersede the description contained in the Schedule hereto and the plans annexed hereto. One copy of each such document and plan shall be retained by the United States of America and the other shall be deposited with the Government of Newfoundland.

IN WITNESS WHEREOF

The Great Seal of the Island of Newfoundland has been affixed to these presents at St. John's in the Island aforesaid.

By His Excellency's Command

Commissioner for Home Affairs.

And the United States of America has caused these presents to be executed on its behalf by
the day and the year first above written.

EXCHANGE OF NOTES REGARDING NEWFOUNDLAND BETWEEN THE PRIME MINISTER
OF THE UNITED KINGDOM AND THE UNITED STATES AMBASSADOR IN
LONDON

Mr. Winston Churchill to Mr. Winant

Foreign Office, March 27, 1941.

Your Excellency,

I have the honour to inform your Excellency that, in signing this day the Agreement concerning the lease of Bases, it is the intention of the Government of the United Kingdom of Great Britain and Northern Ireland that, upon the resumption by Newfoundland of the constitutional status held by it prior to the 16th February, 1934, the words "the Government of the United Kingdom," wherever they occur in relation to a provision applicable to Newfoundland in the said Agreement, shall be taken to mean, so far as Newfoundland is concerned, the Government of Newfoundland, and the Agreement shall then be construed accordingly.

2. If the Government of the United States agree to this interpretation, I would suggest that the present Note and your Excellency's reply to that effect be regarded as placing on record the understanding of the two Contracting Governments in this matter.

I have, etc.

WINSTON S. CHURCHILL

Mr. Winant to Mr. Winston Churchill

Embassy of the United States of America,

London, March 27, 1941.

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's Note of today's date, the terms of which are as follows:-

"Your Excellency,

"I have the honour to inform your Excellency that, in signing this day the Agreement concerning the lease of Bases, it is the intention of the Government of the United Kingdom of Great Britain and Northern Ireland that, upon the resumption by Newfoundland of the constitutional status held by it prior to the 16th February, 1934, the words

'the Government of the United Kingdom' wherever they occur in relation to a provision applicable to Newfoundland in the said Agreement, shall be taken to mean, so far as Newfoundland is concerned, the Government of Newfoundland, and the Agreement shall then be construed accordingly.

"2. If the Government of the United States agree to this interpretation, I would suggest that the present Note and your Excellency's reply to that effect be regarded as placing on record the understanding of the two Contracting Governments in this matter."

2. In reply, I have the honour to inform your Excellency that the Government of the United States accepts the interpretation of the Agreement concerning the lease of Bases signed this day as set forth in your Excellency's Note and, in accordance with the suggestion contained therein, your Excellency's Note and this reply will be regarded as placing on record the understanding between the two Contracting Governments in this matter.

I have, etc.

JOHN G. WINANT.

PROTOCOL CONCERNING THE DEFENCE OF NEWFOUNDLAND BETWEEN CANADA, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA.

PROTOCOL

The undersigned plenipotentiaries of the Governments of Canada, the United Kingdom of Great Britain and Northern Ireland and the United States of America having been authorized by their respective Governments to clarify certain matters concerning the defence of Newfoundland arising out of the Agreement signed this day concerning the Bases leased to the United States, have drawn up and signed the following Protocol:-

1. It is recognised that the defence of Newfoundland is an integral feature of the Canadian scheme of defence, and as such is a matter of special concern to the Canadian Government, which has already assumed certain responsibilities for this defence.

2. It is agreed therefore that, in all powers which may be exercised and in such actions as may be taken under the Agreement for the use and operation of United States bases dated the 27th March, 1941, in respect of Newfoundland, Canadian interests in regard to defence will be fully respected.

3. Nothing in the Agreement shall affect arrangements relative to the defence of Newfoundland already made by the Governments of the

United States and Canada in pursuance of recommendations submitted to those Governments by the Permanent Joint Board on Defence - United States and Canada.

4. It is further agreed that in all consultations concerning Newfoundland arising out of Articles I (4), II and XI (5) of the Agreement, or of any other Articles involving considerations of defence, the Canadian Government as well as the Government of Newfoundland will have the right to participate.

Done in triplicate, in London, the 27th day of March, 1941.

On behalf of the Government of Canada:

VINCENT MASSEY
L. W. MURRAY
L. B. PEARSON

On behalf of the Government of the United Kingdom of Great Britain and Northern Ireland:

WINSTON S. CHURCHILL
CRANBORNE
MOYNE

On behalf of the Government of the United States:

JOHN G. WINANT
CHARLES FAHY
HARRY J. MALONY
HAROLD BIESEMEIER

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