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The Polish National Defense Committee

1225 North Ashland Avenue, Chicago, Illinois



XXVII

May 25, 1916.

Hon. Robert Lansing,
Secretary of State of the United States,
Washington, D. C.

The Polish National Defense Committee, established for the defense of the rights of the Polish nation, addresses itself to you as the Secretary of State of the United States with the following suggestions:

Whereas, The territories of the Kingdom of Poland have been freed entirely from the occupation by the armies of Russia, who occupied it since the fall of 1831 with a short intermission in certain portions of it in 1863-64; and

Whereas, The military authorities, as well as the representatives of the governments of the Central Powers, do not wage war on the Polish nation, but, on the contrary, bring it liberation from the foreign yoke; and

Whereas, The terrible devastation of Poland, caused purposely by the retreating Russian troops by order of the Russian authorities, calls for a supreme effort on the part of the Polish nation for the reconstruction of the normal life as far as it will be possible; and

Whereas, Such reconstruction, and especially the work of saving the people from starvation, which threatens it through the Russian devastation and the opposition of England and Russia to any help from the American nation by the prohibition of the import of foodstuffs into Poland, calls for independent activity of the social forces of Poland, and

Whereas, The return of the Russians to Poland would complete the work of destruction and would endanger even the existence of the Polish people; and

Whereas, It is necessary to place the fate of the Polish nation again into its own hands in order to re-establish its economic life and to insure it against the return of the Russian regime; and

Whereas, According to Mr. Wolcott of the Rockefeller Foundation, the extent of suffering in Poland is so great that no amount of private charity will be sufficient for its alleviation and that only a national loan from neutral nations may be adequate to the requirements of the starving and ruined country, and as such a loan may be made only if Poland once again becomes a sovereign power, which alone can contract and guarantee debts;

Therefore the Polish National Defense Committee turns to the international law, of which the constitution of the Kingdom of Poland signed November 15-27, 1815, by Alexander I, and sworn to by him, is a part, and considers that the Kingdom of Poland is not a part of the Russian Empire, but, on the contrary is an independent power. The authority of Russia in Poland, after 1831, was based exclusively upon the fact of the occupation of Poland's territory by the Russian troops, and had therefore such character and such rights as have been formulated in Articles 42, 43 and 55 of Section III of the Annex to the convention of the Hague, 1907. (1907 Annex to the Convention. Regulations respecting the laws and customs of war on land.) That authority ceased to exist according to Part Second, Article 42, which reads as follows:

"The occupation extends only to the territory where such (of the hostile army) authority has been established and can be exercised."

According to the tenor of the above article, as soon as the hostile army—in this case the Russian army—left the Kingdom of Poland, the lawful authorities should return, and these are, according to the Constitution of the Kingdom of Poland and the law adopted by the Polish Parliament, February 19th, 1831, the Parliament of Poland until the election of a new king by the Parliament.

The Polish National Defense Committee presents here the proofs of the legal status of the Kingdom of Poland today demonstrating who constitutes its legal authority according to the international law and that the re-establishment of the Kingdom of Poland through the convocation of the Polish Parliament is the only way to the protection of that country against the new invasion of the Russian troops. The Committee considers also that this is the logical starting point of the solution of the Polish question, which Russia, with the consent of France and England, although contrary to the international law, declares to be an internal question of the Russian Empire.

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The present political status of Poland according to International Law.
THE KINGDOM OF POLAND IS A STATE INDEPENDENT FROM THE RUSSIAN EMPIRE AND NOT ITS INTEGRAL PART.

Article I of the Constitution of the Kingdom of Poland signed by Alexander I, on November 15-27, 1815, says that "the Kingdom of Poland is united forever with the Russian Empire." The basis of the union is the Constitution of the Kingdom of Poland itself.

Article II says: "The civil and political relations of the kingdom and the bonds that are to perpetuate the union are described by this Constitution." And the Constitution defines the union of Poland with the Russian Empire only by the following words of Article III.

"The crown of the Kingdom of Poland is hereditary in our person and in the persons of our descendants and heirs, according to the order of succession established for the Russian imperial throne."

It was therefore a personal union, because the Kingdom of Poland possessed its own legislature, executive authorities, judicial powers, treasury, state debts, money, language, army and a separate secretary of foreign affairs. (Article LXXXI).

2. The King of Poland was constitutional monarch and took the oath of fidelity to the Constitution according to the formula attached to Article XLV of the Constitution. All acts emanating from the King had to be countersigned by a responsible minister of Poland (Art. XLVII). The regency of the Kingdom of Poland is thoroughly separate from the regency of the Russian Empire. It is being elected by the senate; the only link with the Russian Empire is the Regent of the Empire, who in the regency of the Kingdom of Poland is only one of the six members of the Polish Regency, established according to Article LI of the Constitution. As the King of Poland was at the same time Emperor of Russia, and had as the head of the Russian Empire the unlimited power to declare war or conclude peace, the community of the direction of the foreign policy resulted from the cumulation of these two powers. Notwithstanding this, however, the political separation and independence of the Kingdom of Poland was emphasized by the existence of a secretary of state of the Kingdom of Poland, who was to reside near the person of the King. All foreign affairs relating to the Kingdom of Poland had to be submitted to this secretary, according to the Articles LXXVII and LXXXI of the Constitution.

The Kingdom of Poland according to Articles IX "had the right to participate or not to participate in the wars conducted by Russia, in the treaties of peace concluded by that power." This participation, however, depended solely on the King (Art. IX), as the King alone possessed the full executive power, was the commander of the army and had the exclusive right to declare war and to conclude peace and make treaties, (Art. XXXV, XXXVIII and XL).

The legal authority of the Kingdom of Poland is the Polish Parliament.

1. The Detronization of the dynasty of the Romanoffs.

January 25th, 1831, at the joint session of both houses of the Parliament there was passed an act which removes Nicholas I and his descendants from the throne and proclaims a new election in the following words:

"The Polish Nation declares itself to be an independent people and to have right to give the crown of Poland to whom it will find worthy of it, to one who may be trusted to keep his oath of fidelity and hold inviolate the sworn liberties of the people.

Nicholas I, himself acknowledged the legality of this act of detronization for at the end of the war following, in his negotiations with the Government of the Kingdom of Poland he put repeatedly as the first condition of peace the recall of this law by the Parliament and renewal of recognition of him as King.

2. On February 8th, 1831, the joint houses of the Parliament adopted declaration, stating that "as the oath of fidelity to the former King and the heir apparent is annulled the Kingdom of Poland remains a constitutional monarchy with dynastical hereditary right, and that until the Nation elects a King through its Parliament, all public officials have to swear allegiance to the Parliament as the Representative of the Nation."

The powers of the Polish Parliament did not cease after the suspension of hostilities.

1. Through its resolutions adopted between February 19, and 26, 1831, the Parliament proclaims itself to be permanent and resolved that it has the right to remain in function even outside the borders of the country, the quorum necessary at the sessions outside the country to be 33 members. According to that resolution, two years after the war and when the whole territory of the Kingdom of Poland was occupied by the Russian troops and the military rule was established, the Polish Parliament held a legal session in Paris, January 3rd, 1833. Thus the Polish Parliament took the same stand in face of the Russian occupation of Poland as in the present war the Governments of Belgium, Serbia and Montenegro, which continue to officiate in foreign countries, outside of their own territories after the occupation of their countries by the troops of the Central Powers.

2. Thus as no legal authority of the Kingdom of Poland concluded any peace with Russia neither in 1831, nor later, and as no legal Polish authority ever proclaimed in any note or otherwise the incorporation of Poland into Russia, but on the contrary, Nicholas I in a circular note, sent to all governments in Europe, declared emphatically, that the national rights of Poland will not undergo any restriction, as they are a part of the state law of Europe, the Kingdom of Poland, in spite of its occupation by the Russian troops and of the activity of the Russian authorities did not lose its potential independence, according to the Articles XLII, XLIII and LV, Sec. 3 of the regulations and Annex 1907, to the Convention of Hague. This independence can be reactivated upon the basis of the Constitution of the Kingdom of Poland, which continues to be part of the international law with the amendments which have been adopted by the Polish Parliament, January 25, and February 8th, 19th, and 26th, 1831, and which have not been questioned as to their legality by Nicholas I, the deposed King of Poland.

The reactivation of the Kingdom of Poland has been accomplished by the Central Powers exactly according to the legal principles as explained in this memorial.

The manifesto of Germany and Austria - Hungary of November 5th 1917 which proclaimed the reestablishment of the independent Kingdom of Poland did not create any new state out of Russian territory. It stated only the fact, that the Kingdom of Poland having been freed from the occupation by Russian troops comes back to its right as an independent country.