Government payment to the people on account of war services and damages.

In considering this, we must first distinguish 1st war services rendered to our own government. 2nd war contributions exacted by the enemy 3rd war damages and namely

a) those caused by the order of our own government.

b) those caused by our own government by accident.

c) those caused by the enemy.

d) those caused by riots and local disturbances.

1st

War services rendered to their own government.

Among the services rendered by the country to their own government we include 1st the furnishing of Bread (in Japan Rice) meat, forage for horses, given to the public provision magazines, 2nd the feeding of soldiers and officers on their march and when

quartered in the country. 3rd the furnishing of means of transport for instance horses, cattle, carriages etc. 4th the furnishing of timber for huts, and barracks, the fire-wood for cooking and warming and the materials for the building of Bridges and 5th the furnishing of human labour, Buildings, land, horses for the cavalry and artillery etc. 6th the furnishing of various war materiae which are too numerous to enumerate all, therefore only examples can be given, for instance, arms, clothing, leather saddlery, materials for fortifications, tools, field furniture, shoeing of horses, medicines, Bandages, and extraordinary necessaries for the care of the wounded.

The personal military services are not mentioned here, neither have we included those taxes which ~~we~~ are levied in war called <u>war taxes</u> which we shall consider seperately at the end of this article.

The Prussian Law which may be considered as in accordance with the general custom of wes

no indemnity from the treasury in the following cases:
1st for the furnishing of lodging to officers, military officials, soldiers and horses, whether on the line of march or in cantonments.
2nd for the furnishing of the necessary guides, messengers, horses or cattle for carriages, and other means of transport (unless they are employed for the removal of a magazine) for the furnishing of men or transport material for the repairs of roads and bridges and fortifications.
3rd for the furnishing of disposable or empty houses or places to employ them for magazines or hospitals, further for those buildings employed for guards, workshops or the storing of military goods further for land required for camps, for the exercise of troops and for the placing of artillery or waggons. (until the time for the sowing of seed arrives)
For those services mentioned under 2 the state only pays a remuneration when men

or horses are taken away more than 4 German miles from their home and in case when the manual labor has passed within a month more than the tenth portion of the population of the community required, or when the number of days on which horses or cattle for transport have been furnished, have passed in a month the double number of the local transport means, and even in this case the remuneration is only calculated according to the prices of ordinary times. —

In former times the obligation to furnish quarters (lodgings) to officers and men was entirely the duty of the <u>houseowners</u> in proportion to the housetax they paid but at present this is equally divided between the <u>houseowners</u> and <u>renters</u>. The houseowner furnishes in proportion to the space reserved and the tenant in proportion to the space he has rented. The same principle is adopted in regard to the furnishing of food for in this instance

also it is important that equality of service should be obtained for it is not as in the preceeding simply a case of inconvenience but an expenditure of material and money. Naturally every patriot gives with pleasure to his country ~~to~~ men in arms which he can, but the repayment of such expenditure would be just and equitable. Prussia pays to every lodgment furnisher for food given to one soldier per day 5 silbergroschen (about 15 sen) but when the bread can be received from the magazines only 3 silbergroschen 9 Pfennige (11 sen) are paid. When however only a portion is furnished of the daily supply as is the case on the line of march, or when travelling by Railway when the dinner or breakfast ~~also~~ alone is furnished, the allowance is reduced to one half. The food is supposed to be the same as the host eats his own table, but in case of dispute he must furnish the same the soldier would

receive from the magazines.
In regard to the furnishing of horses and cattle the rule used to be, to require a certain number from its landed proprietor in proportion to the value of his estate, this rule was often very harshly and unjustly applied.
In consequence of the German law of universal military serviceable horses required by Government are required to be furnished free of charge to the army on the mobilization (being registered for this purpose in each district first as are the men). The state refunds the losses incurred during the time of war, when the peace is restored, those horses still alive are restored and those which must, on account of being unfit for service be sold, are paid.
Supplies from the country into government storehouses are devided on the provinces, districts, and communities. (villages). In Prussia the devision of the necessary requirements is

made 1st for province by the Minister of the Interior taking into consideration the situation and power of supply of them. 2nd Into the districts contained within a province the division and application takes place by the Supreme Provincial President with the cooperation of a commission elected by the Provincial Administration. The division among the communities (villages) contained in each district takes place by the Landrath (Chief of district) assisted by a commission elected by the representative body of each district. In regard to calculating the remuneration for these supplies, they are calculated according to the average of the previous ten years of peace (leaving out the dearest and ~~cheapest~~ cheapest years) of lands or buildings which are private property are employed for warlike purposes it may be said that as a Rule the owner receives some remuneration. (there are some exceptions for buildings situated around the lines of fortifications called fortress (radius).

For labor employed for military

purposes the local prices must be paid but as some military works are made entirely for the local advantages as for instance erecting a fortification wall against an attack of the enemy, it might be in these special cases paid by the local funds.

The question how are all expenditure above mentioned to be paid we find that the principle generally adopted is that they are either paid in cash or by the issue of an recognizance. The payment in cash should take place, as long as this can be done without prejudice to the gov.t, particularly the state ought to pay at once such expenditure which individual not generae claims and incurred by the individual by actual expenditure. For instance the furnishing of clothing, saddlery, field equipments, also medicines and bandages are paid in Prussia from the war treasury according to average prices of the time of supply and place. For all other payments like material furnished to magazine, lodging of troops etc which partake

of the nature of an equitably decided service, the Government should issue bearing interest recognizances (temporary bonds with a fixed interest). The state pays the indemnity to the districts and the districts and communities have to settle with the individuals. In Prussia the equitable division of indemnities is left to the provincial and district representative bodies, and no appeal is allowed against their decision. In order to put a term to the settlement of accounts and payments a certain date is settled for the presentation of claims for indemnity and all those claims presented too late are rejected.

1.

2. War contributions exacted by the enemy.

There has been among statesmen great discussion whether an enemy has the right to levy contributions and whether the state has afterwards the obligation to repay it to its subjects. Some have maintained that war is like a process at law and one of the parties must afterwards pay the expenses, but this does not with right apply, for it will be shown that the payment by the state ( ) of requisitions and contributions exacted by the enemy is neither legally founded nor politically desirable.

The reason of this is very clear the own state has not desired these charges on the people it has on the contrary done every thing to prevent it, it is therefore not caused by the neglect of the government, there is therefore neither an act of offence or neglect on the part of the government, therefore no obligation on the part of the government to pay. From the point of view of the government they can only look on it as misfortune and this has to be born by those who have suffered it

This is

This is the legal argument that the government should not pay the contributions exacted by the enemy. We shall now consider the political point.

If the state should recognize and admit that it is obliged to indemnify for all contributions which the enemy has made, he would not only take upon himself a very considerable amount of claims, the veracity of which is would be impossible to control but it even would give to the enemy the best means, of drawing from the occupied territory the vital resources of the whole country, For as soon as the enemy would once know that the government would repay every thing he would not only demand from the inhabitants of the occupied districts not only what they could bear, but if possible, that which the whole country would have to supply. and the inhabitants of each occupied district would idly put ~~they~~ their hands in their pockets, and not made that determined resistance which a man generally shows when his own property is taken from him

him.

This is therefore a reduction of the power of defence and therefore not to be recommended at all. This is the political view of this question.

Therefore there is no legal nor political obligation on the part of the government to repay the exactions of the enemy but the question could only be viewed from consideration and this we find must be decided by the rules of public interest. Whenever the contributions of the sufferers are supported by the fact that they have undergone this in the public interest (for instance if the inhabitants of a forrest have by their courageous defence, caused the wrath of the enemy to rise so as to plunder their property by means of retaliation) their are strong claims for an adequate indemnity. But still there is no positive right and it depends altogether on the judgment of the government.

The public interest would be in these cases to make the question of indemnity dependent on the more or less resistance

offered

offered by the sufferers to the enemy, and to make it clearly understood that weak and submissive cowards have no hopes whatsoever to receive any contribution from the public treasury. Should therefore the contributions paid to the enemy have been paid to protect their private property and to recommend their persons to its favor there should be no restitution whatsoever. Such a population may bear itself the burdens of such expenditure. The remuneration should be a reward and encouragment of courage and resistance, and the unconditional refusal of indemnity should be the punishment of cowardice and weakness. If an indemnity is accorded under these circumstances it will raise the power of defence of the government to the disadvantage of the enemy, and will save a very different effect to that when the state recognizes unconditionally its obligation to indemnify.

These indemnities need

not

not be paid always by the whole state they may be partially borne by the several communities, districts and provinces.

It has been the custom in modern wars that the contributions were not pressed individually by the enemy but they were placed on whole communities, districts and provinces and in the distribution and collection as much as possible the local authorities were employed. These local authorities were ready to assist in order to reduce to equality at least the sad condition of the population by having order in the division of their contributions and fixing the individual supplies on the same principle as the application of taxes to the state.

If again in this distribution some individuals have been more severely handled than the others, it becomes the duty of the Community (village) fund to indemnify them for this, if any communities have

been

been particularly severely handled the district funds ought to assist them and if any of the districts have been more taken up than the others it is for the provincial funds to assist them and if finally any of the provinces have been more taken up than the other it is the state treasury that ought to come to their assistance.

If at the end of the war or during the same any contribution levied by the enemy are repaid, it is evidently the duty of the Government to pay this to the sufferer. If however as is generally the case, the enemy pays none or only a very small indemnity it will always then be only a kind of favor if the Government gives any indemnity to the sufferers. The same applies to the Government reducing the taxes for some time to a province which has suffered during war in order that it may regain its former strength.

Ots

We now come to 3d question the question of War damages.

The war damages caused by the troops of the government may be divided into (a) war damages caused in consequence of a direct order. (B) War damages which are caused by accident or by the malignity of individuals.

It is only in the first class that the state recognizes a legal obligations to indemnify. In the second instance, the indemnity is voluntary and made by pure equity from the treasury.

It is therefore impossible to say that there is a legal obligation to indemnity, if in consequence of the misfortune of war, cattle-plague commences and destroys the cattle, if an accidental explosion of a powder magazine destroys private property, if disbanded soldiers commit arson or plunder the inhabitants. But in a few cases the duty of the government is established to indemnify, thus, for instance, if its

authorities

authorities take possession of the private property for military purposes and destroy them or if in case of a contribution being demanded by the enemy the government has caused certain citizens to undertake the settlement thereof, for the protection of the others. In Prussia the claims for damages from the accidents of war is altogether excluded from the tribunals and can not be claimed at law;

The next to be discussed will be here how is the state able to pay the sums due for indemnities etc: will a state not be financially crushed by such an enormous debt? and will at large expenditure like this not cripple its resources to carry on the war with the energy and means required to secure success and victory? But it is evident that by an equal division of the burden on all the members of the state, and by a general effort of the same, the heavy

burden

burden which would otherwise remain on the shoulders of a few districts can be easily overcome, and it has therefore been recommended that in order to meet the expenditure as quickly and completely as possible it will be necessary immediately on the breaking out of a war to introduce a general new tax (at best an income or property tax) in the whole of the Empire, but to receive in payment of it also the recognizances (Receipts) given to individuals or to districts for war services. By this means; these receipts receive a regular exchange value, equal to their nominal value and they render thus double service (one as having served as payment for services and secondly as payment for the taxes by individuals)

As the payment of war-services has only the object to establish equality in the bearing of state burdens but has not for its object the giving of an advantage or profit for the individuals it stands to reason,

that the prices must be regulated not by the war rates but by a certain number of peace years taken at an average.

So far Lord Q. gives the opinion of the German statesmen and the spirit of the Laws on this question of war damages which must however be taken as applying more particular for war with a foreign enemy. But in regard to injury by disturbances in the interior I find in Prussia the following Rule dated 11th March 1850.

Wherever in a community a rising of riotous assemblement of persons take place, and when in consequence of their open violence, or in consequence of the legal means for its suppression, property is destroyed or persons injured, the community itself is responsible for the damages. But this responsibility should not take place when the damages are caused by a crowd entering from outside into the jurisdiction of the community when it can be proved that the inhabitants of the community were unable to resist

them, and in this case the obligation for indemnity is the duty of the community or communities from whose district the attack has taken place or where the assembly of the rioters took place unless also these communities were evidently unable to resist the attack, it is evident also that the local community can again recover damages from those individuals or bodies who are legally bound to bear it.

In several other German states there exist Rules of the same spirit.

(Signed)
Baron Von Seibold

10th April
1877.