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MINUTES OF PROCEEDINGS
of the
94TH. (SPECIAL) MEETING
of the
IMPERIAL WAR GRAVES COMMISSION

held at
H.M. OFFICE OF WORKS
on
Thursday 25th. November, 1926.

PRESENT:

Lieut. General SIR GEORGE MACDONOGH, G.B.E., K.C.B., K.C.M.G.,
in the Chair.

General SIR CLAUD JACOB, G.C.B., K.C.S.I., K.C.M.G.,
Representing the Secretary of State for India.

Colonel GEORGE W. BADGEROV, C.M.G., F.R.C.S.,
Representing the High Commissioner for Canada.

The Rt. Hon. SIR JOSEPH COOK, G.C.M.G.,
High Commissioner for Australia.

C. KNOWLES, Esq.,
Representing the High Commissioner for New Zealand.

R. WEBSTER, Esq.,
Representing the High Commissioner for South Africa.

SIR HENRY MADDOCKS, K.C.,

Lieut. General SIR ROBERT WHIGHAM, K.C.B., K.C.M.G., D.S.O.

Colonel LORD ARTHUR BROWNE, K.B.E.,
Principal Assistant Secretary.

THERE WERE ALSO PRESENT :-

M.L. SHEPHERD, Esq., I.S.O.

Lieut. Col. SIR HERBERT ELLISSEN, C.B.E.

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On the proposal of Sir Joseph Cook the Chair was taken by Sir George Macdonogh.

SIR GEORGE MACDONOGH regretted that the fog had apparently prevented the attendance of some of those who had promised to be present.

He would explain the circumstances which gave rise to the summons for a Special Meeting of the Commission.

On the 16th. instant a Meeting of the Finance Committee had been held at which it was proposed to consider the insurance premium to be paid for Sir Fabian Ware in accordance with the terms of the resolution passed by the Commission on the 11th. August. The Treasury Representative had asked that the resolution should be postponed thus adopting the same attitude as at a previous Meeting.

The Finance Committee accordingly resolved that a deputation consisting of Mr. Gosling, Sir Henry Maddocks, Mr. Shepherd and himself should put the matter before the Chairman, Sir Laming Worthington-Evans.

This was done on the 17th. instant when Sir Laming was informed of the resolution which the Finance Committee desired to pass. The deputation had also drawn attention to the letter written in March 1920 by Sir George Barstow on behalf of the Treasury, and the Minutes of the Meeting held with the Chancellor of the Exchequer the previous year. He would read Sir George Barstow's letter which began: "I am directed by the Lord Commissioners of His Majesty's Treasury to state for the information of the Imperial War Graves Commission that in connection with the estimates for the coming financial year my Lords think it desirable to place on formal record the arrangements with regard to the control of the Commission's expenditure" (Letter read)....

The point of the letter was that the Treasury

recognised very clearly that the Commission was at liberty without further authority from the Treasury to incur expenditure which in its results and commitments would not involve an excess beyond the approved total.

At that time Sir Austen Chamberlain was Chancellor of the Exchequer. At the Meeting to which he (Sir George Macdonogh) had already referred Sir Austen had said, "There was no reason why the Commission should not grant a pension so long as the constituent parties in the Commission were willing to pay it, but they could not give them Parliamentary guarantees. He recognised that the Commission was a body in which each constituent had equal rights and that this partnership would continue until some party or other was so profoundly dissatisfied with the condition of affairs that it withdrew".

Sir Laming Worthington-Evans had been impressed by the record of the Meeting and thought it was clear that the Commission were at liberty to pass any resolutions they liked within the limits of the fund at their disposal; he had also proposed to take the matter up with the Chancellor of the Exchequer.

Another Meeting of the Finance Committee was held the next day (18th.) when the following resolution was passed :-

"It was resolved:-

That the Committee having considered Resolution 17 of the 134th.Meeting of the Finance Committee; Resolution 2 of the 90th Meeting of the Commission and Resolutions 2(h) and 2 (i) of the 91st.Meeting of the Commission and a letter dated 27th. October 1926 from Major-General Sir Fabian Ware, recommend :-

- (1) That the policy to be taken out by the Commission in favour of Major-General Sir Fabian Ware

under the terms of the Commission's Superannuation Scheme be taken out with the National Provident Institution.

(2) That the expenditure of a sum of £400 per annum to defray the cost of the premium payable to the National Provident Institution in respect of the proposed policy, be approved.

(3) That a copy of this resolution be sent to the Chairman of the Commission and to the Secretary of the Treasury.

It was further resolved:

That the Committee do forthwith report their recommendation to the Commission and that the Vice-Chairman be desired to call a Special Meeting of the Commission on the 25th. November 1926 to consider such report and that the Secretary of the Treasury be desired to invite the Lords Commissioners of His Majesty's Treasury to cause any observations they may have to make on the subject matter of the Committee's recommendations to be sent in writing to the Secretary of the Commission before that date".

In accordance with the last resolution a copy of the resolutions was sent to the Secretary to the Treasury. A reply had been received that morning. He understood that their Chairman had seen the draft copy of the reply and had agreed to its being read to the Commission, Letter read. (Copy attached).

In regard to the Vice-Chairman's salary he would read a letter from Sir James Allen dated 31st. July 1926 the day on which he had handed over his appointment as High Commissioner for New Zealand in which he had expressed his opinion regarding Superannuation contributions. (Letter read).

He (Sir George Macdonogh) had also received a private letter from Sir Robert Hudson regretting that he was unable to attend and expressing his opinion that the continued employment of Sir Fabian Ware was indispensable until the machinery for the permanent care of graves was completed and consolidated, and desiring to associate himself with the protest of the Commission against the line adopted by the Treasury.

He had also received a telegram from Mr. Kipling regretting that owing to fog he was unable to reach the Meeting but agreeing to the Finance Committee's recommendation in the resolution on the Agenda.

The question now before the Commission was the action to be taken in view of the Treasury letter.

SIR JOSEPH COOK enquired whether the arrangements which Sir Fabian Ware was alleged to have made with the Treasury were known to the Commission when they made their proposal for paying his premium, namely that he had offered to take £2,000 and to regard the other £500 as a fund to build up a pension.

SIR GEORGE MACDONOGH read a note from Sir Fabian Ware explaining the point. It ran as follows :- "The Treasury refused me a pension and I asked that at least the Treasury should agree, if I undertook to invest £500 per annum in an insurance policy, to treat this as exempt from Income Tax, as it was really tantamount to a pension. I tried to get this further concession, but was definitely refused it".

He (Sir George Macdonogh) understood that the Chancellor of the Exchequer had refused to grant a pension to Sir Fabian Ware and to all employees of the Commission on the ground that the Treasury was only empowered to grant pensions to those paid out of the Consolidated Fund. The most that the Chancellor of the Exchequer was prepared to grant at that time was £2,500

a year salary. All that Sir Fabian Ware's conversation with Sir Austen Chamberlain's Private Secretary amounted to was that he might be exempted from Income Tax and Super Tax on £500 in order that that sum might be employed for the purpose of providing himself with a pension by means of insurance.

He (Sir George Macdonogh) did not think Sir Fabian Ware had abandoned his claim for a pension supposing one was approved later on. The extracts which he had already read from the Chancellor's speech show that there was no reason whatever why the Commission should not subsequently grant a pension to all or any of its employees, always provided that they did so out of the funds at their disposal.

The amount of Income Tax at the time was 6/- in the £. plus Super Tax. At the present time it was 4/- in the £. or £500 out of his present salary, in addition to Super Tax.

SIR HENRY MADDOCKS said he had been present at the interview with Sir Laming Worthington-Evans and in his opinion Sir Laming had admitted the principle for which the Commission were contending i.e. that it was for the Commission and not the Treasury to settle the remuneration to be paid to their various officers; that while the Commission were fully prepared and anxious to consider any point brought forward by the Treasury they (the Commission) had that power and the Treasury should acknowledge the fact. He thought the matter before them raised this principle very clearly. If the Commission thought fit they had a perfect right to give special remuneration to Sir Fabian Ware or any other official or even, as in the case they were considering, to grant an additional benefit beyond that originally contemplated. So long as they kept within the provisions of their Charter the Treasury had no right to interfere.

With regard to the last paragraph of the Treasury

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letter he thought that from the explanation given it was quite obvious that no Superannuation Fund for Officers of the Commission was contemplated at the time. Now they had brought into existence a Superannuation Scheme chiefly through the efforts of their present Chairman, and the question arose whether they would allow Sir Fabian Ware to have the benefit of it. In his view the Commission alone could decide the answer.

MR. SHEPHERD agreed.

MR. KNOWLES enquired why Sir Fabian Ware was not contributing to his pension.

The Chairman (SIR GEORGE MACDONOGH) said that Sir Fabian Ware had found it necessary when the original final offer of £2,500 a year was made to him to form a pension fund and therefore proposed to apply the sum of £400 to £500 a year to the purchase of an Endowment Policy. It was in connection with this Endowment Policy that he had endeavoured to get exemption from Income Tax for the premium. As he was already contributing, the Sub-Committee which dealt with the question of superannuation had decided not to ask him for a further contribution but had accepted his existing premium as his share of the contribution to the Superannuation Scheme. At Sir Fabian Ware's age the £400 a year contributed by the Commission as premium would produce at maturity a year's salary plus bonuses. The whole difficulty with the Treasury was really the amount of salary to be paid.

SIR JOSEPH COOK said they were cutting down salaries of the other permanent officials but leaving his intact.

SIR ROBERT WHIGHAM pointed out that the Commission were in effect paying Sir Fabian roughly £2,900 instead of £2,500.

SIR GEORGE MACDONOGH said that Sir Fabian was in a peculiar position. He had held important posts in civil life in which, if he had retained them, he might have received a higher salary than he

was obtaining from the Commission.

MR. WEBSTER enquired as to the statement of the Treasury that £500 out of the £2,500 was an element representing compensation for the absence of non-effective benefits.

SIR GEORGE MACDONOGH said that at their 12th. Meeting on the 20th. May 1919 the Commission had discussed the matter and passed the following resolution:-

"That the Commission, having read a letter from the Chancellor of the Exchequer of the 19th. May, take note that he agrees with the amount of the annual salary proposed to be paid to the Vice-Chairman for a period of ten years, are unable nevertheless to abandon the principle of fixity of tenure and of compensation in the event of termination which is established by the resolution recommended by the Finance Committee, and invoke the good offices of the Chairman to take up the further discussion of the matter with the Chancellor".

In regard to the expression "termination" the proposal made by the Finance Committee was that in the event of Sir Fabian Ware's appointment terminating before the completion of the 10 years he should be given a sum of £1,500 per annum for the unexpired period. The actual resolution of the Finance Committee read as follows:-

"That Major-General Fabian Ware be appointed Vice-Chairman of the Imperial War Graves Commission devoting all his time to the duties of the office, the appointment to be for a period of at least ten years and with a salary of £2,500 a year, it being understood that until the President shall otherwise determine, the Vice-Chairman shall with the assistance of the

Assistant-Secretaries, also perform the functions of Secretary under the Charter. It is further recommended that the Commission should have the power to decide to terminate the appointment of General Ware before the expiry of ten years, but in that case, unless such decision is founded upon any fault or breach of duty on his part, he shall be entitled, by way of compensation, to receive a sum being not less than £1,500 per annum for the unexpired period, but not exceeding £7,500.

Sir Fabian Ware had served on the Commission since 1917 and on their pay since 1919.

He proposed that they should deal with the objections raised by the Treasury by a separate resolution on each. With regard to the first ground of objection the contention of the Treasury that the rate of £2,500 originally agreed to was intended to be for the period of construction only was in his opinion not justified. In Sir Austen Chamberlain's letter of the 19th, May 1919 there was no reference to the period of construction. The last paragraph ran "I am prepared to sanction the grant of a salary of £2,500 a year to General Ware while he is acting in this capacity". That meant during the whole time of his employment with the Commission.

The following resolution was moved by Sir Henry Maddocks, seconded by Sir Joseph Cook, and agreed :-

- (1) "That in the opinion of this Commission the duties of the Vice-Chairman as outlined in the first ground of objection submitted in Sir Russell Scott's letter of the 23rd, instant are therein insufficiently and inadequately set out and they are unable to agree that the grant of remuneration for his duties

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at the rate of £2,500 per annum with non-effective benefits as contemplated in the Report of the 140th.Meeting of the Finance Committee is other than reasonable and proper; they are further unable to agree that the letter of Sir Auster Chamberlain dated 19th.May 1919 bears the interpretation suggested".

SIR GEORGE MACDONOGH said that with regard to the Treasury's second ground of objection it had been pointed out to them that there was a great difference between a man who entered the Civil Service and made it his life career and that of a man who came in the middle of his active life and with only 10 or 15 years of work left.

The following resolution was moved by Sir Robert Whigham, seconded by Sir Claud Jacob, and agreed :-

- (2) "That this Commission regrets that it is unable to agree with the suggestion contained in the second ground of objection submitted in Sir Russell Scott's letter of the 23rd. instant in view of the resolution passed at the 12th.Meeting of the Commission as follows:-

"That the Commission having read the letter from the Chancellor of the Exchequer of 19th. May 1919 take note that he agrees with the amount of the annual salary proposed to be paid to the Vice-Chairman for a period of ten years but are unable nevertheless to abandon the principle of fixity of tenure and of compensation in the event of termination which is established by the resolution recommended by the Finance Committee and invoke the good offices of the Chairman to take

up the further discussion of the matter with
the Chancellor
and in view of Sir George Barstow's letter of the
4th. March 1920".

SIR GEORGE MACDONOGH said that in their third ground of objection
the Treasury had compared the position of the Vice-Chairman
with those of the Commission's Superintendent of Maintenance
and the Chief Horticultural Officer; he thought they were not
altogether comparable.

The following resolution was moved by Colonel
Badgerow, seconded by Sir Henry Maddocks, and agreed:-

- (3) "That in the opinion of this Commission the
principle referred to in the third ground of
objection submitted in Sir Russell Scott's letter
of the 23rd. instant does not apply to the
present holder of the appointment of Vice-
Chairman and the grant of non-effective benefits
contemplated in the report of the 140th. Meeting
of the Finance Committee is a recognition of
his exceptional position".

SIR GEORGE MACDONOGH said that in their fourth ground of objection
the Treasury contention was that Sir Fabian Ware had agreed
that £500 should represent compensation.

SIR HENRY MADDOCKS said that the proposed resolution pointed out
that by the second resolution that had just passed the
Commission had declined to abandon the fixity of tenure and
compensation.

After considerable discussion the following
resolution was moved by Mr. Knowles, seconded by Sir Joseph
Cook, and agreed:-

- (4) "That this Commission are unable to agree with
the observations contained in the fourth ground of

objection submitted in Sir Russell Scott's letter of the 23rd. instant in view of the resolution of the 12th. Meeting of the Commission set out in the second part of this resolution and in view of the discretion given to the Commission by Sir George Barstow's letter of the 4th. March, 1920".

SIR GEORGE MACDONOGH said that it now remained to confirm the Report of the Finance Committee.

The following resolution was moved by Colonel Badgerow, seconded by Sir Henry Maddocks, and agreed :-

- (5) "That in view of the foregoing the Report of the 140th.(Special) Meeting of the Finance Committee be adopted".

SIR JOSEPH COOK thought that they should now report their action to the Chairman and set out the general reasons.

After some discussion it was decided that the Secretary should be directed to draft a letter to the Treasury to be submitted to the Commission at their next Meeting before despatch.

The following resolution was moved by Sir Joseph Cook, seconded by Mr. Webster, and agreed:-

- (6) "That it be an instruction to the Secretary to draft a letter to the Treasury setting out the action taken and to submit such draft letter to the next Meeting of the Commission".