

28

E 2800/1990/106/17
[DoDiS-45]

*Le Professeur W. Rappard
au Ministre sans Portefeuille de Grande-Bretagne, Ph. Noel-Baker*

Copie

L Personal and confidential

Genève, September 21st, 1945

My dear Noel-Baker,

Your interesting letter marked «strictly personal and confidential», dated September 13th, 1945¹, was handed to me this afternoon at Valavran at 1.50 P. M.

As you will readily recognise, it was impossible to construe your recommendation very narrowly and at the same time send you a reply that would be in any way helpful. It is therefore with the authorisation of those whose opinion counts for far more than mine² that I asked your excellent Minister in Berne to be good enough to send you the following wire:

«Letter September 13 received only September 21 afternoon cordial thanks. Enclave suggestion has been submitted to thorough legal study by our Foreign Office. Tentative conclusions expert show grave constitutional and great practical difficulties. In order to make positive proposals Government would have to submit question to Parliament and probably to popular referendum after ascertaining views France. In view certain delay and uncertain result would seem unwise base policy on doubtful acceptance suggestion. Federal Government of course happy if Geneva seat and very anxious restore relations with Moscow. Am writing».

As I do not wish to bother you with an interminable letter, I shall add but a very brief comment.

We are all fully aware over here of the difficulties arising out of the present position, which in fact is strangely similar to that with which we were faced twenty-six years ago. Then also, Switzerland's entrance into the League of

1. *Non reproduite. Dans cette lettre, Ph. Noel-Baker écrit e. a.:* But I think there is no chance of persuading the Russians to come to Geneva unless an international enclave is set up. I am told by some people that the authorities in Geneva and also the Swiss Government are ready to make proposals on this matter, and indeed that they have already drawn them up in detail. If this is true, I should be most grateful if you could let me have the proposals at the earliest possible moment by our Legation bag, and if you could write me fully and confidentially what is the present situation. If there is to be an enclave, it is of course desirable that it should include all the existing League and ILO buildings, the aerodrome, and a hotel, e. g. the Carlton, and there should, if it is at all possible, be access to a railway without passing through Swiss custom houses. Cf. DoDiS-43.

2. *W. Rappard avait obtenu l'approbation de M. Petitpierre quant au contenu de cette lettre.*

Nations was uncertain at the time the seat of the League was fixed at Geneva. Let us try to look upon that precedent as encouraging!

When the idea of the enclave³ was first brought to our attention some months ago, the people at Berne were inclined to look upon it as too adventurous to be taken seriously. After my recent visit to London, however, they went into it very thoroughly and asked a member of our Federal Tribunal⁴ to examine the problem it raises in its legal and constitutional aspects. There is no doubt that the cession, were it only on a long lease, of national territory, is a matter of the highest importance, as everything that deals with the political independence and territorial integrity of any state. The smallness of Switzerland and of the Canton of Geneva and the fact that an enclave going from the Lake to the French frontier would separate the city of Geneva from Switzerland, still further enhances the delicacy of the problem. As it is one which cannot be solved by the Federal Government alone and still less, of course, by the Conseil d'Etat of the Canton of Geneva, it is impossible to base any policy on the assumption that the Federal Parliament and the people at the polls would be prepared to make the necessary concessions.

What remains certain, on the other hand, is that the Federal Government and the large majority of the Swiss people would be very happy to see the new organisation take the place of the old in Geneva if that could be done under conditions satisfactory both to the United Nations and to Switzerland. As this would depend on the still uncertain relations which it would be found possible to establish between that mighty organisation and this tiny state, it is obvious to me that nothing final can be arranged at this juncture.

What is certain also is the unanimous desire of the Swiss Government to hasten the re-establishment of normal diplomatic relations with Moscow. I mention this circumstance here and in my wire in connection with the first sentence of the second paragraph of your letter.

I fully realise how unsatisfactory my reply to your letter may strike you, but I am sure that on reflection you will recognise as I do that it could hardly be otherwise and I am not without hope for future developments.

3. *Sur la création d'une enclave de l'ONU à Genève*, cf. E 2001 (D) 8/6-7.

4. *Avis de droit du Juge fédéral H. Huber*, cf. E 2001 (D) 8/7.