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Manton, T. Manton

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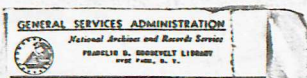
MANTON, MARTIN T.

From the Papers of the
Democratic Nat'l. Comm.

Judge

August 19, 1932.

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Dear Manton:

Ever since the Convention I
have been meaning to write you a note to
thank you for all that you did. I appreciate
it very deeply.

I hope I shall have the pleasure
of seeing you soon and that you are having a
happy summer.

Always sincerely yours,

Hon. Martin T. Manton, Judge
United States Circuit Court of Appeals,
Postoffice Building,
New York, N. Y.

UNITED STATES CIRCUIT COURT OF APPEALS
SECOND JUDICIAL CIRCUIT

March 3, 1934.

February 25, 1934.

P. P. F.

My dear Judge Manton:

I am in receipt of your letter of February twenty-sixth and took pleasure in laying before the President the paper you send him the enclosed, which was prepared by you. I am sure he will be interested in reading it over at a favorable opportunity.

Very sincerely yours,

M. A. LeHand,
PRIVATE SECRETARY

Honorable Martin T. Manton,
U. S. Circuit Judge,
New York, New York.

es

UNITED STATES CIRCUIT COURT OF APPEALS
SECOND JUDICIAL CIRCUIT

CHAMBERS OF
MARTIN T. MANTON
U. S. CIRCUIT JUDGE
NEW YORK CITY

February 26, 1934.

LeHand

M.L.

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My dear Miss LeHand:-

When I saw the President on Wednesday last, I promised to send him the enclosed paper which I wrote on "Governmental Defaults in the Payment of Contractual Obligations". I know he is desirous of seeing it; will you kindly place it before him?

Sincerely yours,

Martin T. Manton

Miss Margaret LeHand,
The White House,
Washington, D.C.

Martin T. Manton

UNITED STATES CIRCUIT COURT OF APPEALS
SECOND JUDICIAL CIRCUIT

CHAMBERS OF
MARTIN T. MANTON
U. S. CIRCUIT JUDGE
NEW YORK CITY

February 26, 1934.

Dear Mr. President:-

As promised when I saw you on Wednesday last, I am sending you for your perusal and use, the article I referred to on "Governmental Defaults in the Payment of Contractual Obligations". If, after reading it, you feel that I can be of any assistance in connection with this subject matter, please command me; I will co-operate with you or any other person you may suggest.

With very kind remembrances, I remain

Sincerely yours,

Martin T. Manton

His Excellency,
Franklin D. Roosevelt,
The White House,
Washington, D. C.

**GOVERNMENTAL DEFAULTS IN THE
PAYMENT OF CONTRACTUAL
OBLIGATIONS**

By
MARTIN T. MANTON



GOVERNMENTAL DEFAULTS IN THE PAYMENT OF CONTRACTUAL OBLIGATIONS.

(A)

THE PROBLEM.

In the dislocated and distressed condition in which the structure of International Finance finds itself at present, no single event has been so deplorable or has contributed with such telling effect to undermine popular faith and confidence in the integrity and credit of certain governments and in the honesty of financial institutions, as the wholesale repudiation and default of loans validly contracted by those governments. It is roughly estimated that American investors hold over \$1,500,000,000 worth of defaulted bonds issued at some time or other by foreign governments and their political subdivisions,¹ and British investors have also suffered through such defaults to the extent of millions of pounds sterling. The 59th Annual Report of the Council of the Corporation of Foreign Bondholders for the year 1932 lists forty-three nations and their subdivisions who have defaulted in the payment of principal, sinking-fund or interest. French, German, Italian, and probably other investors have suffered, along with the American and British, through these defaults. These figures assume unbelievable proportions when defaulted foreign industrial bonds are taken into account.

In most cases, especially where government bonds are involved, the grounds most commonly invoked in

¹ New York Times, May 9, 1933.

justification of the defaults and repudiations, have been: (a) an alleged inability to pay, or (b) the pretended harshness and inequitableness of the original terms of the loan. The first ground—the inability to pay—seems to be practically incredible, and, we should add, is legally inadmissible. Borrowing governments, when they apply to the prospective lender for a loan, represent themselves always as actually possessed of the potential resources from which sufficient revenues will be forthcoming to make certain the amortization of principal, sinking-fund and interest on the bonds as they mature. We cannot possibly impute to those governments the intent to misrepresent or defraud. For a prospective borrower to make negative or false representations concerning its financial condition, capacity or disposition to pay at some future time, would naturally result in impugning its credit, and consequently, in the unqualified refusal of the loan. The presumption strikes us with a conclusive effect that, as a practical matter, the government *can* pay, and as a legal question, that it *must* pay. And, although, in fairness, it must be conceded that, in times like the present, when a widespread cycle of economic depression has adversely affected business, private resources and governmental revenues the world over, reducing, to a degree, the capacity of many governments to pay out of the ordinary revenues, yet, many special emergency measures of fiscal retrenchment on the one hand, and increment of governmental income on the other, can and should be adopted by debtor-governments in order to meet those obligations contracted on the faith and credit of their capacity for payment, thus saving the honor and integrity of the nation: qualities so essential to the State in the political and economic order of the Family of Nations. Then too, many of the outstanding obligations went into default years before the present crisis set in, when governments were

in rather favorable circumstances financially, so that the failure to pay cannot be attributed in those instances to such excuses as are invoked to justify the defaults under the abnormal conditions of today.

The second ground—harshness and inequitableness of the original terms of payment—though indefensible in a legal sense, presents a more plausible excuse, and one which, in view of *changed material conditions*, may call, as a matter of policy, for some suitable adjustment, reorganization or scaling down of the terms of the loan. Changed conditions making the original terms manifestly unfair and onerous, may warrant a demand for their partial modification, but can never excuse the outright unilateral cancellation or suspension of payments (as has been done) on bonded governmental indebtedness otherwise validly contracted. Creditors are helpless at present in the face of this general condition. Both grounds suggest a serious defect in the mechanism of the existing financial structure which calls for the adoption, and that most urgently, of some remedial *method* and the creation of some suitable *agency* whereby the whole question of capacity to pay, change in material conditions, and others that might arise, may be impartially inquired into, and, if found to exist, the terms and conditions of the obligations may be equitably ameliorated, or perhaps allowed to stand and be enforced.

The tremendous losses inflicted on private investors on account of these defaulted or repudiated loans have not all been due to any such changed conditions as have affected the governmental capacity to pay. Governments borrow, as a general rule, when in need of an actual money reserve to defray current or special items of expenditures for which the ordinary revenues are momentarily inadequate. In most cases, the *potential* resources of the country fully justify the risk of a loan

on its credit. Sometimes, governments have borrowed, not because in need of a loan, but at the instance of bankers corruptly-minded who have seen the chance to unload on an unsuspecting public, unsound governmental securities bought at large discounts, to meet payments on which the ordinary and even extraordinary revenues of the country were inadequate. Recent revelations in the United States have shown that in many instances, the fiscal agents of foreign governments, who have been commissioned to negotiate a loan, have unconscionably concealed, colored or misrepresented material facts available to them only, which bore directly upon the economic soundness of the borrowing country, and the capacity or disposition of its government to pay. Financiers everywhere—in England, in France, in the United States—the history of foreign governmental financing shows, have been guilty of these reprehensible methods, and to them is to be imputed immediate responsibility for the loss of many millions of dollars invested by the general public under a misapprehension of the real facts. President Roosevelt, in his message of March 29, 1933, to Congress, urging the passage of a law for the federal supervision of interstate traffic in investment securities, blamed the “practices neither ethical nor honest on the part of many persons and corporations selling securities”, for the severe losses sustained by the American public.² Such legislation as the Securities Act of 1933 enacted by the Congress pursuant to the President’s recommendation, protects the public against *future*, but not against *past*, losses. Nevertheless, as to the future, the Act reasonably safeguards the interests of the public.

² New York Times, March 30, 1933.

(B)

ORDINARY METHODS OF COLLECTION.

Let us inquire rather briefly into the methods of redress that have been available to private creditors under the traditional and accepted practice of diplomacy. This inquiry is necessary, we believe, the better to appreciate the merits of the solution to the problem of non-payment which we suggest below.

The default by a government in the payment of its external obligations to private investors (be the reason it may choose to assign what may), constitutes, no doubt, a tacit *denial of justice* which excuses the creditor from the condition of abiding by the rule of International Law that otherwise would require him to resort first to the tribunals of the defaulting nation to enforce payment of the debt, since if the nation declines to pay obligations which, though contracted on a purely *legal* basis, depend more for enforcement on its *honor* than on the *law* of the case, especially in those countries where the government is immune from suit in its own courts at the instance of private persons, the farthest that a local tribunal could go would be to make an academic and unenforceable adjudication on the legal duty of the government to pay. Still (and notwithstanding and because of such adjudication), there would be a case of manifest denial of justice in the International Law sense such as will justify the creditor in having direct recourse immediately to the diplomatic agencies of his government for relief.

When a government takes up the cause of private creditors with a view to *negotiation*, it becomes subrogated to their legal and equitable rights,³ and, national and international considerations of policy per-

³ *Frelinhuysen, Sec. of State v. Key* (1884), 110 U. S. 63.

mitting, may submit its demand, without more, to the foreign government for a satisfaction of the claim. If, however, the controversial element enters into the question of legality, harshness of the original terms of payment, or what not, it may offer to submit the matter to *arbitration*, though not obliged to do so. This, as is well known, is the ordinary course of diplomacy. However, the refusal either to negotiate or to arbitrate on demand of the creditor-government, may ultimately lead to the employment of measures of compulsion to obtain a satisfaction. A number of countries have been subjected now and then to this process, which, although extreme and harsh, falls nicely within the scope of the general and strict law of nations, and comports with the constant practice of the most responsible states. Lord Palmerston's circular of 1848 to British representatives abroad in regard to the unsatisfied claims of British subjects who were the holders of public bonds of other states, made it plain that the right of the British government "to interfere authoritatively" was "entirely a question of discretion, and by no means a question of international right, whether they should or should not make this matter the subject of diplomatic negotiation. If the question is to be considered simply in its bearing on international right, there can be no doubt whatever of the perfect right which the government of every country possesses to take up, as a matter of diplomatic negotiation, any well-founded complaint which any of its subjects may prefer against the government of another country, or any wrong which from such foreign government those subjects may have sustained; and if the government of one country is entitled to demand redress from any one individual among its subjects who may have a just but unsatisfied pecuniary claim upon the government of another country,

the right so to require redress cannot be diminished merely because the extent of the wrong is increased, and because instead of there being one individual claiming a comparatively small sum, there are a large number of individuals to whom a very large amount is due."⁴ This doctrine is approved by jurists of recognized authority.⁵

Acting according to the strict logic of this doctrine, in 1902, at a time when the general opinion of mankind had progressed sufficiently to repel all the clear implications that would flow from too strict an adherence to it, Great Britain, Germany and Italy jointly blockaded and bombarded the Venezuelan ports of La Guayra, Puerto Cabello and Maracaibo, in order to force the government of that country to satisfy certain pecuniary claims of their nationals for damages arising out of revolutionary activities. The incident was the instant occasion for the enunciation by Dr. Luis M. Drago, the distinguished Foreign Minister of Argentine, of a new doctrine of international politics and law, in a note which he addressed to the minister of his country in Washington on the 29th of December, 1902. In this

⁴ Quoted in Hall, *A Treatise on International Law* (4th ed.) p. 294, and 2 Phillimore, *Commentaries upon International Law* (3rd ed. 1879) sec. v.

⁵ The distinguished English author, Hall, says (*A Treatise on International Law*, 4th ed. 1895, p. 294): "Fundamentally however there is no difference in principle between wrongs inflicted by breach of a monetary agreement and other wrongs for which the state, as itself the wrongdoer, is immediately responsible." Dr. Diaz Cisneros, of the Argentine, has expressed himself in this wise (*La Doctrina Drago y la faz internacional de los Empréstitos Provinciales*, in 3 *Anales de la Universidad de La Plata* (1928) 85): "In the actual state of the law of nations, conceived of as an objective reality rather than as doctrine, no juridical principle exists, adopted in obligatory conventions or by practice, that might protect a nation in case it were compelled by coercive means, to the payment of its debts. Only its power can shield it in the presence of powers of the first rank. These, for their part, have been careful not to obligate themselves, even morally by declarations, to restrict their compulsory action for the collection of the capitals of their subjects who are holders of titles, or on other grounds creditors of a foreign state."

doctrine (which bears the name of its author), Dr. Drago said:⁶

The acknowledgment of the debt, the liquidation of its amount, can and should be made by the nation without diminution of its primordial rights as sovereign entity, but the compulsory and immediate collection, in a given moment, by means of force, would bring nothing else than the ruin of the weaker nations, and the absorption of their government, with all the faculties which are inherent therein, by the strong of the earth.

* * * * *

In a word, the principle that I would like to see recognized is that the public debt cannot give rise to armed intervention, and less to the material occupation of the soil of the American nations by a foreign power.

The favorable reception which Dr. Drago's doctrine had from other governments and publicists of great weight, culminated in the adoption by the Second Hague Conference of 1907, of a Convention on the "Limitation of the Employment of Force for the Recovery of Contract Debts", which provides:⁷

The contracting Powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of one country by the Government of another country as being due to its nationals.

This understanding is, however, not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer, prevents any *compromis* from being agreed on, or, after the arbitration, fails to submit to the award.

⁶ Drago, *Cobro Coercitivo de Deudas Publicas* (1906) 12, 21.

⁷ Article 1.

We thus have a conditional abandonment of the general and strict right of nations under International Law to appeal to coercive methods *upon the failure of diplomatic negotiation alone*, for the collection of governmental debts due their nationals. Before a creditor-nation can revert to its original right of compulsory process, the debtor-nation must have: (a) refused to arbitrate; (b) prevented any *compromis* after agreeing to arbitrate; or (c) failed to submit to the award. The Convention is a substantial concession along the lines of Dr. Drago's thesis, but it held in reserve the right of intervention as a final sanction in the interest of justice. Should the creditor-State refuse, for any reason, to ask for or consent to an arbitration of the issues involved, it is stopped in the use of force. The justice of this rule is well illustrated in a case in the Supreme Court of the United States. In *La Abra Silver Mining Co. v. United States*,⁸ a New York corporation had filed with the State Department a claim against the Government of Mexico for damages growing out of certain acts and omissions of duty upon the part of official representatives of the Republic of Mexico. The claim resulted in an award by the Claims Commission created under the Convention of 1868. After the Mexican Government had paid some of the instalments of the award, proof was submitted to the State Department which tended to establish that the award had been obtained fraudulently; in fact, our Court of Claims, to which the matter had been referred by Congress, found that the award was secured "by means of false swearing and other false and fraudulent practices" on the part of the company. The outcome of the matter was that the claim was cancelled upon reconsideration in the light of the newly-discovered evidence. Had the United States employed compulsory measures in

⁸ (1899) 175 U. S. 423.

the first instance to enforce payment of the claim, which though valid upon its face was fraudulent at bottom, without giving the Mexican Government an opportunity to dispute its validity, a serious injustice would have been committed against a friendly nation.

The most obvious objection to diplomatic recourse in the form of negotiation or arbitration is the delays, extending sometimes over a period of years, to which it subjects the interests of private claimants.

(C)

REMEDY PROPOSED.

(a)

The Method.

We have said before that this general breakdown in governmental integrity pointed to a serious deficiency in the structure of international finance, calling, in a most pressing manner, for the adoption of an efficient method and agency of relief.

The method we propose is the simple expedient of an ordinary *judicial adjudication* between the creditor and the debtor-government. The distinction made by the "Juridical Person" theory of that school of juristic thought of which the Italian Courts are the foremost champions, between acts of sovereignty (*jure imperii*) and acts of administration (*jure gestionis*), which recognizes the State's immunity for the former and its liability for the latter, enables the tribunals of the creditor-State to assume jurisdiction of actions to enforce the payment of the obligation, since in the light of that theoretical distinction, the *contractual* engagements of a State, as for example, the issuing of bonds in recognition of a debt, are acts of pure administration. Thus,

in *Hampohn v. Bey di Tunisi ed Erlanger*,⁹ the Court of Appeal of Lucca (Italy), said:

The consolidated public debt, properly so-called, established by virtue of the law as a direct mode of satisfying all the expenses of public affairs, administered publicly under the immediate supervision of the legislative power and resulting in the formation of a *gran libro* (ledger) by way of inscription of the same, may be regarded as created by an act of sovereignty, but the same cannot be legitimately said with regard to treasury bonds, which, released to private persons against payment at maturity with interest, constitute only an expedient of financial administration, being merely a bill of exchange, drawn by the State on its own Treasury to provide for a temporary shortage in the treasury. *Now, it cannot be disputed that when The State enters into such contractual relations with private persons, although for the purpose of public service, it assumes the same obligations, acquires the same rights and subjects itself to the same laws as private persons, and this is true not only in the modern State, wherein the ruler is its first officer, but also where the State is incarnate in the person of the Prince.*

Following this order of ideas, we find the Swiss Courts holding, in a suit against the Austrian Treasury by a holder of Austrian Treasury bonds, that:¹⁰

Although a widely spread doctrine concludes from the sovereignty and mutual independence of States, a condition precedent of international

⁹ *Foro Italiano* (1887) I:474, 487. *Italics ours.*

¹⁰ *Finanzministerium g. Dreyfus* (1918, Bundesgericht), 44 *Entscheidungen des Schweizerischen Bundesgerichtes* (1918) 49, 54-55.

law, that a State is subject to no foreign jurisdiction not only with respect to acts performed in the exercise of its sovereignty (*jure imperii*) but, as a rule, also when it appears as subject of private-law relationships (*jure gestionis*). This doctrine is adhered to in the German and Austrian, as well as the French, English and American judicial practice. * * * In opposition is, however, since 1886, the Italian and, since 1903, also the Belgian judicial practice, according to which a foreign State in its character as holder of private rights as a rule can be proceeded against in the local courts like a private person.

* * * * *

In view of this legal situation, the extension of Swiss jurisdiction over the facts in the instant case can unhesitatingly be affirmed. The legal relationship created between the Austrian States and the bondholders, through the issue of the treasury bonds in question belongs to the domain of private law.

On the other hand, under the "Sovereign Immunity" theory (of which the United States, Great Britain, France and Germany are the main exponents), which does not make this distinction between acts of sovereignty and acts of administration, but clothes the State with a general and absolute immunity for all acts (whether of one kind or another), no suit in the local courts is possible without the consent of the debtor-State. The English case of *Twycross v. Dreyfus*,¹¹ is a direct and authoritative adjudication on this question.

"The first and most important point we have

¹¹ (1877) 5 Ch. Div. 605, 616. *Italics ours*. See also, *Smith v. Weguelin* (1869) 8 Eq. Cas. 198, 212, wherein Lord Romilly, M. R., said: "It is, in my opinion, a complete misapprehension to suppose

to decide," said Jessel, M. R., "is what the meaning of the bond of a foreign government given to secure the payment of a loan is. As I understand the law, the municipal law of this country does not enable the tribunals of this country to exercise any jurisdiction over foreign governments as such. Nor, so far as I am aware, is there any international tribunal which exercises any such jurisdiction. *The result, therefore, is that these so-called bonds amount to nothing more than engagements of honor, binding, so far as engagements of honor can bind, the government which issues them, but are not contracts enforceable before the ordinary tribunals of any foreign government, or even by the ordinary tribunals of the country which issued them, without the consent of the government of that country.*"

A case in the courts of the State of New York—*Leavitt v. Dabney*¹²—holds:

No action can be sustained by these plaintiffs against the Peruvian and Chilian governments. Our courts have no jurisdiction over foreign powers, and disputes or claims arising between or in favor of our own government or the citizens of our government and a foreign power can be settled only by treaty or by war.

that, because a foreign Government negotiates a loan in a foreign country, it thereby introduces into that transaction all the peculiarities of the law of the country in which the negotiation is made. The place where the loan is negotiated does not, in my opinion, in the least degree affect the question of law. The contract is the same, and the obligations are the same, whoever may be the bondholders. * * * If the French Government should negotiate a loan on certain specified terms, whether negotiated in Brussels, in London, or in Paris, the same law must regulate the whole, and that law is the law of France, as much as if it had been expressly notified in the articles that the French law would be that by which the contract must be construed and governed."

¹² (1868) 37 Howard's Pr. (N. Y.) Rep. 264 (Superior Court).

Nor am I aware of any law under which the moneys in the defendants' hands can be impounded or attached at the suit of a creditor; or can in any other way be reached or applied to the payment of debts existing here against their foreign principals; and it is therefore probable, that the plaintiffs are without remedy, beyond such as is provided in the bond, or such as they may induce the government of the United States to resort to in their behalf.

The jurisprudence of France is to the same effect.¹³

Here, then, are two divergent and apparently irreconcilable lines of legal reasoning. The one recognizes and enforces as a *contract* what the parties have clothed with the formalities of such; the other transforms into an *engagement of honor* and therefore unenforceable, a transaction which the parties have executed on a definite contractual basis. The divergence in result is due to a divergence or at least a certain variation in the concept of *sovereignty*, and, in the logical rigors of each theory (whatever may be said of its premises), the result is perfectly sound.

The most evident practical effects of this divergence in legal theory are four: (A) It makes *uniformity of remedy* impossible or at least unlikely in the cases of large issues of bonds widely distributed in countries following the one theory or the other; (B) As the effectiveness of the judgment of a court adopting the "Juridical Person" theory depends entirely upon there being property of the debtor-Nation within the jurisdiction of the court, its enforcement might unnecessarily result in *diplomatic friction*; (C) Creditors in a country

¹³ Bernet et autres c. Herran, Dreyfus-Scheyer et autres (1880) Court d'appel, Paris, affirmed Cour de Cass., Civ. 1886, Sirey (1889) 1.459; Reilhac et Chabot c. Comptoir-National d'Escompte (1895) Trib. Civil, Seine, 2 Gazette de Tribunaux (1908) 2.270, 272.

following the "Sovereign Immunity" theory will find themselves, as a tribunal put it, "without remedy," beyond such as is provided in the bond, or such as they may induce the Political Department of its government to resort to in their behalf; (D) The judgment of the courts of the creditor-Nation, not being an *arbitral* adjudication within the terms of the Hague Convention, need not be recognized and submitted to by the debtor-State (unless it has voluntarily yielded to their jurisdiction), and its non-recognition cannot form the basis for armed intervention.

The need for a more impartial, authoritative and effective agency—but in any event for some sort of superior agency to give a more prompt relief than the ordinary methods of diplomacy afford—is to us quite evident.

(b)

The Agency.

Under the present organization of the society of nations, there is no higher, more authoritative and competent agency for the judicial determination of international claims against a debtor-State than the Permanent Court of International Justice. It is this Court which we propose should be made the *sole* and *final* arbiter of all issues between such State and its creditors.

The Court is, in general, "competent to hear and determine any disputes of an international character" which the members of the League of Nations submit to it.¹⁴ This broad and general competency of the court comprises, more concretely, "all cases which the parties refer to it and all matters specially provided for in

¹⁴ Art. 14, Covenant of the League.

treaties and conventions in force.”¹⁵ The Court is also open to other States not members of the League on conditions to be laid down by the Council of the League.¹⁶ The States which submit to its jurisdiction accept compulsory jurisdiction in legal disputes concerning: (a) The interpretation of a treaty; (b) Any question of International Law; (c) The existence of any fact which, if established, would constitute a breach of an international obligation; (d) The nature or extent of the reparation to be made for the breach of an international obligation.¹⁷ In the determination of any disputes or cases submitted to it, the Court applies: (a) International Conventions, whether general or particular, establishing rules expressly recognized by the contesting States; (b) International custom, as evidence of a general practice accepted as law; (c) The general principles of law recognized by civilized nations; (d) Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.¹⁸

At the outset we are confronted with a *jurisdictional* objection, namely, that “only States or members of the League of Nations can be parties to cases before the Court.”¹⁹ But to surmount this objection we propose one of two alternatives, that is to say, either (a) to amplify the statutory powers and jurisdiction of the Court so as to permit actions before it against a debtor-Nation at the instance of its creditors, providing the total amount of their claims exceeds a minimum amount

¹⁵ Art. 36, Statute of the Court.

¹⁶ Art. 25, Statute of the Court.

¹⁷ Art. 36, Statute of the Court.

¹⁸ Art. 38, Statute of the Court.

¹⁹ Art. 34, Statute of the Court.

of the defaulted bond issue, or (b) the creation of governmental agencies, such as the recently established "Corporation of Foreign Security Holders" in the United States (and the British privately founded "Corporation of Foreign Bondholders", which could be clothed with governmental character for the purpose), which, acting for and on behalf of their respective States, may sue and be sued in the Court upon matters arising out of a specific issue of bonds. The American Corporation has been given power "to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal."²⁰ Such a provision would require slight amplifications to enable it to bring suit in the Permanent Court of International Justice.

The main advantage of the first alternative is that it tends to avoid direct international complications, and would enlarge the scope of the statutory expression "international obligation", to include the *contractual debts* of States to private creditors. The second alternative dispenses with the need of changing the statutes of the Court, and all that would be required is a delegation of governmental authority under the State's supervision. Under the latter alternative, there would be a full compliance with the statute of the Court, in this, that a "State" (by its agent, the Corporation) would be the party to the case before the Court, and that there would be a "fact" (non-payment, or, in the language of the law, a *denial of justice*) constituting "a breach of an international obligation." Then, too, there might be the "interpretation of a treaty", as where the authority to make the loan is impeached as in contravention of treaty provisions.²¹ The Court is given power to decree

²⁰ Sec. 203, Title II, Securities Act of 1933, known as "Corporation of Foreign Bondholders Act, 1933."

²¹ e. g., Cuba under the Treaty of Permanent Relations of 1904 with the United States.

the "nature or extent of the reparation to be made" for the breach of the international obligation.²²

(c)

Enforcement of Court's Decrees.

The problem of the enforcement of the Court's decrees in a given case is, to our way of thinking, very simple, notwithstanding that there are no definite provisions in the Covenant or the Statute of the Court touching that matter. The moral sense of nations is too sensitive to the criticism of any substantial or influential portion of mankind for any nation, powerful or weak, to withstand it successfully. The belief that no litigant before the Court can resist, as against the "moral suasion of mankind"—to recall President Wilson's trenchant phrase—, an adverse judgment rendered in a cause which it has agreed or is bound to submit to it, was the reason why no pains were taken to prescribe any specific method of enforcement. The high moral character, and the vast and sound learning and experience of the Court, is a guarantee that its decision upon any problem submitted to it will carry the most persuasive moral authority. But we need not rest our case upon this moral element alone. It is also certain that the original mandate of the Court, if not observed, may be supplemented by a more specific decree reciting the steps that should be taken by the party against whom the judgment has gone in order to comply with such mandate. The failure to comply with the supplementary mandate may result in an additional decree of sanctions, such as the foreclosure or attachment of collateral deposited by the defaulting State, the seizure

²² Art. 36(d), Statute of the Court.

of its revenues (consular, commercial or industrial), and of its property within the jurisdiction of the creditor-Nation, economic boycott, and even armed intervention under the Hague Convention of 1907.

The definite maintenance of the external credit of a nation has become the main *desideratum* in international relations, because without it the internal happiness and well-being of many states will be seriously and permanently jeopardized. Then, again, the losses, and in countless cases, the hardships inflicted on innocent investors by these defaults, should be a weighty consideration in the reestablishment of national credit on a firm foundation. Upon the governments of the world rests principally the responsibility for the elimination of that condition of governmental laxity in matters of national credit which is retarding the economic recovery of the nations. Where a government fails to initiate any measures looking toward a rectification of these wrongs, it should be brought before the bar of justice in its highest form: the Permanent Court of International Justice—there to reverse its course and start again on a career, to paraphrase Wordsworth, of “cheerful [economic] yesterdays and confident tomorrows.”

MARTIN T. MANTON.

TELEGRAM

The White House
Washington

16WU. RA. 11- 9:55 a.m.

BayPort, N. Y., July 6,,1935

Marvin H. McIntyre

In Washington Monday Will call for appointment with President
Monday morning.

Martin T. Manton.

P.P.F.

5252

Martin T. Manton

THE WHITE HOUSE
WASHINGTON

7/5/35

MEMORANDUM FOR MR. INGLING

Is there anything in the files indicating
that Mr. McIntyre wired Judge Manton as to an
appointment on Monday or Tuesday?

K.

Nothing

Walter J. McIntyre

UNITED STATES CIRCUIT COURT OF APPEALS

SECOND JUDICIAL CIRCUIT

CHAMBERS OF
MARTIN T. MANTON
U. S. CIRCUIT JUDGE
NEW YORK CITY

August 13, 1935.

P. P. F.

Miss Margaret LeHand,
Secretary to the President,
Washington, D. C.

5252

My dear Miss LeHand:-

Thank you very much for
sending me an autographed photograph of the
President as requested. I shall prize it
highly.

Yours very truly,

Martin T. Manton

August 8, 1935

My dear Judge Manton:

Your letter of August sixth, addressed to Mr. McIntyre, has been received and I have brought your request to the President's attention. He has had much pleasure in signing one of his photographs for you and I am sending it herewith.

Very sincerely yours,

M. A. LeHand
PRIVATE SECRETARY

Honorable Martin T. Manton,
United States Circuit Court of Appeals,
New York, N. Y.

Enclosure

gd

702

UNITED STATES CIRCUIT COURT OF APPEALS
SECOND JUDICIAL CIRCUIT

CHAMBERS OF
MARTIN T. MANTON
U. S. CIRCUIT JUDGE
NEW YORK CITY

August 6, 1935.

*ack'd 8.8.35
Miss J. H. M.?
Hate to sign
R. Barrows*

Marvin McIntyre, Esq.,
Secretary to the President,
The White House,
Washington, D. C.

Dear Mr. McIntyre:-

I should like, at your convenience,
if you would send me an autographed photograph of
President Roosevelt. It shall have a prominent place
in my chambers in the new Federal Court House into
which we will shortly move. If this is not convenient,
will you send me the name of the photographer from
whom I might purchase one, and then have it sent to
you for his autograph?

With kind personal regards, I remain

Sincerely yours,

Martin T. Manton

PLEASE PREPARE A NICE LINE
OF THANKS FOR THE PRESIDENT'S
SIGNATURE.

9, 1938

Martin

My dear Judge:

Many, many thanks for your nice
note. Please tell Mrs. Manton the broilers
were delicious. They were much enjoyed by
us all.

Mrs. Roosevelt and I deeply appre-
ciate your kind thought of us, and we send you
and Mrs. Manton our affectionate greetings and
best wishes.

Always sincerely,

To Hanne

Honorable Martin T. Manton, #
The Madison,
Madison Avenue at 58th Street,
New York City, N. Y.

ngn

Buckley

P.P.F.

5252

March 9, 1938

Martin

My dear Judge:

Many, many thanks for your nice note. Please tell Mrs. Manton the broilers were delicious. They were much enjoyed by us all.

Mrs. Roosevelt and I deeply appreciate your kind thought of us, and we send you and Mrs. Manton our affectionate greetings and best wishes.

x 1979-6

Always sincerely,

To Hanner

Honorable Martin T. Manton, *
The Madison,
Madison Avenue at 58th Street,
New York City, N. Y.

ngm



*ack'd
3/9/38
NBM*

The Madison
Hotel and Restaurant
MADISON AVENUE AT 58TH STREET

New-York
TELEPHONE VOLUNTEER 5-5000

Mar 7 1938.

P. P. H.

5252

Dear Franklin,
In obedience to Mrs.
Manton's promise we have
forwarded today some of our
broilers raised at our
Long Island farm.

I hope you will find them
nearly as good as Mrs. Manton
has represented.

We enjoyed our visit
and particularly was I pleased
in finding you looking so
well with all the bread &

Mrs. Martin T. Manton #
210 East 68th Street
New York, New York

great burdens

Please convey our kindest
regards to Mrs. Roosevelt.

Keep up your grand per-
formance for the Country's
progress.

With every good wish

Sincerely,
M.

Martin T. Manton.

To the
President

P. P. E.

5252

Office of the Attorney General
Washington, D. C.
April 26, 1939

Dear Mrs. Manton:

Your letter has reached me and has been read with the sincere interest that you must know any message of yours will receive.

I am sure that you would not have asked to see me if it were not for something about which you are deeply concerned, and because of that I would like to see you. As you know, however, I have asked the Attorney General to interest himself in these matters, and right now when there are so many cares and problems, it would be really helpful to me if you could visit with him.

In making this suggestion, I do so with the confidence that you will be received with the utmost consideration, and with the hope that you will not believe my ideas have changed since 1932. I still believe the White House doors should be open, and I try to keep them so at all times that is possible.

With all personal good wishes to you,

Very sincerely yours,

F. D. R.

Mrs. Martin T. Manton #
210 East 68th Street
New York, New York



Office of the Attorney General
Washington, D.C.

April 26, 1939

MEMORANDUM FOR GENERAL WATSON

Attached is a suggested letter which I thought that the President might properly write to Mrs. Manton. I am sending the draft mainly to convey my suggestion as to what he should do.

J. E. A.

Attorney General

April 21, 1939.

Your letter has reached me and has been read with the sincere interest that you must know any message of yours will receive.

I am sure that you would not have asked to see me if it were not for something about which you are deeply concerned, and because of that I would like to see you. As you know, however, I have asked the Attorney General to interest himself in these matters, and right now when there are so many cares and problems, it would be really helpful to me if you could visit with him.

In making this suggestion, I do so with the confidence that you will be received with the utmost consideration, and with the hope that you will not believe my ideas have changed since 1932. I still believe the White House doors should be open, and I try to keep them so at all times that it is possible.

April 21, 1939.

210 East 68th Street,
New York City.

MEMORANDUM FOR: Honorable Frank Murphy x10
The Attorney General.

My dear General:

The President asked me to give
you this letter from Mrs. Manton, and said

for you and me to tell him Monday morning

what to do - whether to see her or not.

I defer to your judgment com-
pletely.

Very respectfully,

Sincerely,

/s/ EVA M. WATSON

(Mrs. Martin T.)

COPY

210 East 68th Street,
New York City.

My dear Mr. President:

On the strength of the years of friendship between you and Martin, and the admiration and appreciation of him which you expressed to me, only a few months ago, I am asking you for an appointment to see you at any time convenient to you.

If it were not of vital importance to us, I would not attempt to impose upon your crowded hours, but, knowing your kindness and generosity, I stake my faith upon your consent.

Do you remember the dinner at Basil O'Connors after your first election when the White House in ice was placed upon the table, you said to me, "It looks cold and that's the way it has been during the Hoover years, but I will not have it so - my friends will be able to see me when I am there" - and so in the name of friendship, may I see you?

Sincerely,

/s/ EVA M. MANTON

(Mrs. Martin T.)

My dear Miss L. Hand -
Many thanks
of you for the writing
of presenting the
enclosed note to
the President - 2 St-
rakes are appoint-
ment - for me to
see him - My thanks

to you for driving
and would please ac-
cept my best wishes
Sincerely -

Wm M. Manton

(Mrs. Martin J.)

210 East 68th St.
N. Y. City -

210 Carl - 68 to St.
New York City.

My dear Mr. President:

On the strength
of the years of friend-
ship between you and
Martin, and the ad-
miration and ap-
preciation of him
which you expressed
to me, only a few

months ago, I am
sure it will be
a perfect triumph - to all
men at any time
coming - to you.
I am sure you
will understand
to me, I should not
attempt to interfere
where you should
move, but only
your kindness and

good gravity, I state
my faith in your
sincerity.

I remember this
dinner at Basil Comins
after your first election
when the White House in its
new place upon the table
you said to me, "It will
old and that the way it
has been during the hour

grave, but I will not
have it - my friends
will be able to tell me
when I am there -

And as in the
name of friendship -
may I tell you?

Sincerely

Wm. M. Martin
(Mrs. Martin J.)

5252

January 31, 1939.

My dear Judge Manton:-

I have received your resignation
as United States Circuit Judge for the Second
Judicial Circuit, and I hereby accept it to take
effect on Tuesday, February seventh. This will
give you opportunity to dispose of such pending
matters as the public interest requires,

Very truly yours,

Honorable Martin T. Manton,
United States Circuit Judge,
New York City,
New York.

but this
means of
course that
you will no
longer sit on
Cases before
the court x

x209-23

P. P. F.

5252

May 9, 1939.

Dear Mrs. Manton:-

I am advised by the Attorney General that because of the case now pending in New York a conference with you at this time would be highly inadvisable. Under the circumstances, I feel obliged to decline your request.

If you desire to make any suggestion or request in relation to the situation in New York, I suggest you communicate with Attorney General Murphy and I am confident he will give sympathetic consideration to anything you may have to say. I am sure you will understand.

Very sincerely yours,

FRANKLIN D. ROOSEVELT

Mrs. Martin T. Manton, #
210 East 68th Street,
New York City,
New York.

x209-73

THE ATTORNEY GENERAL
SUGGESTED FORM OF REPLY
FOR PRESIDENT

OK 3

Dear Mrs. Manton:

I am advised by the Attorney General that because of the case now pending in New York a conference with you at this time would be highly inadvisable. Under the circumstances, I feel obliged to decline your request.

If you desire to make any suggestion or request in relation to the situation in New York, I suggest you communicate with Attorney General Murphy and I am confident he will give sympathetic consideration to anything you may have to say. m j l

Sincerely,

Miss Margaret Manton
Secretary to the President
The White House

THE ATTORNEY GENERAL
WASHINGTON

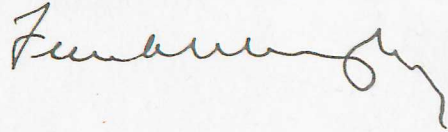
May 6, 1939

Dear Missy:

I am attaching hereto a suggested form
of reply to Mrs. Manton for the President's
signature.

With best wishes,

Sincerely,



Miss Marguerite LeHand
Secretary to The President
The White House

P.P.F.
5252

THE WHITE HOUSE
WASHINGTON

May 4, 1939.

MEMORANDUM FOR

THE ATTORNEY GENERAL ^{x10}

Will you be good enough
to reply to the enclosed?

F. D. R.

Letter from Mrs. Martin J. Manton, (Eva M.)
210 East 68th St., NYC, to the President. Asks
appt. with President. Does not state nature
of business she wishes to discuss.

P.P.F.
5252

210 East 68th St. NYC

note
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from
and
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10/1
11

In the Department.

P. P. F.

5252

permitted - provide
in accordance with
if you desire it -
yours -

Very respectfully

Wm. H. Thompson

(Wm. Thompson)

I am Mr. Thompson -

Thank you

for your note -

relative to my

application for

release, and when

advised of this

you would be

210 East 68th St. N.Y.

My wife and

ated November
M. Norton,
State Circuit
Parole Board at
at the present
file for con-
d upon the
s filed without
at his condition
for to the parole
the petition for
ferred in the
fully examined

In the Department.

My mission is with
you alone, and
would be fatal with
any one else - In
reply of your ever-
lasting love, I have
dare, I hope given
to lack as an offer
only a few words,
and have you

that I will in my
imagination you.

You are to be in New
York, Sunday, Dec by
the papers. Would it
be possible for me to have
a moment then, or if
you prefer in Washington.
I should have one ap-

Office of the Attorney General

November 27, 1940

P.P.F.

5252

November 26, 1940.

My dear Mrs. Manton:

This is in reply to your letter of November fifth, about your husband's case.

The Attorney General informs me that Judge Manton's application for parole is now under consideration by the Parole Board at Washington. If your husband is not released on parole, I am sure that the Attorney General will give careful consideration to any petition for executive clemency which may then come before him.

Very sincerely yours,
Washington, having been granted parole on that day earlier this month. The prisoner will be eligible for conditional release on October 13, 1941.

FRANKLIN D. ROOSEVELT

An application for executive clemency based upon the condition has heretofore been filed without Mrs. Eva M. Manton, # 365 Genesee Park Drive, Syracuse, New York. The Department after it was ascertained that his condition was not so serious as to warrant Executive action prior to the parole eligibility date.

If parole is denied and reconsideration of the petition for executive clemency is asked, the petition will be referred in the proper source and all aspects of the case will be carefully examined in the Department.



Office of the Attorney General
Washington, D.C.

THE WHITE HOUSE
NOV 27 10 5 AM '40
RECEIVED

November 26, 1940.

My dear Mr. President:

This is in compliance with your request dated November 23, 1940, for the preparation of a reply to Mrs. Eva M. Manton, wife of Martin T. Manton, former Judge of the United States Circuit Court of Appeals for the Second Circuit.

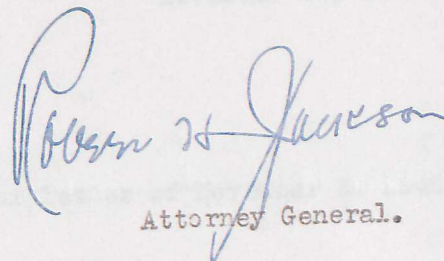
The Manton case is now pending before the Parole Board at Washington, having been heard in the first instance at the penitentiary earlier this month. The prisoner will be eligible for conditional release on October 13, 1941.

An application for executive clemency based upon the prisoner's bad physical condition has heretofore been filed without action in the Department after it was ascertained that his condition was not so serious as to warrant Executive action prior to the parole eligibility date.

If parole is denied and reconsideration of the petition for executive clemency is asked, the petition will be referred in the usual course and all aspects of the case will be carefully examined in the Department.

As requested, I submit herewith a proposed reply to
Mrs. Manton.

Respectfully,


Attorney General.

The President,

The White House.

DRAFT OF PROPOSED REPLY FOR PRESIDENT'S
SIGNATURE TO LETTER OF MRS. EVA M. MANTON

November 26, 1940.

My dear Mrs. Manton:

This is in reply to your letter of November 5, 1940,
about your husband's case.

The Attorney General informs me that Judge Manton's application for parole is now under consideration by the Parole Board at Washington. If your husband is not released on parole, I am sure that the Attorney General will give careful consideration to any petition for executive clemency which may then come before him.

Sincerely,

Mrs. Eva M. Manton,
365 Genesee Park Drive,
Syracuse, New York.

P.P.F.
5252

THE WHITE HOUSE
WASHINGTON

Hyde Park, New York
November 23, 1940

MEMORANDUM FOR

THE ATTORNEY GENERAL x10

For preparation of reply.

F. D. R.

Enclosure

Letter from Mrs. Martin J. Manton, 365 Genesee Park Drive,
Syracuse, New York, 11/5/40 to the President, copy of which
is in our files, asking that her husband, Judge Manton
be released from Lewisburg prison.

N.Y.,
from
11/7/40,
ed in
th a
t to

: Drive,
uring
py of
orney

... date and the action

file
November 28, 1940

Thank you
for your kind letter of Nov. 27th.
Respectfully referred to the
Attorney General.

EDWIN M. WATSON
Secretary to the President

hm

Letter from Hon. John E. Mack, 234 Main St., Poughkeepsie, N.Y.,
11/14/40 to the President, with attached letter he received from
David M. Manton, 365 Genesee Park Drive, Syracuse, N. Y., 11/7/40,
writing in behalf of his father, Judge Martin Manton, confined in
Lewisburg prison, in his application for pardon, together with a
copy of the President's reply of 11/27/40 to Judge Mack, sent to
the Attorney General.

Letter from Eva M. (Mrs. Martin J.) Manton, 365 Genesee Park Drive,
Syracuse, N. Y., 11/5/40 to the President, asking aid in securing
her husband's release from Lewisburg prison, together with copy of
President's reply of 11/27/40 to Mrs. Manton, sent to the Attorney
General.

file ①
Mr. Franklin D. Roosevelt:
Dear Mr. President:

Thank you
for your kind letter of Nov. 27th.
I wrote you a few days later,
stating that the park board
denied my husband, Judge
Montgomery's application for pa-
rks, and again asking you
to consider his application for
a park.

I am in receipt of a letter
from the park attorney,
Mr. Lynn stating that, in
your absence, my letter had
been referred to him for answer.

and incidentally -

I am taking the liberty to
impose upon your time by
writing as long, hoping
you will pardonably be im-
pressed by my impudent
assurances of brother
and the danger surround-

ing his life.

He had been and still is
confined to the hospital at
the present with a severe
brain-injury. I am in-
formed that the Chief Med-
ical Officer at the hospital
has written to the attending
general and the London Board

that he should be at home for treat-
ment.

Reb. will review the contents of
my previous letter. I know your
multiple duties thus trying days, but
may I not plead to your great
sympathy that in Mexico's sake to
take personally upon me grave and
true responsibilities?

With my good wish to Mrs. Brew-
ster and you at the Christmas
Season - Sincerely yours -

(Mrs. Martin J.)

For Dr. Martin -

Dear Mrs L. E. Hand.

I have been
notified that my last-
letter (during your and
the President's absence) was
sent to the Pastor Attorney
for answers and consideration.

It is a matter of life and
death to me to have the
President know personally
the state of my husband's
health.

Will you not do this favor
for me, and see that the imbre-
ach is made? Please reply

grateful for your kindness
of the past.

With very much that
the coming Christmas
season may bring you
peace and joy.

Sincerely

Ern M. Martin

(Mrs. Martin T.)

5252

Office of the Attorney General

Washington, November 27, 1940

November 28, 1940.

Dear John:

This is to acknowledge your letter of November fourteenth, enclosing a letter from David M. Manton, of 365 Genesee Park Drive, ^XSyracuse, New York, with respect to the case of Martin Manton, former Judge of the United States Circuit Court of Appeals for the Second Circuit.

[#]
Judge Manton became eligible for parole on November 6, 1940. His case was heard at the penitentiary and is now pending before the full Board at Washington. If he is denied parole he may apply for executive clemency and his case will thereupon be carefully investigated by the Department of Justice.

Mr. David Manton's letter to you will receive careful consideration in connection with the executive clemency proceedings.

With kind regards,

Very sincerely yours,

Honorable John E. Mack, ^{x PP75034}
234 Main Street,
Poughkeepsie,
New York.

FRANKLIN D. ROOSEVELT

hm



Office of the Attorney General
Washington, D.C.

THE WHITE HOUSE
NOV 27 8 56 AM '40
RECEIVED

November 25, 1940.

My dear Mr. President:

This is in compliance with your request dated November 22, 1940, for the preparation of a reply to the letter of Judge John E. Mack, dated November 14, 1940, enclosing a letter from David M. Manton, with respect to the case of Judge Martin Manton.

Judge Mack's letter and its enclosure are herewith returned.

Judge Manton is now confined in the United States Penitentiary at Lewisburg, Pennsylvania, on a sentence of two years which commenced on March 7, 1940. He became eligible for parole on November 6, 1940. His case was heard at the penitentiary on or near that date and is now pending before the full Board in Washington. His term, with the usual allowances for good conduct, will expire on October 13, 1941.

A petition for executive clemency was filed with the Department prior to the parole eligibility date, based mainly upon Judge Manton's physical condition which was alleged to be so serious as to warrant the waiver of the usual rule.

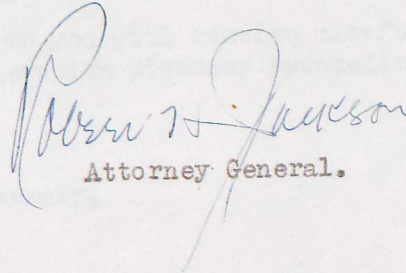
A report was thereafter made to the Department which led to the conclusion that further consideration of the petition ought to await the arrival of the parole eligibility date and the action

of the Parole Board. The petition was thereupon filed without action. Presumably if parole is denied, either a new petition will be filed or reconsideration will be asked for the earlier application.

If parole is denied and executive clemency is again requested, the Department will refer the application in accordance with the rules and investigate all phases of the case, including the effect of further confinement upon the applicant's physical condition.

As requested, I submit herewith a draft of a proposed reply to Judge Mack.

Respectfully,


Attorney General.

The President,

The White House.

DRAFT OF PROPOSED REPLY FOR PRESIDENT'S SIGNATURE TO LETTER OF JUDGE
JOHN E. MACK, DATED NOVEMBER 14, 1940, IN THE CASE OF MARTIN MANTON.

November 25, 1940.

Dear John:

This is to acknowledge your letter of November 14, 1940,
enclosing a letter from David M. Manton, of 365 Genesee Park Drive,
Syracuse, New York, with respect to the case of Martin Manton, former
Judge of the United States Circuit Court of Appeals for the Second
Circuit.

Judge Manton became eligible for parole on November 6, 1940.
His case was heard at the penitentiary and is now pending before the
full Board at Washington. If he is denied parole he may apply for
executive clemency and his case will thereupon be carefully investi-
gated by the Department of Justice.

Mr. David Manton's letter to you will receive careful con-
sideration in connection with the executive clemency proceedings.

With kind regards,

Sincerely,

Hon. John E. Mack,
234 Main Street,
Poughkeepsie, New York.

P.P.F.
5252

THE WHITE HOUSE
WASHINGTON

November 22, 1940

MEMORANDUM FOR THE ATTORNEY GENERAL x10

For preparation of a reply.

F. D. R.

Let. to the President from John E. Mack,
234 Main St., Poughkeepsie, N.Y., 11/14/40;
encl let. of 11/7/40 he has received from
David M. Manton, asking that the President
look with favor upon the current applica-
tion for pardon of his father, Judge
Martin Manton.
#

P.P.F.
5252

hm

epsie, N.Y.,
received from
. Y., 11/7/40,
, confined in
ether with a
ack, sent to

see Park Drive,
in securing
with copy of
the Attorney

November 28, 1940

Respectfully referred to the
Attorney General.

EDWIN M. WATSON
Secretary to the President

hm

Letter from Hon. John E. Mack, 234 Main St., Poughkeepsie, N.Y., 11/14/40 to the President, with attached letter he received from David M. Manton, 365 Genesee Park Drive, Syracuse, N. Y., 11/7/40, writing in behalf of his father, Judge Martin Manton, confined in Lewisburg prison, in his application for pardon, together with a copy of the President's reply of 11/27/40 to Judge Mack, sent to the Attorney General.

Letter from Eva M. (Mrs. Martin J.) Manton, 365 Genesee Park Drive, Syracuse, N. Y., 11/5/40 to the President, asking aid in securing her husband's release from Lewisburg prison, together with copy of President's reply of 11/27/40 to Mrs. Manton, sent to the Attorney General.

U.S. District Court, Southern District of New York
New York City
December 18, 1940.

P.P.F.

5252

December 7, 1940

Respectfully referred to the
Attorney General for attention and
appropriate acknowledgment.

In the absence of the President:

M. H. McINTYRE
Secretary to the President

hm

Letter from Mrs. Martin Manton, 365 Genesee Park Drive,
Syracuse, N.Y., undated, to Miss LeHand, with enclosed
letter to the President dated 12/1/40. Her husband,
Judge Martin Manton has been denied parole, and asks if
President will look into this case with view to granting
a pardon.

Manton, Martin T. U.S. Circuit Court of Appeals,
New York City.
April 18, 1935.

A committee is being organized by him for the arrangement of appropriate ceremonies for the late Justice Oliver Wendell Holmes. While the details of the plan have not yet been worked out, the thought is to arrange the ceremonies for the latter part of May or the early part of June, having special reference to the President's own engagements, as it is desired that he should be personally present on this occasion. Letter is to ascertain whether it would be possible for the President to be present and if so, whether any date would be more convenient to him than another.

SEE INVITATION "NEW YORK"

P. P. F.

5252

STATE, Secretary of
May 6, 1935

The President referred to him by memo., for preparation of reply, a letter from Martin H. Carmody, Supreme Knight, Knights of Columbus, dated May 3d, in regard to the religious strife in Mexico and asks that the President intervene. Under date of May 11th, Ass't. Sec. Moore submitted a draft of a reply, to Mr. Carmody's letter. Draft stated in part that it is obvious that our Government is without authority to determine or control the Mexican internal situation with respect to religion precisely as it is without such power with respect to the finances or domestic trade of that country or any other phase of its internal affairs. Stated further that the general attitude of our Government is illustrated by provisions contained in the Convention on the Rights and Duties of States signed at Montevideo, December 26, 1933, which by our Government has been ratified and proclaimed. A copy of this Convention is attached, for the President's information. By confidential memo. dated May 27th, Mr. McIntyre advised the President that Doc O'Connor 'phoned him indicating that it would be highly advisable for the President to see Bishop Thomas E. Molloy (?) and to talk to him about the Catholic situation in Mexico. Further stated, that the President ought to see Judge (Martin T. ?) Manton. There is attached a memo. from the President to Mr. McIntyre, dated May 29th, instructing him to talk this over with Father John J. Burke.

See C.F. "State"

P. P. F.

5253

MANTON, Judge Martin T.
U. S. Circuit Court of Appeals,
New York City
7-11-35

Reported to the President that Bishop (Francis J.) Spellman of Boston saw the Apostolic Delegate on July 10, at the writer's suggestion, and that the Bishop was advised that Father John J. Burke had heretofore represented the Apostolic Delegate in the negotiations with reference to the religious controversy in Mexico, and the suggestion was made by the Delegate that Father Burke continue. Judge Manton stated that Bishop Spellman will acquiesce in this direction, and he offered his own services to bring about peace in the controversy.

SEE 146-A (Official File)

Referred to Hon. Sumner Welles, State Dept. by the President's confidential Memorandum of July 13, 1935, stating that he has no objection to Mr. Welles' showing this to Father Burke. --- Returned by State, and filed 7-17-35.

P. P. F.

5-23-2

Manton, Hon, Martin T.,
New York City.
Nov. 6, 1933.

States that four young men of Sayville, L.I. have prepared words and music for a N.R.A. march and song and have petitioned him to try to obtain for them an opportunity to present it to the President at some recreational moment. Says that Suffolk County, Long Island, has been very much interested in this accomplishment; they have played the march and sung the song at the N.R.A. parades in that county.. Will come to Washington any day that arrangements can be made for them.

SEE 50-C

P. P. F.

5252

ATTORNEY GENERAL,
11-20-35.

Martin T.
Called attention to the fact that Judge Manton would be pleased to be named on the World Court, and that Manley O. Hudson is prominently mentioned in connection with this same matter; Mr. Cummings suggested that it might be well to bear these two names in mind.

Attached is the following typewritten note: "At Warm Springs, Ga., November 23, 1935. MEMORANDUM FOR THE SECRETARY OF STATE What would you think of Manly Hudson for the World Court? F. D. R."

SEE 202

P. P. F.

5252

ags-copy

ATTORNEY GENERAL, The
Sept. 8, 1936

The President, by memo, referred to him for draft of reply, letter from Hon. William Denman, United States Circuit Judge, San Francisco, Calif., dated Sept. 5, 1936, discussing proposed bill of committee of the judicial conference, headed by Judge Martin T. (?) Manton, which embodies President's proposal to separate the judiciary into a self-administered body. -- Draft, submitted by the Attorney General Sept. 9, was not used. -- Mr. McIntyre wrote Judge Denman, Sept. 11 that the President has directed him to express his gratitude to the Judge for the gracious sentiments contained in his letter, and says he also appreciates receiving his discussion of the proposed bill for the administration of the Federal courts.

SEE - 41 (Official File)

P. P. F.

5-23-2

ATTORNEY GENERAL, The
Oct. 19, 1936

The President, by memo, requested that the Attorney General speak to him about this whole subject immediately after election, and referred to him letter from Hon. William Denman, United States Circuit Court of Appeals, Ninth Judicial Circuit, San Francisco, Calif., dated Sept. 27, 1936, enclosing copies of letters dated Sept. 26 addressed to Chief Justice Charles Evans Hughes and Hon. Martin T. Manton, re need of additional judges and reorganization of the Federal Courts. -- The President wrote Judge Denman on Oct. 16, thanking him for his note and the information, and says he wishes he could visit the Coast, but the official reason is the whole truth -- that so many things are going on outside our borders that he does not want to be four days away from Washington or to be away from there more than the eight days this trip takes. (This letter was sent from Aboard the Presidential Special) Hopes Judge Denman will get some Congressional action on Courts this fall.

SEE - PPF 336

P. P. F.

5252

ags-copy

MANTON, Hon. Martin T.
United States Circuit Judge
Second Judicial Circuit,
New York, N. Y.
October 7, 1937

Wrote the President that at the Senior Circuit Judges Conference, at which the Chief Justice presides, held in Washington last September, the conference appointed a committee consisting of Justice Rufus E. Foster, Justice Curtis D. Wilbur, Justice Orrie L. Phillips, and Justice Manton, of which latter is chairman, to cooperate with a committee of the Senate in the matter of proposed legislation for reforms in the Federal Judiciary. Indicates committee has been appointed by the Chairman of the Senate Judiciary Committee, and also by the Chairman of the Judiciary Committee of the House. Justice Manton indicates that he favors the President's Court Plan, and indicates he would like to discuss the matter with him. -- Mr. McIntyre sent a memo to the President on October 19, asking if the President wants to see Justice Manton. On this memo the President made the following notation in ink: "Washington Nov. 4 or 5". -- The President wrote Judge Manton on October 19 that it was good to hear from him and he welcomes the opportunity to discuss with him the matter of reforms in the Federal Judiciary. Will have his secretary arrange an appointment in the very near future. -- Mr. McIntyre wrote Judge Manton on October 20, asking if Nov. 4 will be convenient for him to see the President. -- Judge Manton replied October 21 that November 4 will be all right at any hour convenient to the President.

SEE - 41 (Official File)

P. P. F.

5-252

ags-copy

ATTORNEY GENERAL, The
Nov. 11, 1937

The President referred for draft reply a letter from Hon Martin T. Manton, U. S. Circuit Judge, U.S. Circuit Court of Appeals, NYC, dated Nov. 9th, to the President, enclosing copy of proposed bill, to establish the Administrative Office of the U. S. Courts, and for other purposes. Thinks a change should be made in this bill to provide for the appointment of the Chief Justice. This suggestion was made by the late Senator Robinson when Judge Manton talked to him about it shortly before the Senator's death. -- On Nov. 12, the Attorney General replied, submitting draft, which the President sent Judge Manton on Nov. 15 saying it will give him a great deal of pleasure to examine his constructive suggestions.

SEE - 41 (Official File)

P. P. F.

5-252

P. P. F.

5-252

C O P Y

January 14, 1938.

Your Eminence:

Thank you ever so much for writing to me about Judge Manton. As you probably know, he is an old friend of mine and his name will be given consideration when I take up the matter of filling the vacancy on the Supreme Court.

With all good wishes for the New Year,

Faithfully yours,

His Eminence
Patrick Cardinal Hayes
Archbishop of New York
452 Madison Avenue
New York, N. Y.

Justice Dept.: Recommends Hon. Justice Martin T. Manton, of the 2nd Judicial Circuit, for apptmt. Associate Justice of the U. S. Supreme Court.

P. P. F.

5-252

rlv

McDERMOTT, Charles J.
Arcadia, Yarmouth County,
Nova Scotia
8-7-38

PP7
5-25-2

Invited the President to come to Wedgeport (Nova Scotia ?) this summer for tuna fishing. Said that he will arrange everything, and that the end of August and September 1 to about the 10th are the best times. Said that he saw Judge Martin T. Manton and his family at lunch on August 5, and the Judge told him that he was hoping to be appointed to the U. S. Supreme Court vacancy. Mr. McDermott said that if Judge Manton were the President's choice it would please all who know him in New York.

SEE P.P.F. 2217

PP7
5-25-2

AGS

The following commented on the President's radio address of June 30th
at the New York World's Fair Grounds.

HART, A. B.
Philadelphia, Pa.
6-30-38

MANTON, Hon. Martin T.
~~New York City~~
7-1-38 - Ack. by the President.

WEISS, Max
San Francisco, Calif.
7-2-38

CHASE, Dr. William Sheafe
Religious Union for Worlds Peace
Kings Park, N.Y.
7-4-38 -- Also cong. Pres.
on Gettysburgh Address.

SEE P.P.F. 200-Radio Address 6-30-38 (Fair Grounds)

PPF

5252

HAND, Hon. Augustus N. - Justice, U.S. Circuit Court of Appeals,
New York, N.Y.,
Feb. 3, 1939

Writes to the President asking that he appoint Judge Robert P. Patterson to the vacancy in their court caused by Judge (Martin T.) Manton's resignation. - On Feb. 7, the President replied that his letter came just after he had telephoned Bob Patterson to ask him to have his name sent to the Senate for this vacancy. Says he would have sent the name up today but the Senate recessed immediately after rejecting the nomination of Judge Roberts in Western Virginia. Says Patterson's name will go up on Feb. 9th. Hopes to see him one of these days.

SEEK - P.P.F. 5612

P. P. F.

5252

ATTORNEY GENERAL

Jan. 3, 1941.

Gen. Watson referred for preparation of reply a letter from Hon. Frank J. Clegg, Justice, Supreme Court Chambers, Syracuse, N.Y., in the interest of Martin T. Manton. Wants a pardon for Mr. Manton, former Presiding Judge in the Second Circuit; thinks that because of the condition of his health, believes that the time already served in jail will meet the ends of justice.----Mr. Clegg's letter dated 12/28/40. -- Mr. Early wrote to Justice Gregg on Jan. 8, 1941, advising that President acts on applications for Executive clemency only upon recommendation by Attorney General, who is now considering this case. -- (Mr. Early's letter SEE 4235 is as per draft supplied by the Pardon Attorney, Justice Dept., Jan. 7, 1941.) (Official File)

P. P. F.

5-25-2

P. P. F.

5-25-2

mpk

MANTON, Mrs. Martin T.

Syracuse, New York

September 22, 1941

Wrote to the President making a plea that the President grant a pardon to her husband, Martin J. Manton, who is to be released from Lewisburg Penitentiary on Oct. 13, 1941.

-- The President replied on Oct. 4, 1941, explaining why he cannot respond favorably to the request. -- (The President's letter is as per draft supplied by the Attorney General, Oct. 2, 1941, in response to Gen. Watson's request of Sept. 25, 1941.)

SEE - 4235 (Official File)

P. P. F.

5252

mpk

SMITH, Hon. Alfred E.
President, Empire State, Inc.
New York, New York
September 26, 1941

Wrote to the President asking that Martin T. Manton, who will be released from Lewisburg Prison on 10/13/41, be granted a pardon. -- The President replied on Oct. 4, 1941, that since there is nothing in the official reports to cast doubt upon Manton's guilt and the sentence does not seem to be excessive, the President regards the plea as a request for a pardon to restore civil rights. Says it has been the President's practice not to consider granting such a pardon until the convicted person has been discharged from all forms of supervision for a period of not less than four years. Is unable to find any justifiable basis for treating this case differently than he would any other. -- (The President's letter is as per draft supplied by the Attorney General, Oct. 2, 1941, in response to Mr. McIntyre's request of Sept. 29, 1941.)

SEE - 4235 (Official File)

P. P. F.

5252