THE QUESTION OF ABORIGINES IN THE LAW AND PRACTICE OF NATIONS, INCLUDING A COLLECTION OF AUTHORITIES AND DOCUMENTS

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By
ALPHEUS HENRY SNOW

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PREFATORY NOTE.

The following is submitted to the Department of State, pursuant to a request made by letter dated April 29, 1918, that the author should "undertake the task of collecting, arranging, and, so far as [he] may deem necessary, editing the authorities and documents relating to the subject of 'Aborigines in the Law and Practice of Nations.'"

The author has discovered no treatise on the question, nor even any chapters in any book on international law or the law of colonies, to serve as a model or guide. He has therefore been compelled to develop the subject and arrange the authorities and documents according to his own judgment.

December 20, 1918.

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THE QUESTION OF ABORIGINES IN THE LAW AND PRACTICE OF NATIONS.

CHAPTER I.

DEFINITION OF ABORIGINES.

So far as the author of this report has been able to discover, no definition of the word "aborigines" as a term of the law and practice of nations has been made by any text-writer of recognized standing, or by any international body whose usage would determine its meaning. It therefore becomes necessary to formulate such a definition from an examination of the meaning attached to the word by lexicographers and by a study of the context of public documents of recognized authority in the law and practice of nations in which the word is used.

The following definition, formulated in that manner, is adopted for the purposes of this report:

Aborigines are the members of uncivilized tribes which inhabit a region at the time a civilized State extends its sovereignty over the region, and which have so inhabited from time immemorial; and also the uncivilized descendants of such persons dwelling in the region.

As a term of the law and practice of nations, "aborigines" is primarily a term of that division of the general public law which is not strictly national or strictly international, and which is concerned with the relations between a State recognized as one of the civilized States and uncivilized tribes under its sovereignty. Aborigines are distinguished from "colonists," the latter term including the citizens of civilized States who settle in the region. The relations of aborigines with each other, with the colonists, and with the colonizing State are necessarily subject to a special régime established by the colonizing State for the purpose of fitting the aborigines for civilization, and opening the resources of the land to the use of the civilized world. All civilized States which assume sovereignty over regions inhabited by aborigines undertake a civilizing work which, while varying in its details, is identical in its general nature and in the fundamental principles to be applied. Hence the dealings of individual civilized States with aborigines under their respective sovereignties are matters of common interest to all nations, and the