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SECRET

WAR CABINET

G.T. 8210

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GOVERNMENT OF IRELAND ACT.

Date of putting into operation.

I.

Copy of letter from Acting Secretary, War Cabinet, to the
Attorney-General.

18th September, 1919

Dear Attorney-General,

The Prime Minister has asked for the present position of the Home Rule Act, with special reference to the date at which it would automatically come into operation. The enclosed Memorandum has been prepared in this Office and I shall be glad if you will tell me for the Prime Minister's information, if it is a correct statement of the position.

Yours sincerely,

(Sgd.) Thomas Jones,
Acting Secretary.

The Rt.Hon. Sir Gordon Hewart,
K.C., M.P.

II

Memorandum.

The postponement of the Government of Ireland Act will automatically end with the termination of the present war, viz. the ratification of the Peace Treaties, and before that takes place it will be necessary for an Order in Council to be issued declaring the date at which steps are to be taken to put the Act into operation.

The postponement has been effected under Section 1 (i) of the Suspensory Act passed on September 18th, 1914, concurrently with the Government of Ireland Act, by which no steps shall be taken to put the latter into operation until such date (not being later than the end of the present war) as may be fixed by His Majesty by Order in Council. By successive Orders in Council a postponement for a period of 18 months from September 18th, 1914 was followed by 8 successive periods of 6 months, viz: until March 18th, 1920. The Act is subject to further postponement if the war be not then terminated. Should the Peace Treaties be ratified before March 18th, 1920, the postponement would automatically cease from the date of ratification.

Section 1 (i) of the "Termination of the Present or (Definition) Act 1918" provides that His Majesty and Council may declare what date is to be treated as the date of termination of the present war, and the war shall be treated as having ended on that date for the purposes of any provision in any Act of Parliament, Order in Council, or Proclamation. Section 1(ii) of the same Act provides that the date to be fixed by Order in Council shall be as nearly as may be the date of the exchange or deposit of ratifications of the Treaty or Treaties of Peace which presumably would defer the termination of the war until the ratification of the Treaty with Turkey as the last of the enemy States.

Section 49 of the Government of Ireland Act 1914 provides that the Act shall come into operation on the "appointed day". The appointed day, which varies for different purposes under the Act, is to be the first Tuesday in the eighth month after the month in which the Act was passed, or such other day as may be fixed by Order in Council not more than 7 months earlier or later., In view of the Suspensory Act the 8 months would count from a date to be fixed by Order in Council, not later than the termination of the war. It is further provided in the same Section that the Irish Parliament should be summoned to meet not later than 4 months after the said Tuesday.

III.

Copy of the Attorney-General's reply.

23rd September, 1919

Dear Mr. Jones,

In reply to your letter, I agree generally with the first three paragraphs of the memorandum which you enclosed, except that I should prefer, in the last three lines of the 3rd paragraph, after the word "Peace", to say, "which may, in the discretion of His Majesty in Council, defer the termination of the war until the ratification of the Treaty with Turkey as the last of the enemy States" instead of "which presumably would defer the termination &c."

As regards paragraph 4, I do not agree with the view that the eight months mentioned in Section 49 of the Act would count from the day to be fixed by Order in Council. In my opinion, upon a day not later than the termination of the war being fixed under the Suspensory Act, the Government of Ireland Act comes into operation on the day so fixed, and the Irish Parliament must be summoned to meet not later than four months after that day. It would seem that, in the preparation of the Suspensory Act, too little attention was paid to the provisions of section 49 of the Government of Ireland Act. In other words, by merely postponing the date at which an Act is to be put into operation, you do not alter the date upon which it is passed.

Yours sincerely,

(Sgd.) GORDON HEWART.

Thomas Jones, Esq.
