

CHAPTER 7- ACCIDENTS

Sir Lee Stack

In 1924, after Egyptian assassins killed the British Commander of the Egyptian Army and Governor General of the Sudan, Sir Oliver (Lee) Stack, an outraged Viscount Edmund Allenby, British High Commissioner to Egypt, insisted on an apology from Sa'ad Zaghloul, along with a fine of five hundred thousand Egyptian pounds.¹ Allenby also compelled Egypt to recall their troops from and reduce their control of the Sudan. Zaghloul resigned rather than agree to British demands. Zaghloul's withdrawal from the Egyptian political scene ushered in a new era of tripartite power sharing in Egypt, comprised of the British, King Fuad, and the Wafd Party. The Wafd Party maintained the popular support of ordinary Egyptians, while King Fuad used his control over appointments to widen his influence; and the British still held onto their "four Reserved Points" and attempted to prevent any decisions harmful British interests in Egypt.²

Egyptians sought a more favorable agreement regarding the British position in Egypt, but Great Britain elected a Liberal government, and Lord Lloyd George replaced Allenby. The Egyptians realized that they would have to be patient for political reform since George was a die-hard imperialist. Early on, George endeavored to displace the Wafd Party to his advantage; however, Great Britain and Egypt resumed a dialogue in 1929 with a newly-elected Labor government and victorious Wafd Party. Prime Minister Ismail Sidqi, replaced the Wafd-dominated parliament with one more amenable to a constitution that provided the king with more power, and the negotiations between the British and the Egyptians remained dormant.³

The Amputation and a New Career

Just months after rendering a decision in his most famous court case in June 1924, Crabitès concluded his docket one morning and tried to catch a Cairo streetcar rolling down the street. He lost his footing while attempting to board,

¹ Arthur Goldschmidt, *Modern Egypt*, 61.

² *Ibid.*, 62.

³ *Ibid.*, 63.

slipped, and the trolley ran over him.⁴ The car was in motion when he tried to board it. Crabitès's right leg received the brunt of the impact and was crushed under the weight of the streetcar. The accident broke the big toe on his left foot as well. Onlookers raced him to nearby Catholic Deaconess Hospital, where doctors promptly amputated his right leg below the knee. Although he was confident that the surgery would proceed smoothly, he had concerns over blood loss. Crabitès referred to the operation as "a petty amputation." He scoffed at the curse of Tutankhamen, disregarding the notion that his misfortune was attributable to his court decision in favor of Mr. Carter and the trustees of Lord Carnarvon. Recalling the incident later, Crabitès said, "I was determined that the accident should not make of me a moral cripple."⁵ Instead, he declared, "I make my living with my head, not with my legs, why should I worry?"⁶ Crabitès refused to allow the incident to dishearten him.

This life-altering event left Crabitès with much time on his hands. He had usually taken long strolls, often for two hours a day, to obtain some exercise and stay in shape. Now, he had to abandon those walks that he relished. He devised a formula to help him survive the loss of his leg and console him during hard times. He needed a hobby. An old friend of his, Arthur Merton, correspondent for the *Times of London* in Cairo, encouraged him to begin writing in his spare time. His court duties lasted only a couple hours a day for eight months out of the year, so he had plenty of time to devote to writing.

When he became well enough to travel, Crabitès sailed for New York City to be fitted with a prosthesis. He remained in New York until the spring of 1925, adapting to his new leg. While there, he wrote two essays. Writing became cathartic for Crabitès: "It taught me how to laugh old age in the face by giving a new vista to my life and by making me serene and contented."⁷ During his stay, he submitted one of the articles he had written to Hamilton Fish Armstrong, editor of *Foreign Affairs*. Armstrong telephoned him within a week to announce the

⁴ Pierre Crabitès, "Struggle of a Monopede," unpublished ms. (c. 1928), p. 1: Mss. 73-50, Crabitès Collection, University of New Orleans, New Orleans, LA.

⁵ Ibid.

⁶ Ibid., 2.

⁷ Ibid., 3.

paper's acceptance. It was published in the December 1924 issue of *Foreign Affairs* under the title, "Egypt, the Sudan and the Nile." *Foreign Affairs* was a most influential journal. According to Crabitès, Sir Lee Stack's assassination on 18 November, endowed the article with a "measure of timelessness."⁸

The work's acceptance boosted his morale. It encouraged him to continue composing new studies. Crabitès published two more articles for *Asia Magazine* while still in New York, thus furthering his new career and inspiring him to continue writing.⁹ When he returned to Egypt in the spring of 1925, he was confident that he could find a topic for book publication. Crabitès recalled his trip home to Egypt, "There was very little spring in my walk but there was a resiliency in my soul that took its place."¹⁰

Submitting articles to editors edified Crabitès. It taught him that while many articles are submitted, few are accepted. This toughened him to the realities of the printing industry. He learned how to handle disappointment. Having his hard work turned down curbed any arrogance he might have had, and yet his early successes helped him maintain hope of publishing more articles, or even perhaps books, in the future.

The British React to Crabitès's Works

Crabitès published two important articles in 1926, "Our African Cotton Rivals" and "The Suez Canal as an International Waterway," both in prestigious journals. His early studies on Egypt and the Sudan caught the attention of the British Residency in Cairo because they dealt directly with two of the four reserved areas that Britain kept under its control after granting Egypt its independence in 1922, specifically the Sudan and the Suez Canal. Much like his subsequent works, these were a blend of conjecture intermixed with history. Crabitès often wrote in the first person, as much of these two works concern his contemporaries, with whom he had some personal contact. He published his articles in American journals to be read by American policy makers. They consider British infringements on American rights and, naturally, roused the ire of

⁸ Ibid.

⁹ Ibid., 5.

¹⁰ Ibid.

the British in Egypt, reinforcing their already negative impression of him. These studies are excellent examples of Crabitès's low estimation of the British, as well as his own inability to restrain his opinion in favor of political expediency. He never sought to impress British officials. Rather, he composed these articles to influence officials in Washington, perhaps with the hope of obtaining a future diplomatic appointment.

“Our African Cotton Rivals”

In a 1926 article for the *North American Review* entitled “Our African Cotton Rivals,” Crabitès examined the cotton industry in the Nile Valley, a great competitor to the American cotton trade. In this study, he also tackled the controversy over Nile water rights between Egypt and the Sudan and how these water rights related to the price of cotton back in the United States.

Crabitès argued that after the rise of the Mahdi, Lord Cromer promoted a pro-Egyptian water policy, allowing more of the Nile's precious water to be put to use in Egypt than the Sudan. Once Cromer placed Egypt's finances in order, he dispatched an army southward to reconquer the Sudan. A British and Egyptian partnership governed the newly-designated Anglo-Egyptian Sudan. According to Crabitès, the Anglo-Egyptian condominium worked well for all parties until 28 February 1922, when Britain gave Egypt her “independence.” Up until that date, the British saw the Nile as Egypt's river. Crabitès maintained that Cromer occupied the Sudan to protect and preserve Egypt, “The jealousy with which Lord Cromer safeguarded the principle of the Nile water monopoly of Egypt is readily understood when it is borne in mind that the country was the apple of the eye of her Regenerator.”¹¹ The condition of the Nile would remain unaltered until basic changes occurred

Sir Lee Stack was assassinated on 18 November 1924. The British attributed the crime to a follower of Sa'ad Zaghloul. Crabitès reasoned that Lord Allenby sought to alter Egypt's water rights to chastise the Egyptians for the murder of the governor general of the Sudan. Lord Allenby reversed an Egyptian monopoly over the Nile's waters into a Sudanese one. The judge believed that

¹¹ Pierre Crabitès, “Our African Cotton Rivals,” *The North American Review* (1926), 19.

such a punishment was an indictment against the whole of Egypt: “Withdraw the water of the Nile from the Delta of Egypt, and its verdant fields will turn over night into a barren waste. The country is practically rainless.”¹² While Crabitès considered this “water cure” a drastic but effective remedy to the spate of anti-British murders over the past year and half, he condemned the decision, for “it made future generations responsible for the crimes committed in 1924.”¹³ According to Crabitès, there was insufficient water in the Nile to accommodate the demands of both Egypt and the Sudan. There was not even adequate water to satiate Egypt’s own thirst.

Crabitès thought that a transformation of water privileges towards a pro-Sudanese policy would also punish those residing in the South of the United States for the assassination of Stack. Egypt had approximately 7, 300,000 acres of arable land, whereas the Sudan had an estimated 35,000,000 acres of cultivatable land, roughly equivalent to that of the Southern United States.¹⁴ By shifting the distribution of the Nile’s waters, the Sudan could place more land under the plow and harvest much more cotton; thereby depressing the value of American cotton. Crabitès explained that aside from American Sea Island Cotton, the Egyptian varieties were of a higher quality than American cotton and fetched a better price at market. He insisted that his arguments should not be misconstrued as pro-Egyptian, rather they were aimed at changing the water policy, for he did not want to see his fellow Southerners penalized for a crime committed in a far-away land. His first loyalty was to the South. Crabitès concluded,

If, as I firmly believe, there is not enough water in the Nile in low years to deviate a drop from Egypt without jeopardizing her existence, and if the policy foreshadowed in the *London Times* be adopted, it will mean (1) famine in Egypt and (2) reduced prices for American cotton.¹⁵

¹² Ibid., 21.

¹³ Ibid.

¹⁴ Ibid., 23, 29.

¹⁵ Ibid., 30.

Crabitès also criticized the British appointment of Mr. Cremers, a Dutchman, instead of Mr. Cory, an American, to head the commission investigating a possible water settlement between Egypt and the Sudan. He contended that when Allenby originally tried to investigate the water issue in 1919, he procured the services of H.T. Cory, a Californian, "In those days, just after the Armistice, all thoughts turned to America as the one and only place to seek the 'foreign' member of this commission."¹⁶ He questioned British motivation for failing to recall Cory when the subject resurfaced in 1924. Crabitès reminded the reader that Cory had dutifully fulfilled his job and received much praise.

Naturally, the British responded to Crabitès's article. C. Duff in the Foreign Office replied,

It would not be difficult to pull Judge Crabitès' elaborate article to pieces as he has failed to grasp the fundamental agricultural and engineering problems underlying the extension of cotton culture both in Egypt and the Sudan with the result that many of his conclusions are misleading.¹⁷

Duff also answered Crabitès's inquiry regarding the nomination of Mr. Cremers over H.T. Cory. He stated that while the British would have loved to appoint Cory to investigate the Nile water privileges, the Egyptians were averse to accepting him, for they considered Americans indistinguishable from the British.¹⁸

"The Suez as an International Waterway"

Crabitès also published an article entitled "The Suez Canal as an International Waterway" in the May 1926 issue of *Current History*.¹⁹ This composition was a general summation of the history of the Suez Canal and its relevance to international politics. It examined the significance of the Suez Canal to American interests and the British infringement of American rights related to

¹⁶ Ibid., 25.

¹⁷ Public Record Office Document J815/469/16: From C. Duff in the Foreign Office in London to A. Fletcher in New York. 12 April 1926.

¹⁸ Ibid.

¹⁹ Pierre Crabitès, "The Suez Canal as an International Waterway." *Current History* 24 (1926): 216-222.

the use of the canal. In this study, Crabitès asserted that the Suez Canal was of vital importance to the United States, just as it was to Great Britain. Where the British needed the Suez for their communications link with India, the canal was essential to the American links with the Philippines.

Crabitès explained that when the profligate Khedive Ismail sold his shares of stock to the British on 25 November 1875, for four million pounds, the British took control of the canal company and renamed it Victoria, de Lesseps and Co. Once on board, the British endeavored to alter company policy. While French stock holders desired high tolls to yield dividends, the British attempted to lower rates and improve the condition of the canal.²⁰ To advance their own agenda, the British placed Englishmen on the board of directors to promote their shipping interests.²¹ This only highlighted the strategic value of the canal and accomplished little to enhance its security. Unfortunately for the British, the original directive for the canal stipulated unrestricted passage for all commercial vessels, regardless of their nationality. For Crabitès, this meant that the Suez could not be navigated by belligerent vessels. Crabitès argued that the British had major problems with this technicality, as the Suez was of such strategic importance. They wanted to place warships in its waters.

Britain decreed Egypt to be a “Veiled Protectorate” in 1882, and soon thereafter reexamined the agreement under which the Suez Canal was promulgated. In 1888, the British redressed this problem with a new contract which specified that all vessels were at liberty to travel the Suez, even during times of war, so long as they did not disembark and immediately quit its waters. The defense of Egypt was almost as imperative as that of the canal. Crabitès stressed that the British insertion of special exemptions from this arrangement permitted them to safeguard Egypt and the Suez in wartime.²² This allowed the British to both protect Egypt and manage the Suez Canal during times of war. Referring to the British governance of the canal during World War I, Crabitès affirmed,

²⁰ Ibid., 219.

²¹ Ibid.

²² Ibid., 220.

I am criticizing no one. I am simply recording that when the strife was in its early stages the inviolability of the canal was respected. When, however, the agony was prolonged and the passions ran high, no one thought any more about the covenant which said that 'during war belligerent powers shall neither embark nor disembark in the canal or its ports, troops, munitions or war material.'²³

Perhaps the most salient part of this essay concerns Crabitès's comments on the effect of British Suez policy on American rights. He made a case for the United States to compel Great Britain to reexamine its conduct towards the Suez Canal, "We cannot have access to it depend upon the caprice of Egypt, or upon any agreement which may exist between England and any of her present or future allies."²⁴ When Britain handed Egyptians their sovereignty in 1922, they retained control of the four reserved areas, including the Suez Canal and the Sudan. Crabitès disputed British domination over the four reserved areas, stating,

This means in plain English that the Suez Canal may not be an English lake but that it is a British waterway. It tells us that we cannot use this English stream in time of war without Britain's expressed or implied consent. It points out that our right to traverse the narrow seas is impaired.²⁵

For Crabitès, the Suez belonged to all of humanity and should not be monopolized by one single country.

He believed that this situation could not be postponed because the United States needed to assert their unrestricted right to free and equal access to the Suez Canal. Crabitès thought that the United States already had missed its best opportunity to redress this issue when the British asked the United States to recognize Egyptian independence. Crabitès said that the United States should have refused such acknowledgement until the British accepted a proposal calling for unhindered right of entry to the Suez during times of war. He concluded that

²³ Ibid., 221.

²⁴ Ibid.

²⁵ Ibid.

Great Britain would be loath to surrender this prerogative since the United States had already failed to take advantage of the circumstances when Britain called for American recognition of Egyptian independence; however, the United States still needed to rectify this impasse.²⁶

Crabitès claimed that the British would only abandon Egypt so long as they could retain control of the Suez Canal and the Sudan. They wanted hegemony over the Sudan for its cotton production. Although Egypt was an economic drain on the British, the Sudan was a much more alluring and profitable venture:

I do not blame the English. They entered Egypt largely because they wanted to control the canal. They are absolutely right from their point of view. But we are entitled to ours. We own the Philippines. We have maritime interests. We are a free people. We cannot retain our self-respect and permit our access to the high seas to be contingent upon the pleasure of any Power, however liberal and friendly it may be.²⁷

This article caught the attention of British authorities in Egypt. They responded indignantly to his arguments against British control over the Suez Canal,

He is an altogether disagreeable fellow as regards as [sic]- His correspondence which was perused to me by the censorship during the war showed a partisanship. . .²⁸

Crabitès Spends his Second Life

Crabitès's second brush with death came just a few years later in the summer of 1927, while leaving his house for court one morning. Losing his equilibrium because of his prosthesis, he stumbled and fell down the stairs. This time he broke his left knee. He returned to the same Catholic hospital where his right leg had been amputated in the summer of 1924, so Dr. Cassab could mend his knee with silver stitches. His previous accident had left him with no right leg to balance on, instead relying on a prosthesis. Therefore, he could not leave the

²⁶ Ibid., 222.

²⁷ Ibid.

²⁸ Public Record Office Document J1096/469/16: To Lord Lloyd in London. 7 May 1926.

hospital on crutches. Immobile, Crabitès remained in the hospital for months. Remembering his stay at the hospital, Crabitès said, “Everything seemed to be sound about me except my legs, which specialized in going wrong.”²⁹

This time, however, his hospital visit would not be so easy. On the night of 6 July Crabitès collapsed, as his legs swelled from phlebitis. His constitution had to fight an up-hill battle. He developed a fever; his temperature surpassing 103 for days on end during the sweltering Cairo summer. Wrapped in blankets, his swelling failed to subside, and he remained in critical condition. Most of the doctors and nurses attending to him were convinced that he would not survive. His well-being slowly improved, although not greatly. The swelling in his legs receded to some extent, as his temperature dropped ever so slightly. His nurse, Sister Neomie, whose vigilance never faltered throughout the entire ordeal, provided him with strength and hope. Crabitès remembered his gradual recovery,

It, therefore, came to pass that one morning I said to Dr. Cassab, my attending physician, who was both devotion and skill personified: ‘Doctor, I have something on my chest which is worrying me. I want to get it off.’ He seemed surprised and reached for the tool which doctors wear around their necks. He was about to apply it to my chest when I said in a whisper: ‘*Ne faites pas ça*’. – ‘don’t do that. I have something to say.’ He leaned forward. I then added: ‘Doctor, the sisters think that I am going to die. I am not. I have found my formula. I am like the Allied armies. Germany lost the war when she failed to win the first battle of the Marne. From that hour onwards there were moments when the tide ran strongly against the Allies but they won. I shall have a hard time getting well. My Battle of the Marne was won when my constitution stood that first onslaught. I shall recover.’³⁰

While Crabitès was coming to terms with his first accident, he developed a formula that was to sustain him through hard times and give him hope, writing as

²⁹ Crabitès, “The Struggle of a Monopede,” 7.

³⁰ *Ibid.*, 9.

a hobby. Crabitès became convinced that his only hope of recovering from this episode was to create a backup plan:

All men should evolve a formula whenever a difficulty besets them. A formula is as necessary to sustained effort as it is to practical chemistry. Most business houses have a slogan. So have political parties. When I say that I worked out a formula shortly after the streetcar got the better of my foot and another, later on, all that I mean is that I chose a slogan for myself.³¹

Eventually, he settled on a motto. No longer would he merely put pen to paper as a hobby, rather to publish. The thought of finding homes for his articles instilled him with optimism and resiliency. His initial depression abated as Crabitès turned to writing again in an effort to uplift his spirits. Within two weeks of his hospital stay, he composed a piece titled “It is time for a Catholic President?” and published it in the *Outlook* on 17 August 1927. Locating a home for one of his papers, Crabitès was again filled with hope.

Crabitès took the long road to recovery. He remained in the Catholic hospital for five months and finally was allowed to leave on 6 November. During that the time, he rehabilitated his shriveled leg. As he was immobilized for much of the time that he spent in the hospital, writing satiated Crabitès’s appetite for intellectual endeavors. Crabitès began composing articles for publication at a rapid pace, eventually achieving success in such journals as the *North American Review*, *Virginia Quarterly*, *Journal of the American Bar Association*, *Commonwealth*, *Catholic World*, and *Muslim World*.

Crabitès continued his correspondence with many of his contacts back home in the United States. He intended to employ these contacts to assist him in obtaining a diplomatic position. Crabitès exchanged letters with Oscar W. Underwood before the congressman’s death in 1929. Underwood served in both the House of Representatives and the Senate while representing Alabama and was also the Chairman of the Committee on Ways and Means. Underwood thought that Crabitès showed promise as a writer and recommended that he

³¹ *Ibid.*, 8.

abandon his judgeship on the Mixed Courts, stating, "I think John Davis is right about your ability as a writer. I know that you are a good judge and an eminent one, but I believe that you have a great field open to you with your pen as you have ever found on the bench."³² Often disagreeing, the two men contested the production and consumption of Sudanese cotton.³³ Crabitès went so far in this discussion as to compose an article on the subject.

Crabitès also communicated with Senator Henry Cabot Lodge Jr., grandson of Henry Cabot Lodge, the political adversary of Theodore Roosevelt. Henry Cabot Lodge Jr. was first a representative in the legislature of Massachusetts and later a senator representing Massachusetts in Washington D.C. The two debated the situation in Palestine, including the League of Nations as well as the proposal to partition Palestine. Lodge wanted Palestine removed from then Turkish and Muslim domination: "My own view about Palestine has been stated repeatedly, and that is that it should be taken from Turkey and the Moslems and for the Jews and Christians."³⁴

Taking stock of his situation allowed Crabitès to reflect upon his life. His injuries reminded him that he was maturing, although he was unwilling to accept it. He still felt young and was unenthusiastic about aging, exclaiming,

I look around at my contemporaries out here in Egypt. I note that their hair is growing thinner and either whiter or suspiciously blacker. I see lines in their faces. Their teeth often strike me as being of distressing symmetry. I say nothing when I observe all of this. I simply lean on my stick a little harder and whisper to myself: 'You do not get along as fast as you did when you first came to Cairo, and you have changed a great deal in appearance since then. Your accidents did that. Your age has nothing to do with it. You are still young.'³⁵

Greater Sovereignty

³² Letter, Mss. 73-85, Scrapbooks, 1919-1939, Crabitès Collection, University of New Orleans, New Orleans, LA.

³³ Ibid.

³⁴ Letter, Mss. 73-85, Scrapbooks, 1919-1939, Crabitès Collection, University of New Orleans, New Orleans, LA.

³⁵ Crabitès, "Struggle of a Monopede," 10-11.

Ever since King Fuad gained precedence over the Wafdists by dismissing them and issuing a new constitution, negotiations between Egypt and Great Britain remained on the shelf. Sir Miles Lampson became the high commissioner in 1934. He persuaded King Fuad to reinstate the old, 1923 Constitution and promote free elections, thus including the Wafd Party in the government and providing for the British to resume dialogue.³⁶ The Italian occupation of Ethiopia and Libya encouraged Anglo-Egyptian discussions in 1936. Egyptians feared that World War II would be a replay of World War I, threatening their independence the way it did when it became home to foreign troops and the logistical base for the Gallipoli campaign. The British, on the other hand, wanted a guarantee on their strategic interests in the region, so when the pro-Axis Fuad died, his son Faruq succeeded him and resumed talks. The Anglo-Egyptian Treaty called for British troops to remain in the Suez Canal zone for twenty years, and the British agreed to recognize Egyptian sovereignty and facilitate the end of the Capitulations.³⁷

An American Proposal for Greater Representation on the Mixed Courts

Concerned with Anglo-Egyptian dominance over the Mixed Courts, the United States pressed for more parity in the courts. Eight years after Jasper Y. Brinton replaced Judge Tuck on the Court of Appeals, the Department of State in March of 1929, sought the appointment of more American judges to the Mixed Courts in order to counteract the predominance of pro-British judges. In May of 1926, Dr. Morton Howell attempted to block the promotion of a British successor to Judge Booth. Howell insisted that the British must adhere to the principle that no one country could have a dominant influence over the courts.³⁸

The charter for the Mixed Courts called for equal representation from the Capitulatory Powers on the courts. Great Britain had a total of seven judges on the Mixed Courts, whereas the United States only had three judges. The British argued that they actually followed the policy of equal representation until 1914 with the proclamation of the British protectorate over Egypt. At that time, two

³⁶ Goldschmidt, *Modern Egypt*, 63.

³⁷ *Ibid.*, 64.

³⁸ Public Record Office Document J391/56/16: To Lord Lloyd in London, 2 February 1929.

British, one French, and one Italian judge filled the vacancies in the Mixed Courts following the departure of German and Austrian judges. The British also stated that in 1920, two more British judges had received seats on the Mixed Courts in an effort to compensate for the loss of Russian representation as well.³⁹ The British reminded the Americans, “These comparatively recent departures from the principle of equal representation were noted by the American Government but no formal objections were made to the Egyptian or Allied Governments.”⁴⁰ Confidential correspondence between the Residency in Cairo and the Foreign Office in London indicate that the British actually reasoned that they should have a disproportionate representation on the Mixed Courts for two reasons: First, the British had a much larger community in Egypt, and second, they contended that as they were the ones who had the protectorate over Egypt, thus they should stand to gain from this and exercise a greater influence over the courts.⁴¹

Franklin Mott Gunther, American Minister in Cairo, declared,

It is obvious that the representation of the United States on the Mixed Courts is not commensurate with its position as a principal capitulatory power or in accordance with the principle of equality . . . The other three principal capitulatory powers are each represented by a greater number of judges than is the United States, and half of the lesser capitulatory powers have an equal representation.⁴²

The British resisted this maneuver: “To support the Belgian and Greeks claims to first instance appointments and the Appeal posts will probably go to France, Italy and Switzerland, there does not appear to be any immediate possibility of satisfying American desires.”⁴³

In order to assure greater American presence on the Mixed Courts, the State Department called for Crabitès’s promotion to the Court of Appeals and for

³⁹ Public Record Office Document J95/756/16: Letter to the Royal Egyptian Ministry for Foreign Affairs, 18 April 1929.

⁴⁰ Ibid.

⁴¹ Public Record Office Document J3291/85/16: From Peterson in Cairo to the Foreign Office in London. 18 November 1931.

⁴² Public Record Office Document J95/756/16: Letter to the Royal Egyptian Ministry for Foreign Affairs, 18 April 1929.

⁴³ Public Record Office Document J391/56/16: To Lord Lloyd in London, 2 February 1929.

another American to replace him on the Court of First Instance in Cairo.⁴⁴ During a Cairo tea party, Franklin Mott Gunther, American Minister to Egypt, and First Secretary Mr. Wadsworth, approached Arthur J. Booth, British Judicial Advisor to Egypt. Mr. Wadsworth told Booth that in the event that the Mixed Courts adopted a five-judge chamber, the United States should be assured one of those positions.⁴⁵ The British judicial advisor to Egypt replied that while he recognized that the United States was one of the Great Powers, that did not guarantee her more positions on the Mixed Courts, for there was also Egyptian opinion to consider.

Franklin Mott Gunther made a case for Judge Crabitès's claim to the next available seat based on his merit and seniority. The judicial advisor believed that past American nominees had not been of the highest quality. Rather than dealing directly with his anti-British opinions, the British once again assailed Crabitès's credibility and competence as a judge to frustrate any attempt at his appointment. This was obviously a disingenuous argument since other British judges on the Mixed Courts had stated on record that Crabitès was a judge of the highest caliber. Booth explained that although he was personally fond of Crabitès and had heard the high commissioner had a similar inclination, he would have to examine Crabitès's history, as well as the high court's opinion of the judge.

Mr. Wadsworth regarded Sir M. Amos's opposition to Crabitès's promotion in 1921 as a matter of his politics rather than merit. Mr. Wadsworth insisted that these objections to Crabitès were no longer relevant; however, Booth countered, "I believe we had more than once suspected the hand of Crabitès in incidents which had caused us irritation."⁴⁶ The judicial advisor concluded that the United States was more likely to realize a new post on a Court of First Instance. To try and placate American opinion, the British proposed elevating more Americans to

⁴⁴ State Department Doc. 883.05/293: From Kellogg, Department of State, to American Legation, Cairo, 8 March 1929.

⁴⁵ Public Record Office Document J1393/398/16: From Judicial Advisor Sir Austen Chamberlain to the High Commissioner in Cairo, 20 May 1926.

⁴⁶ Ibid.

the Courts of First Instance. This, of course, did not satisfy the American minister.

It troubled the Americans that the British were willing to nominate M. Houriet to the Court of Appeals, who was from Switzerland, a non-capitulatory nationality and yet be so intransigent in their stance against Crabitès. The State Department declared that the British should heed their original proposal of elevating one American to the highest court and filling the vacancy with another American, "A failure to recognize this principle so far as the United States is concerned in the forthcoming appointments to the Mixed Courts of Appeal and First Instance will inevitably produce an unfortunate impression upon this government."⁴⁷

That same year, Franklin Delano Roosevelt nominated Crabitès as the American commissioner to the Anglo-Egyptian Treaty of 1929. Crabitès's job was to "create a standing board to which may be referred, either by Egypt or the United States, any questions of importance to either or both nations."⁴⁸ Finally, on 6 August 1929, the British and Egyptians resolved the British occupation and replaced it with a military alliance. Egypt joined the League of Nations and the Sudan returned to the Anglo-Egyptian condominium.

Judge Molostvoff died in December of 1930, and the British judicial advisor again passed over Crabitès for promotion to the Court of Appeals and instead appointed Italian Judge Vincenzo Falqui Cao, Vice President of the Court of First Instance at Cairo, to the Court of Appeals. At the time, Crabitès was President of the Cairo Court of First Instance.⁴⁹ The nomination of Judge Vincenzo Falqui Cao was not the traditional manner in which judges were elevated to the Court of Appeals. Normally, judges received promotion based on seniority. Crabitès had already been overlooked in 1921, when Jasper Y. Brinton succeeded Judge Tuck to the Court of Appeals. Later Judge Peter, the Swiss

⁴⁷ State Department Doc. 883.05/293: From Kellogg, Department of State, to American Legation, Cairo. March. 8, 1929. This is a letter from Franklin Mott Gunther, American Minister to Cairo, to Mohamed Mahmoud Pasha, Prime Minister and Minister for Foreign Affairs. 18 April 1929.

⁴⁸ Newspaper Clipping, Mss. 73-85, Scrapbooks, 1919-1939, Crabitès Collection, University of New Orleans, New Orleans, LA.

⁴⁹ State Department Doc. 883.05/378: From American Legation in Cairo to Division of Near Eastern Affairs, Department of State. 29 December 1930.

president of the secondary Mansourah Court of First Instance, accepted the appointment to the Court of Appeals.⁵⁰ This was the third time that Crabitès had been ignored while other, less senior men received promotion over him to the court of last resort. This injustice compelled Crabitès to rethink his position on the Mixed Courts. He considered retiring from the courts and taking up a job as an arbitrator instead.⁵¹ A letter from the American Legation in Cairo to the secretary of state explained British inequity towards Crabitès, "In the recent election of December 10, last, there does, however, appear to have been clear discrimination against Judge Crabitès who, following Judge Molostvoff's death, was the senior member of the bench."⁵² The letter goes on to state,

This explanation is, however, so obviously unnecessary and so void of pertinency when it is considered that in 1921 Judge Crabitès was also proposed for appointment to the Upper Court that it may be that there is some truth in a second suggested explanation. This letter harps back to the old rumor of alleged intrigues in which Judge Crabitès is said to have indulged in an endeavor to have himself appointed to the Court of Appeals, to his supposed anti-British attitude during and since the time of the British Protectorate when the British government proposed the reorganization of the Mixed Courts.⁵³

No evidence has surfaced concerning Crabitès's alleged plots to secure a seat on the Court of Appeals. In the appointment process from 1917 to 1921, Crabitès argued in favor of his nomination by composing articles to the State Department. He enlisted the support of congressmen from his home state of Louisiana, including Senator Ransdell and Congressman Dupré. Crabitès also turned to Senator James W. Wadsworth of New York for assistance.

The American government brought forth the issue of equal representation on the Mixed Courts once more in 1931. Perhaps this was a reaction to Crabitès's snub for the Court of Appeals in 1930. Regardless, the Americans

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

again pressed the British for greater representation on the courts. American Minister W.M. Jardine approached Percy Lorraine, High Commissioner, to rectify this discrimination. Jardine's greatest argument in favor of a balanced court dealt with the recognition that France, Italy, and Belgium had in the past agreed to stand fast against any British encroachment on their rights relating to the Mixed Courts. Jardine believed that during the time that these countries stood tall against any diminution of their power, American influence suffered.

Jardine told the High Commissioner that if the Latin Countries organized to preserve their rights, so too should the Anglo-Saxon countries since they shared many of the same principles.⁵⁴ This subject stressed relations between the United States and Great Britain. In fact, Percy Loraine went on record as having said, "Further remarks by Mr. Jardine led me to suspect that generally speaking the bearings of Americo-Egyptian relations were rather overheated."⁵⁵ In his conversations with the American minister, Loraine regurgitated an earlier contention of Arthur J. Booth, former British judicial advisor to Egypt, that American judges were of inferior ability, "As to the quality of American judges, I said that this had not generally been very high."⁵⁶ Loraine qualified this statement, "I was not thinking of Judge Crabitès or Judge Wright (the last American citizen appointed) but of the general run of Americans who had held posts."⁵⁷

Ultimately, the British considered it an inopportune time to put forth an American candidate for the next vacancy. First, the next post had been already promised to an Austrian. Second, Loraine believed that by pledging the next post to an American, Judicial Advisor Booth, would be placed in a dishonest and untenable position. Finally, Booth alleged that it would be difficult for the Americans to produce a high quality candidate.⁵⁸ In a letter to Abdel Fattah

⁵⁴ Public Record Office Document J3531/85/16: From Percy Loraine, British High Commissioner to Egypt, to Sir John A. Simon, M.P., in London, 30 November 1931.

⁵⁵ Public Record Office Document J3531/85/16: From Percy Loraine, British High Commissioner to Egypt, to Sir John A. Simon, M.P., in London, 15 December 1931.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

Yehia Pasha, Royal Egyptian Minister for Foreign Affairs, Jardine expressed the penultimate American decision,

Under the circumstances the Government of the United States of America can not accept the statement of the Royal Egyptian Government of June, 1931, as a convincing or satisfactory reply to its repeated representations on this subject. Animated as it is, however, by the friendliest sentiments toward the Royal Egyptian Government, the United States will refrain at this time from continuing to press its point of view.⁵⁹

The British were disinclined to permit Crabitès to reach the Court of Appeals. In a Foreign Office circular titled "Personalities in Egypt," the British described Crabitès as a thorn in their side, especially during the war. The circular stated that Crabitès "was the author of a remarkable judgment at the outbreak of the war misinterpreting certain emergency legislation. The execution of this judgment had to be arbitrarily refused, apparently under martial law, and Judge Crabitès has not forgotten the Incident."⁶⁰ However, the British did acknowledge his capabilities:

He has done his work conscientiously as a judge and has a quick mind and considerable intellectual ability. He is not, however, always sound in decision. He is inclined to minor mischief-making, and has at times been suspected of being behind inconvenient representations made by various American Ministers.⁶¹

The British did affirm the importance of his intellectual contributions, recognizing his works in prominent journals on subjects regarding Egypt and the Sudan. The British thought that his arguments in these periodicals demonstrated his anti-British proclivities: "On one occasion at least he has had to be remonstrated with on account of his adverse reflections on British policy in Egypt."⁶² Although the

⁵⁹ Public Record Office Document J3359/32/16: From W.M. Jardine in Cairo to Abdel Fattah Yehia Pasha, Royal Egyptian Minister for Foreign Affairs in Cairo. 2 December 1932.

⁶⁰ Public Record Office Document J436/235/16: "Personalities in Egypt." From Mr. Yencken in Cairo. 5 February 1934.

⁶¹ Ibid.

⁶² Ibid.

circular conceded that he was a likeable man, the British regarded him as a troublemaker more concerned with appeasing the Egyptians.⁶³

To cope with this latest disappointment, Crabitès composed an article dealing with the effect of British control over the Mixed Courts. In an exposé submitted to William M. Jardine, American Minister to Egypt, Crabitès addressed the issue of parity on the Mixed Courts. He maintained that British dominance had altered the Mixed Courts to such an extent that they were neither mixed nor international but Anglo-Egyptian in character.⁶⁴ There was not equal representation on the courts that the charter of the Mixed Courts had intended, and the effects could be experienced throughout Egypt.

Crabitès conceded that Great Britain had an entitlement to a greater number of judges on the Mixed Courts because they had a greater stake in Egypt. It was difficult for him to accept that France and Italy both had more judges on the courts than the United States. He felt that an American should be appointed to the Court of Appeals, thus ensuring the United States of a representation on par with the other Great Powers.⁶⁵

Judges of the Mixed Courts Sue the Egyptian Government for Compensation in Gold

By 1931 the Great Depression was in full swing. Not only were markets in a deep recession in America, but much of the rest of the world as well. Judges on the Mixed Courts were anxious about their salaries and pensions during this period of apprehension and instability. Great Britain began paying the salaries of foreign judges in depreciated Egyptian currency, rather than gold. The foreign judges voiced concern over this new practice and wished to have their salaries and pensions paid in gold.⁶⁶

Crabitès worried about the tension over the judges and their salaries. He realized the implications in the matter, for if the judges brought suit, the case

⁶³ Ibid.

⁶⁴ State Department Doc. 883.05/379: From Pierre Crabitès in Cairo to William Jardine, American Minister to Egypt, Cairo, Egypt. 31 January 1931.

⁶⁵ State Department Doc. 883.05/382: From Division of Near Eastern Affairs, Department of State, Washington D.C. 9 April 1931.

⁶⁶ State Department Doc. 883.05/425: From William Jardine, American Minister to Egypt, to the Secretary of State. 19 December 1931.

would fall under the jurisdiction of the Mixed Courts; and how could the judges hand down an impartial ruling on their own case? Crabitès was apprehensive that the Egyptian government would react unfavorably, should the judges rule in favor of payment in gold. He sought to avoid the government enforcing its will upon the Mixed Courts and said, "The policy of the United States has always been to safeguard the independence of the judiciary. This principle is menaced by the doubt which persists in regard to the basic value of my salary and pension."⁶⁷

The British shared many of the same concerns as Crabitès. For example, they took issue with submitting such a case before the Mixed Courts. Ronald Campbell, an assistant to the high commissioner, wrote in a letter to British M.P. Sir John A. Simon, "The question at issue is essentially one for decision by a court of law and it would be sufficiently embarrassing at any time that recourse to the only competent court should be barred by the circumstances that the judges of that court are interested parties."⁶⁸ The Residency in Cairo feared instigating Egyptian nationalists. Campbell explained his reservations regarding nationalist sentiment, "The whole question has caused me some anxiety in view of the obvious risk that it might prejudice Egyptian sentiment against the Mixed Courts."⁶⁹ Campbell's intuition was correct, for Sa'ad Zaghloul and the Wafd Party protested the proposed changes to the judges' salaries and pensions. *Al-Ahram* called for the abolition of the Mixed Courts, arguing that its judges were incapable of rendering unbiased decisions.⁷⁰

As negotiations between the Egyptian government and the judges of the Mixed Courts persisted another two years, Crabitès understood the difficult situation in which the Egyptian government found itself. In February of 1933, the Mixed Court of First Instance at Cairo ruled that Egypt must pay the public debt's interest in gold, a decision which aroused a hostile reaction from Egyptians in

⁶⁷ Ibid.

⁶⁸ Public Record Office Document J3691/3691/16: From Ronald Campbell at the Residency in Cairo to Sir John A. Simon M.P. in London. 19 December 1931.

⁶⁹ Ibid.

⁷⁰ Public Record Office Document J1639/92/16: Memorandum respecting the Egyptian press from May 26 to June 1, 1932. Cairo. 13 June 1932.

opposition to the Mixed Courts.⁷¹ The Capitulatory Powers expected the Egyptian government to provide monetary relief to the judges of the Mixed Courts whose salaries were directly affected by the drop in value of the Egyptian currency.⁷² This decision did not sit well with Egyptians, and nationalist sentiment prevailed. Egyptians already considered these expatriate judges overpaid. Now they perceived the judges on the Mixed Courts as foreigners unconcerned with their present plight.

Crabitès changed his earlier views to payment in gold for the judges. He recognized the ramifications of calling for payments in gold while the remainder of Egypt suffered. He agreed with American Minister to Egypt William M. Jardine on the difficulty of asking for gold instead of the Egyptian pound, while Jardine thought the best course of action was to wait until the world's financial situation improved.⁷³ Crabitès reasoned that the insistence of the Mixed Courts for compensation could only result in the embarrassment of the Mixed Courts as an institution, and the humiliation of the Egyptian government.⁷⁴

On 15 February 1933, the general assembly of the Mixed Courts accepted an earlier proposal from the Minister of Justice, calling for compensation of those judges where the value of the Egyptian currency dropped over ten percent in relation to their native countries' currency.⁷⁵ Remuneration for these judges came in the form of payment for the difference between the two currencies, but only for one-third of their total salary. It must be noted, however, that the Egyptian government was averse to any compensation of the judges of the Mixed Courts; their salaries, even in a depreciated state, were greater than those of their counterparts in, for example, the United States and France.⁷⁶ The Egyptian government backed out of this agreement, refusing to compensate the judges of the Mixed Courts.

⁷¹ State Department Doc. 883.05/481: From William Jardine, American Minister to Egypt, to the Secretary of State. 5 June 1933.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

A year later in 1934, Crabitès attempted to bridge the gap between the Egyptian government and the judges on the Mixed Courts. His primary concern was the reputation of the Mixed Courts, and to this end he felt that those judges presently representing these courts should not have their cases adjudicated in the Mixed Courts because it would compromise the integrity of the court system. Crabitès insisted that a decision rendered by the judges on the Mixed Courts regarding their own welfare, “would shock Egyptian public opinion and bring the administration of justice in Egypt into disrepute,” so these judges should “recuse themselves.”⁷⁷ Instead, the judges on the Mixed Courts should file suit against the Egyptian government in the World Court in the Hague, the Netherlands. He added that judges on the Mixed Courts who had already retired, could bring suit against the Egyptian government in the Mixed Courts.

Abdul Futtouh

Just a couple of months later in April of 1934, Crabitès ruled against a parquet agent of the Mixed Courts, Ismail Abdul Fettouh.⁷⁸ Crabitès was a colleague and good friend of Fettouh. After handing down his decision, Crabitès turned to his good friend and told him that he should file suit in the “Native Courts,” where he could receive a more favorable result. A reporter for *Al-Ahram* overheard the conversation and published it on 21 April 1934.⁷⁹ The report caused an uproar within the Egyptian judicial community. Those related to Egyptian justice considered their dignity slighted by Crabitès’s comments. President of the Court of Cassation Abdel Aziz Fahmi Pasha immediately took up the cause on behalf of the Egyptians, calling for an investigation into the matter. According to the 24 April 1934, issue of *Al-Ahram*:

Judge Crabitès apologized to the Parquet Agent and to the President of the Mixed Court, saying that he was talking to the Parquet Agent as a colleague and friend, and that he was only joking with him out of court,

⁷⁷ State Department Doc. 883.05/496: Copy of a letter by Pierre Crabitès, transmitted by Bert Fish, American Minister to Egypt, to the Secretary of State. 14 January 1934.

⁷⁸ A parquet agent is a public prosecutor.

⁷⁹ *Al-Ahram* 24 April 1934. *Al-Ahram* 9 May 1934.

and that he never intended to touch the dignity of the Egyptian justice which he honors and respects.⁸⁰

This was obviously an embarrassing and humiliating experience for Crabitès. His credibility as a jurist had been called into question. The episode tarnished his reputation amongst his colleagues.

In a letter to Bert Fish, American Minister to Egypt, Crabitès pleaded his case. He argued that he did not criticize the “Native Courts” nor did he make an aspersion concerning the Egyptian judges’ integrity. Attempting to help the American minister better understand his position, Crabitès said,

I am very fond of Aboul Fettouh. He is a nephew of Moustafa Neguib Bey, a close friend of mine. He is also the nephew (by marriage) of the Prime Minister, with whom my relations have been friendly but not intimate for over twenty years. It hurt me to decide the case against Aboul Fettouh. I wanted him to feel that his defeat was more apparent than real.⁸¹

Crabitès did acknowledge that his comments; however, he was reluctant to accept total blame for the unfortunate situation, stating,

It is an outrage that the nephew of the Prime Minister should seek to bring before the Mixed Courts a controversy with an Egyptian which has nothing to do with the Italian’s claim. Why are our Courts attacked when the Prime Minister’s nephew tries to force us to pass upon his case? Tell Ismail to go before his own Judges. He’s not an ordinary litigant who may be excused for attempting to force his case upon us. He’s the nephew of the Prime Minister. I like the boy. His uncle is my close friend. I mean Moustafa Neguib Bey. I’ve gone into his case far enough to see that he may perhaps win it. Don’t let him be downhearted because he has not win his suit before us.⁸²

It appears to have been the Egyptian judges on the “Native Courts” who saw Crabitès’s remarks as insulting, not necessarily the Egyptian government. King

⁸⁰ Ibid.

⁸¹ State Department Doc. 883.05/507: From Pierre Crabitès in Zamalik, Cairo, to Bert Fish, American Minister to Egypt, Cairo. 27 April 1934.

⁸² Ibid.

Fuad accepted Crabitès's version of the events and said, "I have implicit confidence in him and that I know perfectly well, before I read this memorandum, that he had not said anything such as was imputed to him."⁸³

Crabitès next visited with the prime minister, hoping to reconcile his views with him. He met with Abdul Fettouh Pasha on 23 April, where he explained to the prime minister that the root of the problem lay not with him or the Mixed Courts but with those attempting to take advantage of the system in place in Egypt for their own benefit. He hated the position that these unscrupulous people had placed the Mixed Courts. Crabitès informed Abdul Fettouh Pasha,

That it was outrageous that the "Bank *Misr*," Egypt's biggest financial institution, daily resorted to all kinds of pretexts, to bring its suits before the Mixed Courts, and that it was deplorable that families established in this country for 4 or 5 generations adopted all kinds of subterfuges to get their cases before us. I referred to the fact that it was scandalous that rich Copts and Syrians descended to all kinds of tricks to get foreign protection.⁸⁴

He was referring to the sale of *berats*, where the status of a protected citizen was sold to non-Muslim Egyptians so that they could take advantage of the Capitulations, although it was unlikely that this practice continued in the twentieth century as it had earlier. Abdul Fettouh Pasha, too, animadverted the Mixed Courts. He had offered his resignation to King Fuad many times in the past, citing dissatisfaction with the Mixed Courts and the controversy surrounding them as reasons for his willingness to leave.⁸⁵ King Fuad persuaded Abdul Fettouh Pasha to remain as the prime minister. Crabitès continued explaining his problems to the prime minister,

I find these conditions revolting, you should fight this state of mind, not the Capitulations. If you do away with this scandal your Capitulations will not disappear over night. Your problem is an internal one; not an external

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ State Department Doc. 883.05/508: From Bert Fish, American Minister to Egypt, to the Secretary of State. 18 May 1934.

one. It was because I feel so strongly on this point that I spoke so frankly to your nephew's friend. What I told him I have repeatedly proclaimed. I do not fear an investigation. I welcome it. It is only because I do not want to embarrass you, we have been friends for twenty years, that I am willing to see the matter dropped.⁸⁶

His comments in court that day were not intended to attack the integrity of the judges on the Native Courts.

Subsequently, Crabitès met with Egyptian Minister of Justice Muhammad Ali Pasha. His relationship with Muhammad Ali Pasha was a friendly one, going back to 1912 when Crabitès was a colleague of the minister's father.⁸⁷ Crabitès maintained that he never offered an apology for his actions and said, "Mohd [Muhammad] Aly was almost apologetic in his tone," for the injustice Crabitès had suffered.⁸⁸ All parties involved promptly dropped the matter.

By the summer of 1934, there was an active debate in Egypt concerning the fate of the Mixed Courts. The Egyptian press essentially stoked the fire lit by the president of the Court of Cassation when he said that the "Native Courts" should assume the jurisdiction of all courts in Egypt and adjudicate for all in Egypt under one court. The Egyptian press struck a chord in all Egyptians, including the Egyptian judges on the Mixed Courts, who were expressing Egyptian nationalism in their own way. There were two issues which the Egyptian press seized upon, Egyptian precedence in the Mixed Courts, and Arabic as the primary language of the courts. While these might have been popular causes, considering local Egyptian sentiment, the foreign community was understandably concerned.⁸⁹

Before deciding what to do with the courts, King Fuad wanted to wait until he learned of the high commissioner's thoughts regarding the two Egyptian proposals to alter the courts. High Commissioner Miles Lampson had only been

⁸⁶ State Department Doc. 883.05/507: From Bert Fish, American Minister to Egypt, to the Secretary of State. 9 May 1934.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ State Department Doc. 883.05/509: From Bert Fish, American Minister to Egypt, to the Secretary of State. 24 May 1934.

in Egypt for a short while and had not adequately familiarized himself with the controversy surrounding the Mixed Courts. He was more concerned with other English affairs in Egypt at the time. Therefore, the king endeavored to postpone his decision concerning the future of the Mixed Courts.⁹⁰

Bert Fish, American Minister to Egypt, felt that the Egyptian judges had a good argument regarding their precedence over chambers, for they definitely possessed the qualifications for the job, unlike half a century before when the Mixed Courts relied on the competence of foreign judges to supervise chambers. According to Fish, "This opportunity was lost by the crude and ill-bred methods the Egyptian judges adopted, and especially their threat to strike if their demands were not accepted."⁹¹ Fish reasoned that the case made by the Egyptian judges in favor of Arabic as the primary language of the Mixed Courts was less practical than the case to have Egyptian judges head chambers. The Mixed Courts required a language that all the judges and attorneys could speak, and since French was the *lingua franca* of Egypt, it was clear that it should be the main language used in the courts. Foreign judges on the Mixed Courts perceived the Egyptian judges' attempt to establish Arabic as the language of the courts as a nationalist effort; however, that was not the real reason that the foreign judges disapproved of Arabic. Many judges did not actually possess a fluency in Arabic, so their opinion resulted more out of practicality rather than partisanship.⁹² The judges were also concerned that should Arabic be instituted they would lose their jobs. Fish declared of the Egyptian judges' behavior,

The threat of a strike and the insistence on the Arabic language prove conclusively that however great the learning of the native judges may be, they obviously still lack some important moral qualities. Foremost among them would seem to be a judicial and calm restraint in the face of a

⁹⁰ State Department Doc. 883.05/508: From Bert Fish, American Minister to Egypt, to the Secretary of State. 18 May 1934.

⁹¹ State Department Doc. 883.05/509: From Bert Fish, American Minister to Egypt, to the Secretary of State. 24 May 1934.

⁹² Ibid.

political controversy, calling for the subordination of personal views and ambitions in the interest of justice and of the public.⁹³

Fish felt strongly about the situation, and these heated words show his opinion on the controversy. The British felt similarly on the subject. Judicial Advisor Booth argued that while the Egyptians had the right to use Arabic, as it was one of the official languages of the Mixed Courts, the British and Italians had a similar right to use their native tongues, but they abstained from doing so in the interest of maintaining continuity.⁹⁴ The British believed that the use of Arabic in judgments was purely political in character and meant to stir up Egyptian nationalism. What could be more classically nationalistic than language? The very fact that they knew denying Arabic the position would stir up nationalistic feelings shows that nationalism played a major part- and they knew it, even if they denied it.

⁹³ Ibid.

⁹⁴ Public Record Office Document E2279/955/91: From Judicial Advisor Arthur J. Booth to the Residency, Cairo. 19 April 1934.